
From: Rena Connell <connell.rena@gmail.com>
Sent: Wednesday, February 1, 2023 8:45 AM
To: Linda Gray
Cc: Nehring, Nate; Contact Council; Marjorie Fields; William Lider; Deborah L Wetzel; Kate Lunceford; bruce thomas; dennis hill; James Walsh; Cat Gustafson; Tina Stewart
Subject: Re: RFP for Hearing Examiner Position - THERE IS ONE FOR YOUR PRO TEM

CAUTION : This email originated from outside of this organization. Please exercise caution with links and attachments.

Thank you, Linda, for continuing to pursue the need for an RFP for the Hearing Examiner position. You have clearly done your homework!
Rena

On Wed, Feb 1, 2023 at 8:41 AM Linda Gray <lgn899a@gmail.com> wrote:

Hello Nate and SC Council - I have yet to hear from you, Nate regarding my question on the 25th asking about an RFP for the Hearing Examiner position. In the interim, I've also discovered the following.'

- It appears the current Examiner has failed to comply with SCC 2.02.200 requiring an annual report to the Council and Planning Commission for the years 2020-2021
- The reports the Examiner did file from 2014-2019 do not include ALL decisions issued by Examiner - **they are lacking decisions that were denied or remanded**
- The County issued an RFP for the PRO TEM Hearing Examiner position (see attached).
 - Given the gravity of the actual Hearing Examiner's position, I am questioning why you would NOT do an RFP?
 - Given SC has a PRO TEM available, the fact that the current Examiners' appointment expires 2/18/23 should be no issue. Therefore, please if you haven't done so already - issue an RFP immediately.

Your prompt response is appreciated. Thank you - Linda

On Wed, Jan 25, 2023 at 3:15 PM Linda Gray <lgn899a@gmail.com> wrote:

Hello Councilmember Nehring - thank you, but please confirm whether an RFP was issued and/or a request sent to the Hearing Examiner organization. The public has a right to know that when the decision is made, the field of those interested is examined. Who else did you look at and are you planning to interview? Thank you - Linda

On Wed, Jan 25, 2023 at 12:16 PM Nehring, Nate <nate.nehring@co.snohomish.wa.us> wrote:

Hi Linda,

Thank you for reaching out and providing your input on this issue, I appreciate it. As CM Dunn stated, this item will be discussed in the next Planning Committee meeting on Tuesday, February 7th. You are welcome to attend that meeting either in-person or remotely and provide testimony during the public comment period. I'll be sure to take the concerns you've expressed into consideration as the Council deliberates on this decision. Thanks again and have a great afternoon.

Sincerely,

Nate Nehring

Councilman, District 1

Snohomish County Council



3000 Rockefeller Ave., M/S 609

Everett, WA 98201-4046

☎: 425.388.3494 ✉: Nate.Nehring@snoco.org

From: Linda Gray <lgn899a@gmail.com>

Sent: Wednesday, January 25, 2023 11:25 AM

To: Contact Council <Contact.Council@co.snohomish.wa.us>; Nehring, Nate <nate.nehring@co.snohomish.wa.us>

Cc: Marjorie Fields <mvfields@me.com>; William Lider <bill@liderengineering.com>; Deborah L Wetzel

<debbieleewetzel@gmail.com>; Kate Lunceford <kurlykate888@gmail.com>; bruce thomas

<brucejthomas@hotmail.com>; dennis hill <dennishill229@gmail.com>; James Walsh <jamesrwalsh@outgun.com>;

Cat Gustafson <cathgust@hotmail.com>; Tina Stewart <tstewart@nsuch.com>; Rena Connell

<connell.rena@gmail.com>

Subject: RFP for Hearing Examiner Position

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Therefore, please proceed with an RFP for this position immediately. The public has a right to know others were offered the opportunity to apply for the position, to be considered, etc. Additionally, there is a Hearing Examiner organization as well. Did that organization get a notice from you for that position? Please also have the Council secretary forward the comments made during the 1/17/23 hearing to the Planning Commission. I look forward to your response shortly. Thank you - Linda

--
Rena

From: Marjorie Fields <mvfields@me.com>
Sent: Monday, January 16, 2023 7:51 PM
To: Contact Council
Subject: hearing examiner appointment

CAUTION : This email originated from outside of this organization. Please exercise caution with links and attachments.

I was very surprised to see that reappointment of Peter Camp is on the agenda for January 17.

I had heard nothing about it previously and have questions.

Has the position been advertised? If so, how? Are there others interested in it?

It seems that others should be allowed an opportunity to apply.

I am especially concerned about an automatic reappointment since I believe Mr. Camp's rulings have not been environmentally friendly. Please take time to consider qualified applicants in a more open process.

Marjorie Fields

Campfield, Lisa

From: Eco, Debbie on behalf of Contact Council
Sent: Wednesday, January 25, 2023 11:44 AM
To: Contact Council; Countryman, Ryan
Cc: Campfield, Lisa
Subject: FW: RFP for Hearing Examiner Position
Attachments: Lgray comment Peter Camp not be reappointed.docx

Debbie Eco, CMC
Clerk of the Council
Snohomish County Council
425-388-7038

Please be advised: All e-mail correspondence sent to and from this e-mail address is subject to the State of Washington's Public Records Act (chapter 42.56 RCW).

E-mail and data attached to e-mail (including metadata) sent to and from this e-mail address may be monitored and archived, and may be disclosed to third parties pursuant to state law.

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Sent: Wednesday, January 25, 2023 11:25 AM
To: Contact Council <Contact.Council@co.snohomish.wa.us>; Nehring, Nate <nate.nehring@co.snohomish.wa.us>
Cc: Marjorie Fields <mvfields@me.com>; William Lider <bill@liderengineering.com>; Deborah L Wetzel <debbieleewetzel@gmail.com>; Kate Lunceford <kurlykate888@gmail.com>; bruce thomas <brucejthomas@hotmail.com>; dennis hill <dennishill229@gmail.com>; James Walsh <jamesrwalsh@outgun.com>; Cat Gustafson <cathgust@hotmail.com>; Tina Stewart <tstewart@nsuch.com>; Rena Connell <connell.rena@gmail.com>
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Therefore, please proceed with an RFP for this position immediately. The public has a right to know others were offered the opportunity to apply for the position, to be considered, etc. Additionally, there is a Hearing Examiner organization as well. Did that organization get a notice from you for that position? Please also have the Council secretary forward the comments made during the 1/17/23 hearing to the Planning Commission. I look forward to your response shortly. Thank you - Linda

Thank you for the opportunity to speak. Peter Camp has been the HE since 2014. Since then nearly all decisions have been in favor of the developer to the detriment to citizens, especially those of us in unincorporated SC where we have but one political representative. Peter is too tightly tied to SC allowing PDS to break Snohomish County, State, GMA, etc. laws

The SC Council didn't renew the HE in 2014 at the behest of the Master Builders. It's been 8 years, and I am requesting you please stop, open this selection process to other potential HEs and get the public involved. The HE examiner's decisions dramatically affect citizens' every day life. The public should have been offered an alternative. It is wrong to provide no notice of a decision of such importance. We need a HE that will fairly balance interests of business and the affected County citizens. Such is not the case.

For examples - Refused a motion to continue CUP/SEPA Hearing for one week forcing Appellant to go pro se(9.10, 9.13)

There they faced three aggressive attorneys, two for Respondent Applicant Center and a deputy prosecuting attorney for PDS.

- Violation of Appearance of Fairness doctrine Refused to recuse himself in violation of State and SC laws from a decision where the County will receive \$9,600,000 from a developer..
- The Examiner does not have the authority but routinely waves the requirement that a full and complete Staff report be available to the public seven days before a Hearing.
- 9.19 The Examiner's Decision too frequently gives PDS a pass on complying with Snohomish County Code requirements as well as GMA etc.
- 9.26 The Examiner went out of his way after the community could not respond to dig up a wholly unrelated application proceeding from almost twenty years ago and to criticize community participants before him in 2022 for not participating in the 2005 proceeding on that wholly unrelated application. Neither the Center Applicant nor the PDS attorney had raised this argument/criticism during the proceedings before the Examiner. The Examiner was motivated enough in his bias to raise it all on his own and imply that community participants were motivated by bigotry
- Refusal to allow Linda Gray and our Traffic expert to be recalled Feb 4, 2022 as requested by motion, yet allowed PDS to bring David Irwin and other SnoCo employees back to testify Feb 4th again though they were previously dismissed by Brian Dorsey
- 10.8 To the Petitioners' detriment and prejudice, the Examiner failed to follow required procedure and applicable law and instead conducted two sequential hearings(CUP/SEPA), treating them as having separate records and violating statutory requirements and regulations. RCW 43.21C.075(3)(b); WAC 197-11-680(3)(a).
- 10.16 Unlawfully excluded Pro Se Petitioners' exhibits based on technical evidentiary objections, accepting objections by Respondents' three attorneys and applying a harsh courtroom standard in an open record CUP public hearing to Petitioners' lay submissions. In doing so, the Examiner contravened of Hearing Examiner Rule of Procedure 5.6(a)
- 10.18 Failure to impose mitigating conditions, recognizing that they were required for the proposal to meet the mandatory SCC CUP criteria, the conditions themselves are not effective and are not practically enforceable, depriving Petitioners of the protections required under the SCC CUP criteria and leaving grant of the CUP unsupported. The CUP uses will therefore be detrimental to Petitioners' ability to use and enjoy their properties and to have safe access, including for emergency vehicles.

I urge the Council not to reappoint Peter Camp to the position of Hearing Examiner.

Respectfully,
Linda Gray
22629-78 ht Ave SE
Woodinville, WA 98072

SUPERIOR COURT OF THE STATE OF WASHINGTON IN AND FOR THE COUNTY OF KING
Appeal, June 21, 2022, Peter Eglick

That process culminates in a public hearing conducted by the Hearing Examiner who then makes a decision on the CUP application that is subject to appeal to the County Council. In this case, Petitioners and the public were kept in the dark for over two years about critical facts concerning the Center application. During that time, in August 2020, the Center's own engineer responsible for its application, identified to PDS "the changed, more intensive nature of the resubmittal of the project" and asked, "if we would need to re-notice it." However, PDS did nothing.

9.10 The SEPA appeal and the CUP application were ultimately scheduled for a January 25, 2022 hearing before the Hearing Examiner. Petitioners meanwhile over the holiday season were trying to identify and engage counsel expert in land use to represent them in the hearing. The counsel they were able to engage was unavailable on January 25 and **requested by motion that the Hearing Examiner continue the hearing to the following week, but the Hearing Examiner refused to do so.**

9.13 As a result of the Hearing Examiner's denial of the Petitioners' motions and refusal to remand, the Examiner proceeded on January 25, 2022 to conduct a hearing with Petitioners, laypersons, forced to participate pro se. Three attorneys, two for Respondent Applicant Center and a deputy prosecuting attorney for PDS, aggressively represented Respondents.

9.14 The Examiner went out of his way during the hearing proceeding to read as narrowly and critically as possible the lay SEPA appeal that Petitioner Jones had just managed to put together in the few days before the fourteen-day SEPA Appeal deadline ran out. For example, the Examiner ruled that, under SEPA, fish are not within the category of wildlife, and therefore refused to allow consideration of impacts to fish despite the SEPA appeal's allegation of fish-related adverse environmental impact

9.15 The Hearing Examiner, in specific violation of explicit state law, conducted the proceeding before him as two separate hearings, one after another, with two separate records. The Examiner used the unlawful two separate hearing device to refuse to consider and to exclude Petitioner testimony and exhibits, ruling that they should have been presented in the CUP application hearing, on which he said, "the record is closed." The Decision ultimately issued by the Examiner was therefore based on an artificially truncated record and failed to consider important facts and aspects of the proposed us

9.18 The Examiner's Decision, however, fails to apply Snohomish County Code provisions applicable to the Center's lodging/boarding and training use which would have required denial or at least explicit limitations on the CUP application.

9.19 The Examiner's Decision also gives PDS and the Center application a pass on complying with Snohomish County Code requirements for analyzing traffic concurrency. The Code's concurrency requirements have their origin in the Growth Management Act, which requires that approval of land uses will not overtax the area's road traffic capacity

9.22 The Examiner upheld DPW's approach and declined to remand the matter for a documented analysis and determination of trip distribution as the Code requires

9.24 The Examiner acted during the hearings he conducted as a protector of the Center Applicant, improperly and spuriously excluding offerings by Petitioners as, for example, "Irrelevant because relates to a different project with no connection to the MA Center application." During the second hearing in particular the Examiner harshly criticized proposed submissions by lay Petitioners as not meeting courtroom evidence admissibility standards, applying them strictly in an administrative hearing.

9.26 In other words, the Examiner went out of his way after the community could not respond to dig up a wholly unrelated application proceeding from almost twenty years ago and to criticize community participants before him in 2022 for not participating in the 2005 proceeding on that wholly unrelated application. Neither the Center Applicant nor the PDS attorney had raised this argument/criticism during the proceedings before the Examiner. The Examiner was motivated enough in his bias to raise it all on his own and imply that community participants were motivated by bigotry

9.29 The Examiner's Decision also, improperly, rejects recognition, including under the mandatory CUP criteria of detrimental impacts with regard to traffic and drainage/stormwater. It similarly errs in how it applies the Institute of Traffic Engineers (ITE) Manual in addressing trip generation by the Center and in not recognizing that the proposal would also generate trips in weekend peaks as well.

9.30 The Examiner's Decision fails to apply the SCC mandatory CUP criteria and state only that "public services", specifically electricity, are available, failing to assess availability of other public services, including particularly fire protection, both on site and to adjacent properties

9.37 The County Council June 1 Decision upheld and adopted the Examiner's Decision in every respect and without explanation or specification. The only exception is that the Council went out of its way to rationalize and excuse the Examiner's attack on community participants, including Petitioners, based on "judicial notice" of a proceeding concerning a different proposal almost twenty years earlier

10.2 As further explained below, this Court should grant relief under each one of the following standards set forth in LUPA, RCW 36.70C.130(1) (a) through (f):

(a) The body or officer that made the land use decision engaged in unlawful procedure or failed to follow a prescribed process, unless the error was harmless;

(b) The land use decision is an erroneous interpretation of the law, after allowing for such deference as is due the construction of a law by a local jurisdiction with expertise;

(c) The land use decision is not supported by evidence that is substantial when viewed in light of the whole record before the court;

(d) The land use decision is a clearly erroneous application of the law to the facts;

(e) The land use decision is outside the authority or jurisdiction of the body or officer making the decision; or

(f) The land use decision violates the constitutional rights of the party seeking relief

10.5 The purpose of the County hearing examiner system is, inter alia, to “ensure procedural due process and appearance of fairness in regulatory hearings...” SCC 2.02.010(1). The decisions of the Hearing Examiner and County Council have violated these purposes as well as due process

10.8 State law required a single simultaneous hearing when the Center’s CUP application and Petitioners’ SEPA appeal came before the Hearing Examiner. **To the Petitioners’ detriment and prejudice, the Examiner failed to follow required procedure and applicable law and instead conducted two sequential hearings, treating them as having separate records and violating statutory requirements and regulations. RCW 43.21C.075(3)(b); WAC 197-11-680(3)(a).**

10.14 The Examiner’s double standard, excluding Petitioner’s exhibits as, inter alia, unrelated to the specific Center application, but then injecting into the Record and his Decision unwarranted aspersions against community participants based on an entirely unrelated application twenty years earlier was egregious

10.16 The Examiner and the County Council in adopting the **Examiner’s Decision erred and applied an unlawful procedure in excluding Petitioners’ exhibits based on technical evidentiary objections, accepting objections by Respondents’ three attorneys and applying a harsh courtroom standard in an open record CUP public hearing to Petitioners’ lay submissions.** In doing so, the Examiner contravened of Hearing Examiner Rule of Procedure 5.6(a) concerning evidence which admonishes that Hearing Examiner hearings are to be “accessible to the public without need for an attorney” and which specifically authorizes hearsay

10.17 The County Decision violated SEPA and SEPA regulations in failing to recognize and mitigate significant adverse impacts, in excluding evidence of significant impacts, and in misunderstanding the role of the SEPA Checklist

10.18 Where the Examiner’s Decision purports to impose mitigating conditions, recognizing that they were required for the proposal to meet the mandatory SCC CUP criteria, **the conditions themselves are not effective and are not practically enforceable, depriving Petitioners of the protections required under the SCC CUP criteria and leaving grant of the CUP unsupported.** The CUP uses will be detrimental to Petitioners’ ability to use and enjoy their properties and to have safe access, including for emergency vehicles.

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Attachments: RFP for Pro Tem HE.pdf

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Nate Nehring

Councilman, District 1

Snohomish County Council



3000 Rockefeller Ave., M/S 609

Everett, WA 98201-4046

☎: 425.388.3494 ✉: Nate.Nehring@snoco.org

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CONSULTANT:	Phil Olbrechts
CONTACT PERSON:	Phil Olbrechts
ADDRESS:	Olbrechts and Associates, PLLC
FEDERAL TAX ID NUMBER:	27-3948000
U.B.I. NUMBER:	603060102
TELEPHONE	(206) 650-7268
COUNTY DEPT:	Office of Hearings Administration
DEPT. CONTACT PERSON:	Peter Camp
TELEPHONE NUMBER:	(425) 388-3538
PROJECT:	Hearing Examiner Pro Tem
AMOUNT:	Not to exceed \$19,874 annually
FUND SOURCE:	0025078604101
CONTRACT DURATION:	March 1, 2022 through February 29, 2024 , unless extended or renewed pursuant to Section 2 hereof

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT (the "Agreement") is made by and between SNOHOMISH COUNTY, a political subdivision of the State of Washington (the "County") and Olbrechts and Associates, PLLC, a Washington professional limited liability company (the "Contractor"). In consideration of the mutual benefits and covenants contained herein, the parties agree as follows:

1. Purpose of Agreement; Scope of Services. The purpose of this Agreement is to provide on call services as Hearing Examiner Pro Tem. The scope of services is as defined in Schedule A attached hereto and by this reference made a part hereof. This Agreement is the product of County RFP No. 035-21BC, Hearing Examiner Pro Tem.

The services shall be performed in accordance with the requirements of this Agreement and with generally accepted practices prevailing in the western Washington region in the occupation or industry in which the Contractor practices or operates at the time the services are performed. The Contractor shall perform the work in a timely manner and in accordance with the terms of this Agreement. Any materials or equipment

used by the Contractor in connection with performing the services shall be of good quality. The Contractor represents that it is fully qualified to perform the services to be performed under this Agreement in a competent and professional manner.

The Contractor will prepare and present status reports and other information regarding performance of the Agreement as the County may request.

2. Term of Agreement; Time of Performance. This Agreement shall be effective upon March 1, 2022 (the "Effective Date") and shall terminate on February 29, 2024, PROVIDED, HOWEVER, that the term of this Agreement may be extended or renewed for up to one (1) additional one (1) year term, at the sole discretion of the County, by written notice from the County to the Contractor. PROVIDED, HOWEVER, that the County's obligations after December 31, 2022 are contingent upon local legislative appropriation of necessary funds for this specific purpose in accordance with the County Charter and applicable law.

3. Compensation.

a. Services. The County will pay the Contractor for services as and when set forth in Schedule B, which is attached hereto and by this reference made a part of this Agreement.

b. Overhead and Expenses. The Contractor's compensation for services set forth in Section 3a above includes overhead and expenses and no separate claims for reimbursement of overhead or expenses will be allowed under this Agreement.

c. Invoices. The Contractor shall submit properly executed invoices to the County no more frequently than monthly. Each invoice shall include an itemization of the dates on which services were provided, including the number of hours and a brief description of the work performed on each such date. Subject to Section 8 of this Agreement, the County will pay such invoices within thirty (30) calendar days of receipt.

d. Payment. The County's preferred method of payment under this contract is electronic using the County's "e-Payable" system with Bank of America. The Contractor is highly encouraged to take advantage of the electronic payment method.

In order to utilize the electronic payment method, the Contractor shall email SnocoEpayables@snoco.org and indicate it was awarded a contract with Snohomish County and will be receiving payment through the County's e-Payable process. The Contractor needs to provide contact information (name, phone number and email address). The Contractor will be contacted by a person in the Finance Accounts Payable group and assisted with the enrollment process. This should be done as soon as feasible after County award of a contract or purchase order, but not exceeding ten (10) business days.

Department approved invoices received in Finance will be processed for payment within seven calendar days for e-Payable contractors. Invoices are processed

for payment by Finance two times a week for contractors who have selected the e-Payable payment option.

In the alternative, if the Contractor does not enroll in the electronic (“e-Payable”) payment method described above, contract payments will be processed by Finance with the issuance of paper checks or, if available, an alternative electronic method. Alternative payment methods, other than e-Payables, will be processed not more than 30 days from receipt of department approved invoices to Finance.

THE COUNTY MAY MAKE PAYMENTS FOR PURCHASES UNDER THIS CONTRACT USING THE COUNTY’S VISA PURCHASING CARD (PCARD).

Upon acceptance of payment, the Contractor waives any claims for the goods or services covered by the Invoice. No advance payment shall be made for the goods or services furnished by Contractor pursuant to this Contract.

e. Payment Method. In addition to Payment section above, the County may make payments for purchases under this contract using the County’s VISA purchasing card (PCARD).

Are you willing to accept PCARD payments without any fees or surcharges?
Yes No

f. Contract Maximum. Total charges under this Agreement, all fees and expenses included, shall not exceed \$19,874 for the initial term of this Agreement (excluding extensions or renewals, if any).

4. Independent Contractor. The Contractor agrees that Contractor will perform the services under this Agreement as an independent contractor and not as an agent, employee, or servant of the County. This Agreement neither constitutes nor creates an employer-employee relationship. The parties agree that the Contractor is not entitled to any benefits or rights enjoyed by employees of the County. The Contractor specifically has the right to direct and control Contractor’s own activities in providing the agreed services in accordance with the specifications set out in this Agreement. The County shall only have the right to ensure performance. Nothing in this Agreement shall be construed to render the parties partners or joint venturers.

The Contractor shall furnish, employ and have exclusive control of all persons to be engaged in performing the Contractor’s obligations under this Agreement (the “Contractor personnel”), and shall prescribe and control the means and methods of performing such obligations by providing adequate and proper supervision. Such Contractor personnel shall for all purposes be solely the employees or agents of the Contractor and shall not be deemed to be employees or agents of the County for any purposes whatsoever. With respect to Contractor personnel, the Contractor shall be solely responsible for compliance with all rules, laws and regulations relating to employment of labor, hours of labor, working conditions, payment of wages and payment of taxes, including applicable contributions from Contractor personnel when required by law.

Because it is an independent contractor, the Contractor shall be responsible for all obligations relating to federal income tax, self-employment or FICA taxes and contributions, and all other so-called employer taxes and contributions including, but not limited to, industrial insurance (workers' compensation). The Contractor agrees to indemnify, defend and hold the County harmless from any and all claims, valid or otherwise, made to the County because of these obligations.

The Contractor assumes full responsibility for the payment of all payroll taxes, use, sales, income, or other form of taxes, fees, licenses, excises or payments required by any city, county, federal or state legislation which are now or may during the term of the Agreement be enacted as to all persons employed by the Contractor and as to all duties, activities and requirements by the Contractor in performance of the work under this Agreement. The Contractor shall assume exclusive liability therefor, and shall meet all requirements thereunder pursuant to any rules or regulations that are now or may be promulgated in connection therewith.

5. Ownership. Any and all data, reports, analyses, documents, photographs, pamphlets, plans, specifications, surveys, films or any other materials created, prepared, produced, constructed, assembled, made, performed or otherwise produced by the Contractor or the Contractor's subcontractors or consultants for delivery to the County under this Agreement shall be the sole and absolute property of the County. Such property shall constitute "work made for hire" as defined by the U.S. Copyright Act of 1976, 17 U.S.C. § 101, and the ownership of the copyright and any other intellectual property rights in such property shall vest in the County at the time of its creation. Ownership of the intellectual property includes the right to copyright, patent, and register, and the ability to transfer these rights. Material which the Contractor uses to perform this Agreement but is not created, prepared, constructed, assembled, made, performed or otherwise produced for or paid for by the County is owned by the Contractor and is not "work made for hire" within the terms of this Agreement.

6. Changes. No changes or additions shall be made in this Agreement except as agreed to by both parties, reduced to writing and executed with the same formalities as are required for the execution of this Agreement.

7. County Contact Person. The assigned contact person (or project manager) for the County for this Agreement shall be:

Name:	Peter Camp
Title:	Hearing Examiner and Administrator
Department:	Office of Hearings Administration
Telephone:	(425) 388-3538
Email:	Hearing.Examiner@snoco.org

8. County Review and Approval. When the Contractor has completed any discrete portion of the services, the Contractor shall verify that the work is free from errors and defects and otherwise conforms to the requirements of this Agreement. The Contractor shall then notify the County that said work is complete. The County shall promptly review and inspect the work to determine whether the work is acceptable. If the

County determines the work conforms to the requirements of this Agreement, the County shall notify the Contractor that the County accepts the work. If the County determines the work contains errors, omissions, or otherwise fails to conform to the requirements of this Agreement, the County shall reject the work by providing the Contractor with written notice describing the problems with the work and describing the necessary corrections or modifications to same. In such event, the Contractor shall promptly remedy the problem or problems and re-submit the work to the County. The Contractor shall receive no additional compensation for time spent correcting errors. Payment for the work will not be made until the work is accepted by the County. The Contractor shall be responsible for the accuracy of work even after the County accepts the work.

If the Contractor fails or refuses to correct the Contractor's work when so directed by the County, the County may withhold from any payment otherwise due to the Contractor an amount that the County in good faith believes is equal to the cost the County would incur in correcting the errors, in re-procuring the work from an alternate source, and in remedying any damage caused by the Contractor's conduct.

9. Subcontracting and Assignment. The Contractor shall not subcontract, assign, or delegate any of the rights, duties or obligations covered by this Agreement without prior express written consent of the County. Any attempt by the Contractor to subcontract, assign, or delegate any portion of the Contractor's obligations under this Agreement to another party in violation of the preceding sentence shall be null and void and shall constitute a material breach of this Agreement.

10. Records and Access; Audit; Ineligible Expenditures. The Contractor shall maintain adequate records to support billings. Said records shall be maintained for a period of seven (7) years after completion of this Agreement by the Contractor. The County or any of its duly authorized representatives shall have access at reasonable times to any books, documents, papers and records of the Contractor which are directly related to this Agreement for the purposes of making audit examinations, obtaining excerpts, transcripts or copies, and ensuring compliance by the County with applicable laws. Expenditures under this Agreement, which are determined by audit to be ineligible for reimbursement and for which payment has been made to the Contractor, shall be refunded to the County by the Contractor.

11. Indemnification.

a. Professional Liability.

The Contractor agrees to indemnify the County and, if any funds for this Agreement are provided by the State, the State and their officers, officials, agents and employees from damages and liability for damages, including reasonable attorneys' fees, court costs, expert witness fees, and other claims-related expenses, arising out of the performance of the Contractor's professional services under this Agreement, to the extent that such liability is caused by the negligent acts, errors or omissions of the Contractor, its principals, employees or subcontractors. The Contractor has no obligation to pay for any of the indemnitees' defense-related cost prior to a final determination of liability or to pay any amount that exceeds Contractor's finally determined percentage of liability based

upon the comparative fault of the Contractor, its principals, employees and subcontractors. For the purpose of this section, the County and the Contractor agree that the County's and, if applicable, the State's costs of defense shall be included in the definition of damages above.

b. All Other Liabilities Except Professional Liability.

To the maximum extent permitted by law and except to the extent caused by the sole negligence of the County and, if any funds for this Agreement are provided by the State, the Contractor shall indemnify and hold harmless the County and the State, their officers, officials, agents and employees, from and against any and all suits, claims, actions, losses, costs, penalties and damages of whatsoever kind or nature arising out of, in connection with, or incidental to the services and/or deliverables provided by or on behalf of the Contractor. In addition, the Contractor shall assume the defense of the County and, if applicable, the State and their officers and employees in all legal or claim proceedings arising out of, in connection with, or incidental to such services and/or deliverables and shall pay all defense expenses, including reasonable attorneys' fees, expert fees and costs incurred by the County and, if applicable, the State, on account of such litigation or claims.

The above indemnification obligations shall include, but are not limited to, all claims against the County and, if applicable, the State by an employee or former employee of the Contractor or its subcontractors, and the Contractor, by mutual negotiation, expressly waives all immunity and limitation on liability, as respects only the County and, if applicable, the State, under any industrial insurance act, including Title 51 RCW, other worker's compensation act, disability benefit act, or other employee benefit act of any jurisdiction which would otherwise be applicable in the case of such claim.

In the event that the County or, if applicable, the State incurs any judgment, award and/or cost including attorneys' fees arising from the provisions of this section, or to enforce the provisions of this section, any such judgment, award, fees, expenses and costs shall be recoverable from the Contractor.

In addition to injuries to persons and damage to property, the term "claims," for purposes of this provision, shall include, but not be limited to, assertions that the use or transfer of any software, book, document, report, film, tape, or sound reproduction or material of any kind, delivered hereunder, constitutes an infringement of any copyright, patent, trademark, trade name, and/or otherwise results in an unfair trade practice.

The indemnification, protection, defense and save harmless obligations contained herein shall survive the expiration, abandonment or termination of this Agreement.

Nothing contained within this provision shall affect or alter the application of any other provision contained within this Agreement.

12. Insurance Requirements. The Contractor shall procure by the time of execution of this Agreement, and maintain for the duration of this Agreement, (i) insurance

against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the services hereunder by the Contractor, its agents, representatives, or employees, and (ii) a current certificate of insurance and additional insured endorsement when applicable.

a. General. Each insurance policy shall be written on an "occurrence" form, except that Professional Liability, Errors and Omissions coverage, if applicable, may be written on a claims made basis. If coverage is approved and purchased on a "claims made" basis, the Contractor warrants continuation of coverage, either through policy renewals or the purchase of an extended discovery period, if such extended coverage is available, for not less than three (3) years from the date of completion of the work which is the subject of this Agreement.

By requiring the minimum insurance coverage set forth in this Section 12, the County shall not be deemed or construed to have assessed the risks that may be applicable to the Contractor under this Agreement. The Contractor shall assess its own risks and, if it deems appropriate and/or prudent, maintain greater limits and/or broader coverage.

b. No Limitation on Liability. The Contractor's maintenance of insurance as required by this Agreement shall not be construed to limit the liability of the Contractor to the coverage provided by such insurance, or otherwise limit the County's recourse to any remedy available at law or in equity.

c. Minimum Scope and Limits of Insurance. The Contractor shall maintain coverage at least as broad as, and with limits no less than:

(i) General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage, and for those policies with aggregate limits, a \$2,000,000 aggregate limit. CG 00 01 current edition, including Products and Completed Operations;

(ii) Workers' Compensation: To meet applicable statutory requirements for workers' compensation coverage of the state or states of residency of the workers providing services under this Agreement;

(iii) Employers' Liability or "Stop Gap" coverage: \$1,000,000

(iv) Professional Liability, Errors & Missions: \$1,000,000.

d. Other Insurance Provisions and Requirements. The insurance coverages required in this Agreement for all liability policies except workers' compensation and Professional Liability, if applicable, must contain, or must be endorsed to contain, the following provisions:

(i) The County, its officers, officials, employees and agents are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of the Contractor in connection with this Agreement.

Such coverage shall be primary and non-contributory insurance as respects the County, its officers, officials, employees and agents. Additional Insured Endorsement shall be included with the certificate of insurance, "CG 2026 07/04" or its equivalent is required.

(ii) The Contractor's insurance coverage shall apply separately to each insured against whom a claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability.

(iii) Any deductibles or self-insured retentions must be declared to, and approved by, the County. The deductible and/or self-insured retention of the policies shall not limit or apply to the Contractor's liability to the County and shall be the sole responsibility of the Contractor.

(iv) Insurance coverage must be placed with insurers with a Best's Underwriting Guide rating of no less than A:VIII, or, if not rated in the Best's Underwriting Guide, with minimum surpluses the equivalent of Best's surplus size VIII. Professional Liability, Errors and Omissions insurance coverage, if applicable, may be placed with insurers with a Best's rating of B+:VII. Any exception must be approved by the County.

Coverage shall not be suspended, voided, canceled, reduced in coverage or in limits until after forty-five (45) calendar days' prior written notice has been given to the County.

If at any time any of the foregoing policies fail to meet minimum requirements, the Contractor shall, upon notice to that effect from the County, promptly obtain a new policy, and shall submit the same to the County, with the appropriate certificates and endorsements, for approval.

e. Subcontractors. The Contractor shall include all subcontractors as insureds under its policies, or shall furnish separate certificates of insurance and policy endorsements for each subcontractor. **Insurance coverages provided by subcontractors instead of the Contractor as evidence of compliance with the insurance requirements of this Agreement shall be subject to all of the requirements stated herein.**

13. County Non-discrimination. It is the policy of the County to reject discrimination which denies equal treatment to any individual because of his or her race, creed, color, national origin, families with children, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability as provided in Washington's Law against Discrimination, Chapter 49.60 RCW, and the Snohomish County Human Rights Ordinance, Chapter 2.460 SCC. These laws protect against specific forms of discrimination in employment, credit transactions, public accommodation, housing, county facilities and services, and county contracts.

The Contractor shall comply with the substantive requirements of Chapter 2.460 SCC, which are incorporated herein by this reference. Execution of this Agreement constitutes a certification by the Contractor of the Contractor's compliance with the requirements of Chapter 2.460 SCC. If the Contractor is found to have violated this provision, or to have furnished false or misleading information in an investigation or proceeding conducted pursuant to this Agreement or Chapter 2.460 SCC, this Agreement may be subject to a declaration of default and termination at the County's discretion. This provision shall not affect the Contractor's obligations under other federal, state, or local laws against discrimination.

14. Federal Non-discrimination. Snohomish County assures that no persons shall on the grounds of race, color, national origin, or sex as provided by Title VI of the Civil Rights Act of 1964 (Pub. L. No. 88-352), as amended, and the Civil Rights Restoration Act of 1987 (Pub. L. No. 100-259) be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any County sponsored program or activity. Snohomish County further assures that every effort will be made to ensure nondiscrimination in all of its programs and activities, whether those programs and activities are federally funded or not.

15. Employment of County Employees. SCC 2.50.075, "Restrictions on future employment of County employees," imposes certain restrictions on the subsequent employment and compensation of County employees. The Contractor represents and warrants to the County that it does not at the time of execution of this Agreement, and that it shall not during the term of this Agreement, employ a former or current County employee in violation of SCC 2.50.075. For breach or violation of these representations and warranties, the County shall have the right to terminate this Agreement without liability.

16. Compliance with Other Laws. The Contractor shall comply with all other applicable federal, state and local laws, rules, and regulations in performing this Agreement.

17. Compliance with Grant Terms and Conditions. The Contractor shall comply with any and all conditions, terms and requirements of any federal, state or other grant, if any, that wholly or partially funds the Contractor's work hereunder.

18. Prohibition of Contingency Fee Arrangements. The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, brokerage fee, gifts or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the County shall have the right to terminate this Agreement without liability or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

19. Force Majeure. If either party is unable to perform any of its obligations under

AGREEMENT FOR PROFESSIONAL SERVICES
WITH OLBRECHTS AND ASSOC., PLLC
(July 2013 edition)

this Agreement as a direct result of an unforeseeable event beyond that party's reasonable control, including but not limited to an act of war, act of nature (including but not limited to earthquake and flood), embargo, riot, sabotage, labor shortage or dispute (despite due diligence in obtaining the same), or governmental restriction imposed subsequent to execution of the Agreement (collectively, a "force majeure event"), the time for performance shall be extended by the number of days directly attributable to the force majeure event. Both parties agree to use their best efforts to minimize the effects of such failures or delays.

20. Suspension of Work. The County may, at any time, instruct the Contractor in writing to stop work effective immediately, or as directed, pending either further instructions from the County to resume the work or a notice from the County of breach or termination under Section 21 of this Agreement.

21. Non-Waiver of Breach; Termination.

a. The failure of the County to insist upon strict performance of any of the covenants or agreements contained in this Agreement, or to exercise any option conferred by this Agreement, 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. If the Contractor breaches any of its obligations hereunder, and fails to cure the same within five (5) business days of written notice to do so by the County, the County may terminate this Agreement, in which case the County shall pay the Contractor only for the services and corresponding reimbursable expenses, if any, accepted by the County in accordance with Sections 3 and 8 hereof.

c. The County may terminate this Agreement upon twenty eight (28) business days' written notice to the Contractor for any reason other than stated in subparagraph b above, in which case payment shall be made in accordance with Sections 3 and 8 hereof for the services and corresponding reimbursable expenses, if any, reasonably and directly incurred by the Contractor in performing this Agreement prior to receipt of the termination notice.

d. Termination by the County hereunder shall not affect the rights of the County as against the Contractor provided under any other section or paragraph herein. The County does not, by exercising its rights under this Section 21, waive, release or forego any legal remedy for any violation, breach or non-performance of any of the provisions of this Agreement. At its sole option, the County may deduct from the final payment due the Contractor (i) any damages, expenses or costs arising out of any such violations, breaches or non-performance and (ii) any other set-offs or credits including, but not limited to, the costs to the County of selecting and compensating another contractor to complete the work of the Agreement.

22. Notices. All notices and other communications shall be in writing and shall be sufficient if given, and shall be deemed given, on the date on which the same has been mailed by certified mail, return receipt requested, postage prepaid, addressed as follows:

AGREEMENT FOR PROFESSIONAL SERVICES
WITH OLBRECHTS AND ASSOC., PLLC
(July 2013 edition)

If to the County: Snohomish County Office of Hearings Administration
 Attention: Peter Camp
 3000 Rockefeller Ave., M/S 405
 Everett, Washington 98201

and to: Snohomish County Purchasing Division
 Attention: Bramby Tollen, Purchasing Manager
 3000 Rockefeller Avenue, M/S 507
 Everett, Washington 98201

If to the Olbrechts and Associates, PLLC
Contractor:
 Attention: Phil Olbrechts
 720 N. 10th St., No. 297
 Renton, WA 98057

The County or the Contractor may, by notice to the other given hereunder, designate any further or different addresses to which subsequent notices or other communications shall be sent.

23. Confidentiality. The Contractor shall not disclose, transfer, sell or otherwise release to any third party any confidential information gained by reason of or otherwise in connection with the Contractor's performance under this Agreement. The Contractor may use such information solely for the purposes necessary to perform its obligations under this Agreement. The Contractor shall promptly give written notice to the County of any judicial proceeding seeking disclosure of such information.

24. Public Records Act. This Agreement and all public records associated with this Agreement shall be available from the County for inspection and copying by the public where required by the Public Records Act, Chapter 42.56 RCW (the "Act"). To the extent that public records then in the custody of the Contractor are needed for the County to respond to a request under the Act, as determined by the County, the Contractor agrees to make them promptly available to the County. If the Contractor considers any portion of any record provided to the County under this Agreement, whether in electronic or hard copy form, to be protected from disclosure under law, the Contractor shall clearly identify any specific information that it claims to be confidential or proprietary. If the County receives a request under the Act to inspect or copy the information so identified by the Contractor and the County determines that release of the information is required by the Act or otherwise appropriate, the County's sole obligations shall be to notify the Contractor (a) of the request and (b) of the date that such information will be released to the requester unless the Contractor obtains a court order to enjoin that disclosure pursuant to RCW 42.56.540. If the Contractor fails to timely obtain a court order enjoining disclosure, the County will release the requested information on the date specified.

The County has, and by this section assumes, no obligation on behalf of the Contractor to claim any exemption from disclosure under the Act. The County shall not be liable to the Contractor for releasing records not clearly identified by the Contractor as

confidential or proprietary. The County shall not be liable to the Contractor for any records that the County releases in compliance with this section or in compliance with an order of a court of competent jurisdiction.

25. Interpretation. This Agreement and each of the terms and provisions of it are deemed to have been explicitly negotiated by the parties. The language in all parts of this Agreement shall, in all cases, be construed according to its fair meaning and not strictly for or against either of the parties hereto. The captions and headings of this Agreement are used only for convenience and are not intended to affect the interpretation of the provisions of this Agreement. This Agreement shall be construed so that wherever applicable the use of the singular number shall include the plural number, and vice versa, and the use of any gender shall be applicable to all genders.

26. Complete Agreement. The Contractor was selected through the County's RFP or RFQ identified in Section 1. The RFP or RFQ and the Contractor's response are incorporated herein by this reference. To the extent of any inconsistency among this Agreement, the RFP or RFQ, and the Contractor's response, this Agreement shall govern. To the extent of any inconsistency between the RFP or RFQ and the Contractor's response, the RFP or RFQ shall govern.

27. Conflicts between Attachments and Text. Should any conflicts exist between any attached exhibit or schedule and the text or main body of this Agreement, the text or main body of this Agreement shall prevail.

28. No Third Party Beneficiaries. The provisions of this Agreement are for the exclusive benefit of the County and the Contractor. This Agreement shall not be deemed to have conferred any rights, express or implied, upon any third parties.

29. Governing Law; Venue. This Agreement shall be governed by the laws of the State of Washington. The venue of any action arising out of this Agreement shall be in the Superior Court of the State of Washington, in and for Snohomish County.

30. Severability. Should any clause, phrase, sentence or paragraph of this agreement be declared invalid or void, the remaining provisions of this Agreement shall remain in full force and effect.

31. Authority. Each signatory to this Agreement represents that he or she has full and sufficient authority to execute this Agreement on behalf of the County or the Contractor, as the case may be, and that upon execution of this Agreement it shall constitute a binding obligation of the County or the Contractor, as the case may be.

32. Survival. Those provisions of this Agreement that by their sense and purpose should survive expiration or termination of the Agreement shall so survive.

33. Execution in Counterparts. This Agreement may be executed in counterparts, each of which shall constitute an original and all of which shall constitute one and the same Agreement.

Snohomish County

Olbrechts and Associates, PLLC

County Executive

Date:

Phil Olbrechts

Phil Olbrechts

Date: February 4, 2022

Approved as to insurance
and indemnification provisions:

Barker, Sheila Digitally signed by Barker, Sheila
Date: 2022.02.16 15:33:23 -08'00'

Risk Management Date

Date: _____

Approved as to form only:



Deputy Prosecuting Attorney

Date: 2/16/22

COUNCIL USE ONLY

Approved 3/16/2022

ECAF # 2022-0125

MOT/ORD Motion 22-091

Schedule A
Scope of Services

1. SCOPE OF SERVICES

The Hearing Examiner Pro Tem conducts administrative and quasi-judicial hearings. Experience is required in hearing management and writing decisions that include findings of fact and conclusions of law.

- a. The pro tem Hearing Examiner shall conduct hearings and issue decisions consistent with adopted land use plans, development regulations, county code, hearing examiner rules of procedure, and applicable laws in such proceedings that are subject to the jurisdiction of the county hearing examiner as may be assigned to the pro tem Hearing Examiner by the County.
- b. The pro tem Hearing Examiner shall have the authority of a hearing examiner as provided by SCC 2.02.100. Duties include but are not limited to site inspection as provided by law; researching application of federal, state, and county land use law; conducting public hearings and meetings pursuant to applicable hearing examiner rules of procedure; issuing official written decisions; and other duties as ordinarily required of a county hearing examiner.
- c. The County will provide county staff to conduct official county business related to this Contract as it determines appropriate. The hearing examiner's office will schedule necessary hearing and conference rooms and provide public notice. Department of Planning and Development Services and Auditor's Office staff will provide file materials and staff recommendations according to county code and hearing examiner rules of procedure.
- d. The pro tem Hearing Examiner shall complete decisions within timeframes established by county code and hearing examiner rules of procedure.

The pro tem Hearing Examiner shall conduct all public hearings and proceedings, other than site inspections, at the county campus in Everett, Washington. If in-person public hearings and proceedings have not resumed according to the Office of Hearings Administration, such hearings and proceedings will be conducted remotely over the internet on the Zoom or other platform as decided by the Office of Hearings Administration.

Schedule B
Compensation

Hourly Rate (Phil Olbrechts) \$ 180/hour

For all items indicated in Scope of Services, Section 5 of the RFP

Phil Olbrechts may use subcontractors as needed to meet decision deadlines. Attorneys shall be billed at 90% of Phil Olbrechts rate and Planners at 75% of Phil Olbrechts rate. Decision writers may be billed up to \$65/hour. Electronic transcription shall be billed at cost (currently \$1.25/minute of hearing time by Rev.com). In person hearing time shall be billed at one hour minimum per day of hearing.

From: Linda Gray <lgn899a@gmail.com>
Sent: Tuesday, February 7, 2023 11:00 AM
To: Contact Council; Nehring, Nate; Campfield, Lisa
Subject: Lgray Feb 7, 2023, Planning Commission Comment - Hearing Examiner
Attachments: Lgray comment revised - no to PCamp Feb 7 2023 r3.docx

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION : This email originated from outside of this organization. Please exercise caution with links and attachments.

Hello Chair Nate Nehring, Planning Commission, and SC Council - attached is my comment for today's Hearing. Thank you-
Linda Gray, Woodinville, WA

Thank you for the opportunity to comment. Almost every other jurisdiction in the state has RFP's for the hearing examiner position. Why doesn't our county do the same?

- Peter Camp has been the examiner for 9 years. During his time as examiner almost 100% of all land-use decisions have favored the developer to the detriment of citizens, especially in unincorporated portions of the county.
- Mr. Camp has never been impartial. He is too tightly tied to PDS. He has NOT been in private practice since 1998. From 1998-2006 he was Deputy City Attorney for Everett, then 2006-2014 Executive Director under Aaron Reardon overseeing PDS and then appointed to SC Hearing Examiner in 2014. Is it any wonder PDS continues to violate our Comp Plan and the State GMA?

I am requesting formation of a task force like what was done in 2014 to address the exasperation felt on all sides. There is a Pro Tem available for a reason and this is exactly the time to utilize him while the county actually affords others interested in the position a chance to be considered. Council member Nehring's assertion that reappointment is warranted, absent actual proof, is simply not acceptable. Appointment of a hearing examiner is not a coronation, and it is disturbing that there are no term limits.

The previous Examiner Dykes raised grave concerns about the political and pro development favoritism expected from the position. Examiner Dykes gave better than a 80% approval to developers, but apparently that was not enough. The developers wanted a 100% approval – so Mr. Camp fits the bill.

Mr. Camp's required annual reports to the council do not contain any matters that were denied or remanded. Is that because he never denies developers' projects? Mr. Camp has held this position for over 8 years and the citizens deserve a fair and impartial examiner that will balance the interests of the community with as much gravity as developers are given.

Please listen to your constituents. Be transparent and issue an RFP now for the position. Thank you.
Linda Gray, Woodinville, WA

From: Linda Gray <lgn899a@gmail.com>
Sent: Tuesday, February 7, 2023 11:32 AM
To: Nehring, Nate; Contact Council
Cc: Campfield, Lisa
Subject: Re: Lgray Feb 7, 2023, Planning Commission Comment - Hearing Examiner

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION : This email originated from outside of this organization. Please exercise caution with links and attachments.

Dear Planning Chair Nehring, SC Council and Planning Commission.

1. Please remember that we are saying PDS doesn't follow code in nearly every development project, and Peter is going along with them. See number 4 below .
2. Additionally, an appeal is so tricky for citizens now with the \$1500 appeal price. Documents are nearly impossible to obtain time to get ready for any appeal.
3. It would be better for Snohomish County to utilize the services of a group like the Sound Law Center to obtain a more impartial arbitrator as their Hearing Examiner. "SLC's hearing examiners currently serve approximately 40 jurisdictions in Western Washington". As an example, here is a response to an RFP by Sound Law center from a couple of years ago: <https://www.kitsapgov.com/das/Documents/Submission%20Sound%20Law%20Center.pdf>
4. The Hearing Examiner job in SC has always been the subject of controversy, back to the days when Barbara Dykes was fired. <https://www.heraldnet.com/news/builders-object-to-hearing-examiner-but-activists-back-her/> The public today has issues with the current Hearing Examiner. Among them - it appears he remands/denies next to nothing. Do I have to wonder why those decisions do not appear in the 2014-2019 reports?

Thank you - Linda Gray

On Tue, Feb 7, 2023 at 11:02 AM Nehring, Nate <nate.nehring@co.snohomish.wa.us> wrote:

Thank you, Linda. This will be added to the record.

Sincerely,

Nate Nehring

Councilman, District 1

Snohomish County Council



3000 Rockefeller Ave., M/S 609

Everett, WA 98201-4046

☎: 425.388.3494 ✉: Nate.Nehring@snoco.org

From: Linda Gray <lgn899a@gmail.com>

Sent: Tuesday, February 7, 2023 11:00 AM

To: Contact Council <Contact.Council@co.snohomish.wa.us>; Nehring, Nate <nate.nehring@co.snohomish.wa.us>;
Campfield, Lisa <Lisa.Campfield@co.snohomish.wa.us>

Subject: Lgray Feb 7, 2023, Planning Commission Comment - Hearing Examiner

CAUTION : This email originated from outside of this organization. Please exercise caution with links and attachments.

Hello Chair Nate Nehring, Planning Commission, and SC Council - attached is my comment for today's Hearing. Thank you-

Linda Gray, Woodinville, WA

From: Linda Gray <lgn899a@gmail.com>
Sent: Wednesday, February 8, 2023 9:01 AM
To: Contact Council; Campfield, Lisa
Subject: Lgray public comment against Motion 23-022 reappointment of Peter Camp, against Ordinance 22-076 adding 3rd term to Planning Commission
Attachments: Lgray comment against reappointment of HE Peter Camp and against adding another term to the Planning Commission members.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION : This email originated from outside of this organization. Please exercise caution with links and attachments.

Dear SC Council members - please see the attached for my comments. Thank you - Linda Gray, Woodinville, WA

LGray Comment Feb 7 against motion 23-022 and Feb 8 Ordinance # 22-076

1 message

Linda Gray <Ign899a@gmail.com>
To: Linda Gray <Ign899a@gmail.com>

Wed, Feb 8, 2023 at 8:55 AM

Please do not add another term to the Planning Commission members. I believe this is being done specifically for Merle Ash, Developer, Master Builder member, and Planning Commission member. He regularly gets involved in decisions directly affecting his business without recusing himself. Thank you - Linda

----- Forwarded message -----

From: **Linda Gray** <Ign899a@gmail.com>

Date: Tue, Feb 7, 2023 at 1:34 PM

Subject: 80% comment proof

To: Nehring, Nate <nate.nehring@co.snohomish.wa.us>, Contact Council <contact.council@co.snohomish.wa.us>, Campfield, Lisa <Lisa.campfield@co.snohomish.wa.us>

Cc: Tina Stewart <tstewart@nsuch.com>, Cat Gustafson <cathgust@hotmail.com>, William Lider <bill@liderengineering.com>, Rena Connell <connell.rena@gmail.com>

Also meant to include the article discussing 80% for Dykes - KUOW - Oso Highlights A Policy Challenge: Development Pressure Vs. Landslide Risk and also where Master Builder Mike Pattison saw to it the Hearing Examiner Dykes was not reappointed.

On Tue, Feb 7, 2023 at 1:17 PM Linda Gray <Ign899a@gmail.com> wrote:

Dear Planning Chair Nehring, SC Council, and Planning Commission

I wonder why Peter Camp was allowed to defend himself against citizen comments today when the public was not allowed to rebut his excuses. Even then, he attempted to minimize the potential for other candidates. Did you notify the Hearing Examiner Association of Washington or the Sound Law Center about this opening? Talk about conflict of interest and unfair bias. You have a PRO TEM Hearing Examiner, so you can open this process to an RFP. Thank you - Linda

On Tue, Feb 7, 2023 at 11:31 AM Linda Gray <Ign899a@gmail.com> wrote:

Dear Planning Chair Nehring, SC Council and Planning Commission.

1. Please remember that we are saying PDS doesn't follow code in nearly every development project, and Peter is going along with them. See number 4 below .
2. Additionally, an appeal is so tricky for citizens now with the \$1500 appeal price. Documents are nearly impossible to obtain time to get ready for any appeal.
3. It would be better for Snohomish County to utilize the services of a group like the Sound Law Center to obtain a more impartial arbitrator as their Hearing Examiner. "SLC's hearing examiners currently serve approximately 40 jurisdictions in Western Washington". As an example, here is a response to an RFP by Sound Law center from a couple of years ago: <https://www.kitsapgov.com/das/Documents/Submission%20Sound%20Law%20Center.pdf>
4. The Hearing Examiner job in SC has always been the subject of controversy, back to the days when Barbara Dykes was fired. <https://www.heraldnet.com/news/builders-object-to-hearing-examiner-but-activists-back-her/>
The public today has issues with the current Hearing Examiner. Among them - it appears he remands/denies next to nothing. Do I have to wonder why those decisions do not appear in the 2014-2019 reports?

Thank you - Linda Gray

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On Tue, Feb 7, 2023 at 11:02 AM Nehring, Nate <nate.nehring@co.snohomish.wa.us> wrote:

Thank you, Linda. This will be added to the record.

Sincerely,

Nate Nehring

Councilman, District 1

Snohomish County Council



3000 Rockefeller Ave., M/S 609

Everett, WA 98201-4046

☎: 425.388.3494 ✉: Nate.Nehring@snoco.org

From: Linda Gray <lgn899a@gmail.com>

Sent: Tuesday, February 7, 2023 11:00 AM

To: Contact Council <Contact.Council@co.snohomish.wa.us>; Nehring, Nate <nate.nehring@co.snohomish.wa.us>; Campfield, Lisa <Lisa.Campfield@co.snohomish.wa.us>

Subject: Lgray Feb 7, 2023, Planning Commission Comment - Hearing Examiner

CAUTION : This email originated from outside of this organization. Please exercise caution with links and attachments.

Hello Chair Nate Nehring, Planning Commission, and SC Council - attached is my comment for today's Hearing. Thank you-

Linda Gray, Woodinville, WA

From: Linda Gray <lgn899a@gmail.com>
Sent: Tuesday, January 17, 2023 9:00 AM
To: Contact Council
Subject: Reappointment of Peter Camp
Attachments: Lgray comment Peter Camp not be reappointed.docx

CAUTION : This email originated from outside of this organization. Please exercise caution with links and attachments.

Hello - please see that this is distributed to the SC Council for today's hearing. Thank you - Linda

Thank you for the opportunity to speak. Peter Camp has been the HE since 2014. Since then nearly all decisions have been in favor of the developer to the detriment to citizens, especially those of us in unincorporated SC where we have but one political representative. Peter is too tightly tied to SC allowing PDS to break Snohomish County, State, GMA, etc. laws

The SC Council didn't renew the HE in 2014 at the behest of the Master Builders. It's been 8 years, and I am requesting you please stop, open this selection process to other potential HEs and get the public involved. The HE examiner's decisions dramatically affect citizens' every day life. The public should have been offered an alternative. It is wrong to provide no notice of a decision of such importance. We need a HE that will fairly balance interests of business and the affected County citizens. Such is not the case.

For examples - Refused a motion to continue CUP/SEPA Hearing for one week forcing Appellant to go pro se(9.10, 9.13)

There they faced three aggressive attorneys, two for Respondent Applicant Center and a deputy prosecuting attorney for PDS.

- Violation of Appearance of Fairness doctrine Refused to recuse himself in violation of State and SC laws from a decision where the County will receive \$9,600,000 from a developer..
- The Examiner does not have the authority but routinely waves the requirement that a full and complete Staff report be available to the public seven days before a Hearing.
- 9.19 The Examiner's Decision too frequently gives PDS a pass on complying with Snohomish County Code requirements as well as GMA etc.
- 9.26 The Examiner went out of his way after the community could not respond to dig up a wholly unrelated application proceeding from almost twenty years ago and to criticize community participants before him in 2022 for not participating in the 2005 proceeding on that wholly unrelated application. Neither the Center Applicant nor the PDS attorney had raised this argument/criticism during the proceedings before the Examiner. The Examiner was motivated enough in his bias to raise it all on his own and imply that community participants were motivated by bigotry
- Refusal to allow Linda Gray and our Traffic expert to be recalled Feb 4, 2022 as requested by motion, yet allowed PDS to bring David Irwin and other SnoCo employees back to testify Feb 4th again though they were previously dismissed by Brian Dorsey
- 10.8 To the Petitioners' detriment and prejudice, the Examiner failed to follow required procedure and applicable law and instead conducted two sequential hearings(CUP/SEPA), treating them as having separate records and violating statutory requirements and regulations. RCW 43.21C.075(3)(b); WAC 197-11-680(3)(a).
- 10.16 Unlawfully excluded Pro Se Petitioners' exhibits based on technical evidentiary objections, accepting objections by Respondents' three attorneys and applying a harsh courtroom standard in an open record CUP public hearing to Petitioners' lay submissions. In doing so, the Examiner contravened of Hearing Examiner Rule of Procedure 5.6(a)
- 10.18 Failure to impose mitigating conditions, recognizing that they were required for the proposal to meet the mandatory SCC CUP criteria, the conditions themselves are not effective and are not practically enforceable, depriving Petitioners of the protections required under the SCC CUP criteria and leaving grant of the CUP unsupported. The CUP uses will therefore be detrimental to Petitioners' ability to use and enjoy their properties and to have safe access, including for emergency vehicles.

I urge the Council not to reappoint Peter Camp to the position of Hearing Examiner.

Respectfully,
Linda Gray
22629-78 ht Ave SE
Woodinville, WA 98072

SUPERIOR COURT OF THE STATE OF WASHINGTON IN AND FOR THE COUNTY OF KING
Appeal, June 21, 2022, Peter Eglick

That process culminates in a public hearing conducted by the Hearing Examiner who then makes a decision on the CUP application that is subject to appeal to the County Council. In this case, Petitioners and the public were kept in the dark for over two years about critical facts concerning the Center application. During that time, in August 2020, the Center's own engineer responsible for its application, identified to PDS "the changed, more intensive nature of the resubmittal of the project" and asked, "if we would need to re-notice it." However, PDS did nothing.

9.10 The SEPA appeal and the CUP application were ultimately scheduled for a January 25, 2022 hearing before the Hearing Examiner. Petitioners meanwhile over the holiday season were trying to identify and engage counsel expert in land use to represent them in the hearing. The counsel they were able to engage was unavailable on January 25 and **requested by motion that the Hearing Examiner continue the hearing to the following week, but the Hearing Examiner refused to do so.**

9.13 As a result of the Hearing Examiner's denial of the Petitioners' motions and refusal to remand, the Examiner proceeded on January 25, 2022 to conduct a hearing with Petitioners, laypersons, forced to participate pro se. Three attorneys, two for Respondent Applicant Center and a deputy prosecuting attorney for PDS, aggressively represented Respondents.

9.14 The Examiner went out of his way during the hearing proceeding to read as narrowly and critically as possible the lay SEPA appeal that Petitioner Jones had just managed to put together in the few days before the fourteen-day SEPA Appeal deadline ran out. For example, the Examiner ruled that, under SEPA, fish are not within the category of wildlife, and therefore refused to allow consideration of impacts to fish despite the SEPA appeal's allegation of fish-related adverse environmental impact

9.15 The Hearing Examiner, in specific violation of explicit state law, conducted the proceeding before him as two separate hearings, one after another, with two separate records. The Examiner used the unlawful two separate hearing device to refuse to consider and to exclude Petitioner testimony and exhibits, ruling that they should have been presented in the CUP application hearing, on which he said, "the record is closed." The Decision ultimately issued by the Examiner was therefore based on an artificially truncated record and failed to consider important facts and aspects of the proposed us

9.18 The Examiner's Decision, however, fails to apply Snohomish County Code provisions applicable to the Center's lodging/boarding and training use which would have required denial or at least explicit limitations on the CUP application.

9.19 The Examiner's Decision also gives PDS and the Center application a pass on complying with Snohomish County Code requirements for analyzing traffic concurrency. The Code's concurrency requirements have their origin in the Growth Management Act, which requires that approval of land uses will not overtax the area's road traffic capacity

9.22 The Examiner upheld DPW's approach and declined to remand the matter for a documented analysis and determination of trip distribution as the Code requires

9.24 The Examiner acted during the hearings he conducted as a protector of the Center Applicant, improperly and spuriously excluding offerings by Petitioners as, for example, "Irrelevant because relates to a different project with no connection to the MA Center application." During the second hearing in particular the Examiner harshly criticized proposed submissions by lay Petitioners as not meeting courtroom evidence admissibility standards, applying them strictly in an administrative hearing.

9.26 In other words, the Examiner went out of his way after the community could not respond to dig up a wholly unrelated application proceeding from almost twenty years ago and to criticize community participants before him in 2022 for not participating in the 2005 proceeding on that wholly unrelated application. Neither the Center Applicant nor the PDS attorney had raised this argument/criticism during the proceedings before the Examiner. The Examiner was motivated enough in his bias to raise it all on his own and imply that community participants were motivated by bigotry

9.29 The Examiner's Decision also, improperly, rejects recognition, including under the mandatory CUP criteria of detrimental impacts with regard to traffic and drainage/stormwater. It similarly errs in how it applies the Institute of Traffic Engineers (ITE) Manual in addressing trip generation by the Center and in not recognizing that the proposal would also generate trips in weekend peaks as well.

9.30 The Examiner's Decision fails to apply the SCC mandatory CUP criteria and state only that "public services", specifically electricity, are available, failing to assess availability of other public services, including particularly fire protection, both on site and to adjacent properties

9.37 The County Council June 1 Decision upheld and adopted the Examiner's Decision in every respect and without explanation or specification. The only exception is that the Council went out of its way to rationalize and excuse the Examiner's attack on community participants, including Petitioners, based on "judicial notice" of a proceeding concerning a different proposal almost twenty years earlier

10.2 As further explained below, this Court should grant relief under each one of the following standards set forth in LUPA, RCW 36.70C.130(1) (a) through (f):

(a) The body or officer that made the land use decision engaged in unlawful procedure or failed to follow a prescribed process, unless the error was harmless;

(b) The land use decision is an erroneous interpretation of the law, after allowing for such deference as is due the construction of a law by a local jurisdiction with expertise;

(c) The land use decision is not supported by evidence that is substantial when viewed in light of the whole record before the court;

(d) The land use decision is a clearly erroneous application of the law to the facts;

(e) The land use decision is outside the authority or jurisdiction of the body or officer making the decision; or

(f) The land use decision violates the constitutional rights of the party seeking relief

10.5 The purpose of the County hearing examiner system is, inter alia, to “ensure procedural due process and appearance of fairness in regulatory hearings...” SCC 2.02.010(1). The decisions of the Hearing Examiner and County Council have violated these purposes as well as due process

10.8 State law required a single simultaneous hearing when the Center’s CUP application and Petitioners’ SEPA appeal came before the Hearing Examiner. **To the Petitioners’ detriment and prejudice, the Examiner failed to follow required procedure and applicable law and instead conducted two sequential hearings, treating them as having separate records and violating statutory requirements and regulations. RCW 43.21C.075(3)(b); WAC 197-11-680(3)(a).**

10.14 The Examiner’s double standard, excluding Petitioner’s exhibits as, inter alia, unrelated to the specific Center application, but then injecting into the Record and his Decision unwarranted aspersions against community participants based on an entirely unrelated application twenty years earlier was egregious

10.16 The Examiner and the County Council in adopting the **Examiner’s Decision erred and applied an unlawful procedure in excluding Petitioners’ exhibits based on technical evidentiary objections, accepting objections by Respondents’ three attorneys and applying a harsh courtroom standard in an open record CUP public hearing to Petitioners’ lay submissions.** In doing so, the Examiner contravened of Hearing Examiner Rule of Procedure 5.6(a) concerning evidence which admonishes that Hearing Examiner hearings are to be “accessible to the public without need for an attorney” and which specifically authorizes hearsay

10.17 The County Decision violated SEPA and SEPA regulations in failing to recognize and mitigate significant adverse impacts, in excluding evidence of significant impacts, and in misunderstanding the role of the SEPA Checklist

10.18 Where the Examiner’s Decision purports to impose mitigating conditions, recognizing that they were required for the proposal to meet the mandatory SCC CUP criteria, **the conditions themselves are not effective and are not practically enforceable, depriving Petitioners of the protections required under the SCC CUP criteria and leaving grant of the CUP unsupported.** The CUP uses will be detrimental to Petitioners’ ability to use and enjoy their properties and to have safe access, including for emergency vehicles.

From: Linda Gray <lgn899a@gmail.com>
Sent: Tuesday, February 7, 2023 1:35 PM
To: Nehring, Nate; Contact Council; Campfield, Lisa
Cc: Tina Stewart; Cat Gustafson; William Lider; Rena Connell
Subject: 80% comment proof

Follow Up Flag: Follow up
Flag Status: Completed

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Also meant to include the article discussing 80% for Dykes - [KUOW - Oso Highlights A Policy Challenge: Development Pressure Vs. Landslide Risk](#)

On Tue, Feb 7, 2023 at 1:17 PM Linda Gray <lgn899a@gmail.com> wrote:

Dear Planning Chair Nehring, SC Council, and Planning Commission
I wonder why Peter Camp was allowed to defend himself against citizen comments today when the public was not allowed to rebut his excuses. Even then, he attempted to minimize the potential for other candidates. Did you notify the Hearing Examiner Association of Washington or the Sound Law Center about this opening? Talk about conflict of interest and unfair bias. You have a PRO TEM Hearing Examiner, so you can open this process to an RFP. Thank you - Linda

On Tue, Feb 7, 2023 at 11:31 AM Linda Gray <lgn899a@gmail.com> wrote:

Dear Planning Chair Nehring, SC Council and Planning Commission.

1. Please remember that we are saying PDS doesn't follow code in nearly every development project, and Peter is going along with them. See number 4 below .
2. Additionally, an appeal is so tricky for citizens now with the \$1500 appeal price. Documents are nearly impossible to obtain time to get ready for any appeal.
3. It would be better for Snohomish County to utilize the services of a group like the Sound Law Center to obtain a more impartial arbitrator as their Hearing Examiner. "SLC's hearing examiners currently serve approximately 40 jurisdictions in Western Washington". As an example, here is a response to an RFP by Sound Law center from a couple of years ago: <https://www.kitsapgov.com/das/Documents/Submission%20Sound%20Law%20Center.pdf>
4. The Hearing Examiner job in SC has always been the subject of controversy, back to the days when Barbara Dykes was fired. <https://www.heraldnet.com/news/builders-object-to-hearing-examiner-but-activists-back-her/> The public today has issues with the current Hearing Examiner. Among them - it appears he remands/denies next to nothing. Do I have to wonder why those decisions do not appear in the 2014-2019 reports?

Thank you - Linda Gray
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Nate Nehring

Councilman, District 1

Snohomish County Council



3000 Rockefeller Ave., M/S 609

Everett, WA 98201-4046

☎: 425.388.3494 ✉: Nate.Nehring@snoco.org

From: Linda Gray <lgn899a@gmail.com>

Sent: Tuesday, February 7, 2023 11:00 AM

To: Contact Council <Contact.Council@co.snohomish.wa.us>; Nehring, Nate <nate.nehring@co.snohomish.wa.us>;
Campfield, Lisa <Lisa.Campfield@co.snohomish.wa.us>

Subject: Lgray Feb 7, 2023, Planning Commission Comment - Hearing Examiner

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Hello Chair Nate Nehring, Planning Commission, and SC Council - attached is my comment for today's Hearing. Thank you-

Linda Gray, Woodinville, WA

From: Linda Gray <lgn899a@gmail.com>
Sent: Tuesday, February 7, 2023 1:17 PM
To: Nehring, Nate; Contact Council; Campfield, Lisa
Cc: Tina Stewart; Cat Gustafson; William Lider; Rena Connell
Subject: Why was Peter Camp in the Hearing today?

CAUTION : This email originated from outside of this organization. Please exercise caution with links and attachments.

Dear Planning Chair Nehring, SC Council, and Planning Commission
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Sincerely,

Nate Nehring

Councilman, District 1

Snohomish County Council



3000 Rockefeller Ave., M/S 609

Everett, WA 98201-4046

☎: 425.388.3494 ✉: Nate.Nehring@snoco.org

From: Linda Gray <lgn899a@gmail.com>

Sent: Tuesday, February 7, 2023 11:00 AM

To: Contact Council <Contact.Council@co.snohomish.wa.us>; Nehring, Nate <nate.nehring@co.snohomish.wa.us>;
Campfield, Lisa <Lisa.Campfield@co.snohomish.wa.us>

Subject: Lgray Feb 7, 2023, Planning Commission Comment - Hearing Examiner

CAUTION : This email originated from outside of this organization. Please exercise caution with links and attachments.

Hello Chair Nate Nehring, Planning Commission, and SC Council - attached is my comment for today's Hearing. Thank you-

Linda Gray, Woodinville, WA

From: Cathleen G <cathgust@hotmail.com>
Sent: Tuesday, February 7, 2023 12:02 PM
To: Nehring, Nate; Campfield, Lisa; Contact Council
Cc: William Lider; Linda Gray; Deborah L Wetzel; Tina Stewart; Rena Connell; darlenej@nwlinc.com; Glen A. Jones Jr.; Cathleen G
Subject: Feb 7, 2023, Planning Commission Comment - Hearing Examiner
Attachments: alternative HEX comment.docx

CAUTION : This email originated from outside of this organization. Please exercise caution with links and attachments.

Please find my attached comment.

Council member Dunn requested Ryan Countryman provide data from other county examiner decisions. Mr. Countryman stated he could not provide the information in one day. Therefore, table motion 23-022 until February 22nd. There is a protem available to fill in the interim.

Cathleen Gustafson
Woodinville, WA

Sent from [Outlook](#)

The role of Snohomish County hearing examiner is to conduct a proceeding similar to a court proceeding. They are to be a professionally trained individual with no political influences. I believe the choice Snohomish County has chosen in the past 8 years is not the right choice anymore. Peter Camp appears to be biased when it comes to appeals on applicant's vs citizens. On one appeal, the request for a 1-week extension hearing was denied, when a citizen stated legal counsel was not available until the following week. The citizen also addressed that the County records did not forward any current County documents either, before the pretrial. Mr. Camp decided to give the County almost 2 weeks to provide the updated documents. During the hearing, it was also brought forth the County again didn't send the last batch of documents until the day before the hearing. Mr. Camp allowed the hearing to proceed, and not allowing the appellant enough time to review nor submit any findings from that batch. At that same hearing, he allowed the applicant to have their 2 attorneys "tag team" each other. If Mr. Camp's role is to appropriately based on adopted laws, rules and policies, he should have known from the beginning that only 1 legal counsel is allowed to be represented for one client, not two. This information is now on record when it was addressed to the to the Snohomish County Council last year.

In multiple past appeals, Mr. Camp was clearly more in favor towards developers and against concerned citizens. From records research, for the period 2014-2019 he only remanded 1 case in favor of the appellant, compared to our former hearing examiner Barbara Dykes. When Dykes' term ended, the Snohomish County Council chose not to reappoint her. They made their decision after being lobbied by the building and development industry. There is clearly no balance of interests of the public anymore when it comes to the interests of developers seeking approval. How is that realistic? It is almost like stating that over 99% of the appellants have done everything perfect with no mistake. We, as citizens who pay for the county salaries, need to hire our own lawyers to point this out, or risk the destruction of our neighborhoods, that developers are constantly getting approval of.

As a concerned citizen, I also object to the fact that there are no term limits for the Hearing Examiner. For nearly every other position – executive & council member term out after 3 election cycles and planning commission members after 2.

I am sure there are many better alternative candidates for the Council to consider than him, and I do hope our Council decides not to reappoint him as our next hearing examiner.

From: bill liderengineering.com <bill@liderengineering.com>
Sent: Tuesday, February 7, 2023 2:38 PM
To: Nehring, Nate; Contact Council; Campfield, Lisa
Cc: Linda Gray; Tina Stewart; Cat Gustafson; Rena Connell; 'James Walsh'; Josh@pnwrstrategies.com
Subject: Feb. 7, 2022 Planning Committee Meeting, Motion 23-0222

Follow Up Flag: Follow up
Flag Status: Completed

CAUTION : This email originated from outside of this organization. Please exercise caution with links and attachments.

I would like to augment and amplify my verbal comments against Mr. Camp's appointment to another two-year term appointment as the SNOCO Hearing Examiner; and to push back against statements made by staff after the public comment period was closed. Furthermore, it was inappropriate for Mr. Camp to speak at this meeting.

Mr. Countryman opined that PDS does not put "bad" projects forward to the Hearing Examiner as the reason why Mr. Camp's decisions have not been overturned. This is simply not true.

For instance:

- At the Aravalli development appeal, I pointed out to Mr. Camp in my testimony that bioretention ponds were not to be used as playfields because they degrade the ponds water quality treatment capacity, which was in the County's Drainage Manual at that time; yet Mr. Camp went on to approve this project allowing bioretention ponds to be used as active recreation areas with lawn grass. We have since documented that fertilizers and pesticides were being applied to these water quality treatment facilities, unbeknownst to anyone in the County. It was only after I notified Ecology of this inappropriate activity, that the use of fertilizers and pesticides were halted. Yet, the Aravalli bioretention ponds are still being used as playfields today!
- PDS put forward a 5-acre parking lot project at the Paine Field Wetland ERR project to Mr. Camp for approval, but it was withdrawn only after the SKWC filed a Clean Water Act lawsuit in Federal Court, where I provided expert testimony. The County paid \$350,000 to remove an unpermitted rocked parking lot that encroached into the Wetland ERR buffer that had been approved by former Airport Director Arif Ghouse as a condition of the federal consent decree;
- Propeller paid the Sno-King Watershed Council a \$10,000 settlement to the SKWC and redesigned their stormwater detention facility as I recommended, because PDS had improperly approved an inadequate stormwater design that would have harmed Japanese Gulch Creek;
- We are still waiting for the Superior Court, Bexley Ridge ruling where PDS deleted 200-trees on a retaining wall calling this a minor change. A cheaper retaining wall was constructed that could not support trees. PDS can simply set aside any Hearing Examiner condition as a "minor revision", making any decision by the Hearing Examiner worthless; and
- Mr. Camp has been remiss and delinquent by not providing the required annual reports on his rulings. This alone should be justification for not continuing his contract with the County.

As Mr. Countryman also opined that if the Citizens do not like Camp's rulings, they should get the code changed. I did this after appeal of Paul Allen's Flying Heritage Museum was dismissed. This project constructed a 1-acre building at Paine Field, with inadequate or no stormwater flow control. At my urging, Ecology forced Snohomish County to change its code for redevelopment criteria to 50% of the assessed value of the disturbed area and not 50% of the parcel area. At Paine Field, the parcels are over 150-acres and would never be required to provide flow control. Snohomish County would never have approved this code

change by itself, and it still took a State agency 3-years to force this change. Even then, Snohomish County continued to use this loophole up until just a few weeks before July 1, 2021 when the County's new stormwater manual took effect.

After Aravalli fiasco, Ecology forced Snohomish County, at my urging, to stop using lawn grasses in bioretention ponds, even though that too was also in the County's Drainage Manual. Mr. Camp ignored the code when he approved the Bexley Ridge (aka Frogal Estates) project. Only because construction had not commenced at Bexley Ridge by July 1, 2021 was Bexley forced to redesign its bioretention ponds. Again, this took years to accomplish with zero help from Snohomish County.

These types of code changes only occur when a State agency forces the change. Past County Councils has been of no help whatsoever in making a code changes.

Rather than giving Mr. Camp a two-year appointment, I suggest that his appointment be no more than 6-months. The County Council could then use this time to set a term limit on how long a Hearing Examiner can serve, say 7-years maximum and issue an RFP for other qualified candidates that are not so beholdng to the developers who are massive political contributors to elected officials in the County.

We need a Hearing Examiner who will not continue to approve substandard developments that are not in compliance with the County Code; and not simply rubber stamp PDS decisions.

William (Bill) Lider, PE, CESCL
Lider Engineering, PLLC
2526 – 205th Place SW
Lynnwood, WA 98036
425-776-0671 (W)
206-661-0787 (C)

From: Tina Stewart <tstewart@nsuch.com>
Sent: Tuesday, February 7, 2023 11:10 AM
To: Contact Council; Nehring, Nate
Subject: Planning Commission public comments on motion 23-022

CAUTION : This email originated from outside of this organization. Please exercise caution with links and attachments.

Thank you for the opportunity to comment on motion 23-022, the reappointment of Peter Camp as administrator and Hearing Examiner. The Hearing Examiner is responsible for interpreting, reviewing and implementing land use regulations. This person is also the first point of appeal for citizens who question or disagree with land use decisions.

Citizens are not well served by an HEx who appears to take note of defects in PDS procedures and/or interpretations but disregards those defects when actually making a ruling. Such an HEx adds one more obstacle to the rights of citizens to be heard, in addition to the Council's decision to triple the cost of an appeal.

The Hearing Examiner is required to report and meet with County Council annually, yet his reports for 2020 through 2022 are not available. The 2020 report is now more than 2 years overdue. The Hearing Examiner's job is to follow the law, but this Hearing Examiner doesn't follow code requirements for his own job.

From his 2018 report, describing Common Public Concerns:

D. COMMON PUBLIC CONCERNS

Traffic continues to lead the list of community concerns regarding development, as well as pedestrian safety (i.e., lack of continuous sidewalks in many areas). Development of green-field sites perturbs neighbors who were used to seeing undeveloped, wooded property adjacent to theirs. Redevelopment and increased density bothers neighbors who like their neighborhood as it is.

Apparently, the HEx isn't concerned about the real environmental risks that might accompany development. From his summary, it appears that public concerns are a nuisance to be dispensed with asap.

A HEx with decisions too frequently favoring development and too infrequently requiring thorough environmental studies could create a wave of overdevelopment sweeping across the county that would be hard, if not impossible to stop. This is a County-wide decision for the next two years. The County should open this job up to all qualified candidates, and use an RFP to select a Hearing Examiner to fairly balance interests of business and population trends with escalating climate change and the need to enforce GMA's protection of rural lands.

Thank you for hearing my concerns on this important position.

Katrina Stewart, Woodinville WA 98072