



CITY COUNCIL 345 6th Street, Suite 100, Bremerton, WA 98337 - Phone (360) 473-5280

***** AMENDED *****

WEDNESDAY, MAY 15, 2024
CITY COUNCIL HYBRID MEETING AGENDA

Most Council Members and staff will be participating in the meeting in-person, and the public is invited to attend. Or beginning at 5:30 PM, the public may participate remotely through one of the following options:

- To stream online only (via BKAT Feed, with no interaction possible):
<https://bremerton.vod.castus.tv/vod/?live=ch1&nav=live>
- **Members of the public** are invited to join the Zoom Meeting by clicking on the link below:
<https://bremertonwa-gov.zoom.us/j/89694813320?pwd=Z0JvSXNhSFp1c0xhL1NxUjRhN20xUT09>
- Or One tap mobile:
US: +12532050468,,89694813320#,,,,*173061# or +12532158782,,89694813320#,,,,*173061#
- Or Telephone: Dial (for higher quality, dial a number based on your current location):
US: +1 253 205 0468 or +1 253 215 8782 or +1 669 444 9171 or +1 669 900 6833

Webinar ID: 896 9481 3320

Passcode: 173061

Public questions or comments may be submitted ahead of time to City.Council@ci.bremerton.wa.us

1. **BRIEFING**: 5:00 – 5:30 P.M. in **COUNCIL CONFERENCE ROOM 603**
 - A. Review of Agenda
 - B. General Council Business (*Only as necessary...*)
2. **CALL TO ORDER**: 5:30 P.M. in **FIRST FLOOR CHAMBERS**
3. **MAYOR'S REPORT**
4. **CONSENT AGENDA**
 - A. Claims and Check Register
 - B. Meeting Minutes – May 1, 2024
 - C. Study Session Minutes – May 8, 2024
 - D. Confirm Mayor's appointment of Peregrin K. Sorter as Administrative Hearing Examiner and approval of associated Professional Services Agreement
 - E. Ordinance No. 5492 amending Section 2.50.032 of the Bremerton Municipal Code entitled "Actual Salary Rate"
5. **PUBLIC RECOGNITION** – *To address the Council on any issues not already on the agenda. Please state your name for the record in person, and limit your comments to under 3-minutes*
6. **GENERAL BUSINESS** – *There are no General Business Items tonight...*
7. **COUNCIL MEMBER REPORTS**

Continued on next page...



Americans with Disabilities Act (ADA) accommodations provided upon request. Those requiring special accommodations please contact the City Clerk at (360) 473-5323 at least 24 hours prior to the meeting.

8. **EXECUTIVE SESSIONS** – *No proposed action...*

- A. 10-Minutes to discuss with Legal Counsel “Current or Potential Litigation”
as allowed under RCW 42.30.110(1)(i);

10-Minutes to discuss with Legal Counsel “Legal Risks of Current or Proposed Action”
as allowed under RCW 42.30.110(1)(i); and

10-Minutes to discuss with Legal Counsel “Legal Risks of Current or Proposed Action”
as allowed under RCW 42.30.110(1)(i)

9. **ADJOURNMENT OF CITY COUNCIL BUSINESS MEETING**

AGENDA BILL
CITY OF BREMERTON
CITY COUNCIL

4B

SUBJECT: Minutes of Meeting – May 1,
2024

Study Session Date: N/A
COUNCIL MEETING Date: May 15, 2024
Department: City Council
Presenter: Council President
Phone: (360) 473-5280

SUMMARY: The Minutes of Meeting held on May 1, 2024 are attached.

ATTACHMENTS: Meeting Minutes

FISCAL IMPACTS (Include Budgeted Amount): None

STUDY SESSION AGENDA: N/A

STUDY SESSION ACTION: Consent Agenda General Business Public Hearing

RECOMMENDED MOTION:

Move to approve the May 1, 2024 Meeting Minutes as presented.

COUNCIL ACTION: Approve Deny Table Continue No Action

CITY COUNCIL HYBRID MEETING MINUTES

Wednesday, May 15, 2024

The weekly meeting of the City Council of the City of Bremerton was called to order Wednesday, May 15, 2024, at 5:00 PM in Council Conference Room 603 of the NORM DICKS GOVERNMENT CENTER, 345 6th Street, Bremerton, Washington, with Council President Jennifer Chamberlin presiding. Council Members present were Eric Younger, Anna Mockler, Michael Goodnow, Jane Rebelowski, Jeff Coughlin, and Denise Frey. At 5:30 PM, the meeting moved to the First Floor Meeting Chambers. Also present were City Attorney Kylie Finnell, City Clerk Angela Hoover, Legislative Office Manager Lori Smith, and IT Manager Dave Sorensen.

President Chamberlin announced the City Council is conducting the Council Meeting in-person with an option for the public to join in person, participate remotely via Zoom (except Public Recognition until hate speech can be addressed), or view on BKAT, because community involvement is encouraged. Anyone may request special accommodation to participate in Public Recognition remotely via Zoom up to 24 hours before every Council Meeting, through the City Clerk, by contacting (360) 473-5323.

MAYOR'S REPORT

-

CONSENT AGENDA

4A – Check Numbers through and Electronic Fund Transfers through in the grand total amount of \$; Regular Payroll for pay period ending, 2024 in the amount of \$; and Regular Payroll Payout for pay period ending, 2024 in the amount of \$

4B – Minutes of Meeting – May 1, 2024

4C – Minutes of Study Session – May 8, 2024

4D –

Comments from the public were provided by.

0:00 PM M/S/C/U (I) Move to approve the CONSENT AGENDA as presented.

President Chamberlin provided a reminder that no public comment is allowed via Zoom, unless prior arrangements have been made. And again, to request special accommodations through the City Clerk at least 24-hours before the meeting. Lastly, since it's election season, to avoid comments on any ballot measures or candidates.

PUBLIC RECOGNITION – *Questions and comments from the public were provided by*

GENERAL BUSINESS

6A –:

Questions and comments from the public were provided by. With a response provided by.

0:00 PM Motion was made by; and seconded by. Questions and comments were provided by; with responses provided by.

0:00 PM M/S/C/U (I) Move to.

COUNCIL MEMBER REPORTS

Anna Mockler mentioned that she hosts a Town Hall Meeting at the Public Works Oyster Bay

Facility on the 2nd Monday of each month from 4:00 to 6:00 PM

Michael Goodnow welcomed volunteers and neighbors to join the next Forest Ridge Park Stewardship Work Party on May 18, or any 3rd Saturday of the month from 9:00 AM to 12:00 PM.

Jane Rebelowski invited members of the public to the next District 4 Town Hall Meeting, no matter where they lived in the City, on Thursday, June 6 from 5:00 to 6:30 PM at the Bremerton High School Career Center Building.

Jeff Coughlin presented a list of the many volunteer positions available on City of Bremerton boards, committees, and commissions and urged interested persons to fill out an application available at BremertonWA.gov/228/.

Denise Frey

Jennifer Chamberlin stated that volunteers are welcome for the next Warren Avenue Bridge Clean-Up on Saturday, May 18 starting at 9:00 AM, and that participants will get a work vest, supplies, and donuts from Café Perfetto at 2811 Wheaton Way.

President Chamberlin established the next Study Session will be held on Wednesday, May 22 at 5:00 PM in the 6th Floor Council Conference Room. This meeting is open to the public to attend in person or remotely by Zoom, but there will be no opportunities to comment.

With no further business, **President Chamberlin** adjourned the Council Meeting at 0:00 PM.

Prepared and Submitted by:

Lori Smith

LORI SMITH
Legislative Office Manager

APPROVED by the City Council on the 5th day of June, 2024.

JENNIFER CHAMBERLIN, City Council President

Attest:

ANGELA HOOVER, City Clerk

JC:AH:ls:cg

AGENDA BILL
CITY OF BREMERTON
CITY COUNCIL

4C

SUBJECT: Minutes of Study Session –
May 8, 2024

Study Session Date: N/A
COUNCIL MEETING Date: May 15, 2024
Department: City Council
Presenter: Council President
Phone: (360) 473-5280

SUMMARY: The Minutes of Study Session held on May 8, 2024 are attached.

ATTACHMENTS: Meeting Minutes

FISCAL IMPACTS (Include Budgeted Amount): None

STUDY SESSION AGENDA: N/A

STUDY SESSION ACTION: Consent Agenda General Business Public Hearing

RECOMMENDED MOTION:

Move to approve the May 8, 2024 Meeting Minutes as presented.

COUNCIL ACTION: Approve Deny Table Continue No Action

CITY COUNCIL STUDY SESSION MINUTES

Wednesday, May 8, 2024

A Study Session of the City Council of the City of Bremerton was called to order on Wednesday, May 8, 2024 at 5:00 PM in Council Conference Room 603 located in the Norm Dicks Government Center at 345 6th Street, with Council President Jennifer Chamberlin presiding. Other Council Members present were Denise Frey (remotely), Jeff Coughlin, Jane Rebelowski, Michael Goodnow, Anna Mockler, and Eric Younger. Legislative Office Manager Lori Smith provided staff support.

President Chamberlin established that the Study Session is open for the public to attend in person or view remotely, but there will be no opportunities for input; the content of these items is subject to change, no action is anticipated; and announced that tonight's agenda was amended to pull Items A2 and A3.

Any of the items approved for action by the Council tonight, will be placed on the **May 15, 2024** City Council Meeting Agenda or as otherwise determined. She further established that a recording will be available online within a few days following the meeting.

A. **BRIEFINGS ON AGENDA BILL ITEMS**

1. Confirm Appointment of Peregrin K. Sorter as Administrative Hearing Examiner and Approval of Professional Services Agreement **Consent Agenda**
2. Contract Award for Reservoir 17—Interior Coating Replacement **Item pulled**
3. Select Funding Alternative to close design funding gap for Warren Avenue Bridge Project **Item pulled**
4. Proposed Ordinance amending Section 2.50.032 of the Bremerton Municipal Code entitled "Actual Salary Rate" **Consent Agenda**
5. Council Review of Parks & Recreation Director Job Description **Continued to May 22 Study Session**

President Chamberlin turned the gavel over to **Vice Present Mockler** from 6:00 to 6:27 PM...

B. **INFORMATION ONLY** – Department-led topics...

1. Update on DEI Program – Legal Departments, Human Resources, and Contract Administrator
2. Briefing on Do's & Don'ts during Election Season – Legal Department

President Chamberlin called a break from 7:00 to 7:10 PM...

C. **GENERAL COUNCIL BUSINESS**

1. Constituent FAQs Links for Council Webpage – Council Vice President Anna Mockler
2. Pride Recognition in the City of Bremerton – President Jennifer Chamberlin
3. Public Safety Committee Briefing (*Last Meeting 5/02/2024*) – Chair Denise Frey
4. Regional and Other Committee/Board Briefings
5. Other General Council Business (*For good of the order, and as time allows...*)

President Chamberlin announced that due to the Juneteenth Holiday landing on a Wednesday, per RCW 42.30.070, the meeting is automatically rescheduled to the following day on Thursday, June 20, unless Council agrees to cancel the meeting. It's not possible to reschedule the meeting to Monday or Tuesday, because the Meeting Chambers is not available. Discussion will be continued to the June 12 Study Session.

She then announced that the next Council Meeting will be on Wednesday, May 15, 2024 beginning at 5:30 PM in the First Floor Meeting Chambers of the Norm Dicks Government Center; and announced that the public is invited to attend in person or remotely, and any special accommodations to speak via Zoom during Public Recognition may be requested through the City Clerk by calling (360) 473-5323 at least 24-hours prior to the meeting.

With no further business, the Study Session was adjourned at 8:40 PM.

Prepared and Submitted by:

Lori Smith

LORI SMITH
Legislative Office Manager

APPROVED by the City Council on the 15th day of May, 2024.

JENNIFER CHAMBERLIN, Council President

ATTEST:

ANGELA HOOVER, City Clerk

JC:AH:ls:cg

AGENDA BILL
CITY OF BREMERTON
CITY COUNCIL

4D

SUBJECT: Confirm Appointment of
Peregrin K. Sorter as Administrative Hearing
Examiner and Approval of Professional
Services Agreement

| | |
|-----------------------|-----------------------|
| Study Session Date: | <u>May 8, 2024</u> |
| COUNCIL MEETING Date: | <u>May 15, 2024</u> |
| Department: | <u>DCD</u> |
| Presenter: | <u>Andrea Spencer</u> |
| Phone: | <u>(360) 473-5283</u> |

SUMMARY:

The Bremerton Municipal Code (BMC) chapter 2.13 establishes that the City will have an Administrative Hearing Examiner (“Examiner”) to review and interpret land use regulations, conduct hearings, render decisions, and hear other matters as provided for in the BMC and other ordinances. In 2023 Alex Sidles, PLLC was appointed the City’s Administrative Hearing Examiner, and in March 2024 we were notified that Mr. Sidles was being appointed to the Washinton State Growth Management Hearings Board and would no longer be able to serve as our Examiner after May 31, 2024.

The Department of Community Development sent out a Request for Quotes (RFQ) which closed on April 26, 2024. Based on the RFQ responses, a review of the applicant’s qualifications and consideration of cost, Peregrin K. Sorter, Laminar Law, PLLC was selected to serve as the City’s new Examiner. The BMC requires that the selection of the Examiner be confirmed by the City Council. Mayor Wheeler proposes the appointment of the Administrative Hearing Examiner pursuant to the terms of the attached Professional Services Agreement. The annual cost for this contract will be approximately \$40,000, with potential additional costs if additional hearings are required.

ATTACHMENTS:

Professional Services Agreement with Peregrin Sorter, Laminar Law PLLC
Request for Qualifications
Statement of Qualifications
Bremerton Municipal Code 2.13 – Administrative Hearing Examiner

FISCAL IMPACTS (Include Budgeted Amount): This annual expenditure is budgeted

STUDY SESSION ACTION: Consent Agenda General Business Public Hearing

RECOMMENDED MOTION:

Move to approve the appointment of Peregrin K. Sorter, Laminar Law PLLC as the City’s Administrative Hearing Examiner and authorize the Mayor finalize and execute the agreement with substantially the same terms and conditions as presented.

COUNCIL ACTION: Approve Deny Table Continue No Action

**PROFESSIONAL SERVICES AGREEMENT
CITY OF BREMERTON ADMINISTRATIVE HEARING EXAMINER**

The City of Bremerton (“City”) and Laminar Law, PLLC (“Consultant”), referred to collectively as the “Parties,” enter into the following Agreement for professional services:

I. Scope: The Consultant agrees to perform the services more specifically described in the Scope of Work, dated April 29 2024, including any attachments thereto, attached hereto as Exhibit A, which is incorporated by reference herein. The Scope of Work may be modified only pursuant to Section VII.H of this Agreement. If the Scope of Work provides for unspecified additional services such services shall only be performed upon the express written request of the City. Consultant further represents that the services furnished under this Agreement will be performed in accordance with generally accepted professional practices in effect at the time such services are performed.

II. Term: The City and the Consultant agree that work will begin on the tasks described in Exhibit A beginning June 1, 2024. The parties agree that the work described in Exhibit A is to be completed as provided for in the work schedule attached hereto as Exhibit A; provided however, that additional time shall be granted by the City for excusable delays or extra work as provided for in Section X.A of this agreement.

III. Compensation: In consideration of the services provided pursuant to this Agreement, the City shall pay Consultant in an amount not to exceed \$ 3,300 per month plus \$ 225.00 per hour for services provided in excess of twelve hearings per year. Consultant’s charges and bills shall conform to the fee schedule attached hereto as Exhibit A and incorporated herein by this reference.

The Consultant shall submit regular billing statements detailing work performed and amount charged on each task or portion thereof. The descriptions shall conform to and fall within the categories set out in the Scope of Work and/or Fee Schedule. Upon receipt of a conforming billing statement, the City shall promptly process payment. PROVIDED, HOWEVER, the City reserves the right to prioritize scoped work and accelerate and/or delay work tasks under the time frame set forth in Section II herein. The Consultant's labor rates and billing fees shall be as delineated in Exhibit A.

Consultant shall not perform work beyond the Scope of Work, nor shall be compensated for such work, unless the Scope of Work or amount of compensation is modified pursuant to this Agreement. Consultant shall only be compensated for additional services if requested pursuant to Section I and, if not otherwise provided, such compensation shall be in accordance with Exhibit A.

If a billing statement does not conform to this Agreement, the City may withhold payment until the statement is brought into compliance. Such withholding does not relieve Consultant of its obligations under this Agreement.

IV. Relationship of Parties: Consultant represents that it is skilled in the matters addressed in the Scope of Work and is performing independent functions and responsibilities within its field of expertise. Consultant and its personnel are independent Consultants and not employees of the City. Consultant and its personnel have no authority to bind the City or to control the City's employees and other Consultants. None of the benefits provided by the City to its employees, including, but not limited to, compensation, insurance, and unemployment insurance are available from the City to the employees, agents, representatives, or sub-consultants of the Consultant. Consultant will be solely and entirely responsible for its acts and for the acts of Consultant's agents, employees, representatives and sub-consultants during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent Consultants to perform the same or similar work.

As an independent Consultant, Consultant is responsible for its own management. The City's administration and enforcement of this Agreement shall not be deemed an exercise of managerial control over Consultant or its personnel.

As an independent Consultant, Consultant is responsible for payment of all taxes and licensing fees necessary to perform its obligations under this Agreement. These taxes and fees include but are not limited to State industrial insurance, Business & Occupation, State professional licensing, and City business licensing. If any taxes or fees due the City have been declared delinquent, the City may withhold the delinquent amount, plus any additional charges arising from the delinquency, from any payments due Consultant.

V. Indemnification:

A. Consultant shall defend, indemnify and hold the City, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, including all legal costs and attorney fees, arising out of or in connection with the performance of this Agreement except for that portion of the injuries and damages caused by the City's sole negligence, unless Consultant is conducting work pursuant to Subsection B below.

The City's review or acceptance of any of the work when completed shall not be grounds to avoid any of these covenants of indemnification.

B. Architects, Engineers and Any Other Professional Listed In and Performing Services Defined in RCW 4.24.115. Should a court of competent jurisdiction determine that Consultant's services provided pursuant to this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees, agents and volunteers, the Consultant's liability hereunder shall be only to the extent of the Consultant's negligence.

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE CONSULTANT'S WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY FOR THE

PURPOSES OF THIS INDEMNIFICATION. THE PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE MUTUALLY NEGOTIATED THIS WAIVER.

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

VI. Insurance: The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, employees, sub-consultants or sub-Consultants.

Before beginning work on the project described in this Agreement, the Consultant shall provide a Certificate of Insurance evidencing:

1. **Commercial General Liability** insurance written on an occurrence basis with limits no less than \$1,000,000 combined single limit per occurrence and general aggregate for personal injury, bodily injury and property damage. Coverage shall include but not be limited to: blanket contractual; products/completed operations/broad form property damage; explosion, collapse and underground (XCU) if applicable; and
2. **Professional Liability** insurance with limits no less than \$1,000,000 limit per occurrence/claim; and
3. **Workers Compensation** insurance as statutorily required by the Industrial Insurance Act of the State of Washington, Title 51, Revised Code of Washington and employer's liability with limits not less than \$1,000,000.

Any payment of deductible or self-insured retention shall be the sole responsibility of the Consultant.

All required policies shall be provided on an “occurrence” basis except professional liability insurance (if required), which may be provided on a “claims-made” basis.

The City shall be named as an additional insured on the Commercial General Liability insurance policy, as respects work performed by or on behalf of the Consultant and a copy of an endorsement that is acceptable to the City, which names the City as an additional insured shall be attached to the Certificate of Insurance. The City reserves the right to receive a certified copy of all the required insurance policies and endorsements. The City further reserves the right to reject any unacceptable policies and/or endorsements.

The Consultant's Commercial General Liability insurance shall contain a clause stating that coverage shall apply separately to each insured against whom claim is made or suit is brought, except with respects to the limits of the insurer's liability.

The Consultant's insurance shall be primary and non-contributory insurance as respects the City and shall contain a waiver of subrogation against the City for claims arising out of any operations, liabilities and obligations to which coverage applies. It shall be an affirmative obligation upon Consultant to advise the City's Risk Manager by fax at (360) 473-5161, or by

certified mail, return receipt requested to City of Bremerton, Attn: Risk Management, 345 6th Street, Suite 100, Bremerton, WA 98337 within two days of the cancellation, suspension or substantive change of any insurance policy set out herein, and failure to do so shall be construed to be a breach of this Agreement.

The City also reserves its unqualified right to require at any time and for any reason, proof of coverage in the form of a duplicate of the insurance policy with all endorsements as evidence of coverage.

In the event that the Consultant employs other consultants or Consultants (sub-consultants or sub-Consultants) as part of the work covered by this Agreement, it shall be the Consultant's responsibility to require and confirm that each sub-consultant or sub-Consultant meets the minimum insurance requirements specified above. The Consultant shall, upon demand of the City, deliver to the City copies of such policy or policies of insurance and the receipts for payment of premiums thereon.

VII. General Conditions:

A. Reports and Information: When requested by the City, Consultant shall furnish periodic reports and documents on matters covered by this Agreement. The reports and documents shall be furnished in the time and form requested. Consultant shall maintain accounting records in accordance with Generally Accepted Accounting Principles ("GAAP") to substantiate all billed amounts.

B. Ownership and Use of Records and Documents: Original documents, drawings, designs and reports, including those in electronic format, developed under this Agreement are the property of the City. All written information submitted by the City to the Consultant in connection with the services performed by the Consultant under this Agreement will be safeguarded by the Consultant to at least the same extent as the Consultant safeguards like information relating to its own business. If such information is publicly available or is already in Consultant's possession or known to it, or is rightfully obtained by the Consultant from third parties, Consultant shall bear no responsibility for its disclosure, inadvertent or otherwise.

All data, documents and files created by Consultant under this Agreement may be stored at Consultant's office in Tacoma, Washington. Consultant shall make such data, documents, and files available to the City upon its request at all reasonable times for the purpose of editing, modifying and updating as necessary until such time as the City is capable of storing such information in the City's offices. Duplicate copies of this information shall be provided to the City upon its request, and at reasonable cost.

All documents, including all reports, drawings, specifications, computer software or other items prepared or furnished by Consultant pursuant to this Agreement, are instruments of service with respect to the project and are the property of the City. Any reuse by the City for other than the specific purpose intended will be at City's sole risk.

C. Use of Photographs and Images. Consultant shall not use or distribute photographs or images depicting City officials, personnel, property, or equipment whether prepared by Consultant or provided by City without prior written consent of the City. The City will not unreasonably withhold its consent.

D. Work Performed at Consultant's Risk: Consultant shall take all precautions necessary and shall be responsible for the safety of its employees, agents, and sub-consultants in the performance of the work hereunder and shall utilize all protection necessary for that purpose. All work shall be done at Consultant's own risk, and Consultant shall be responsible for any loss of or damage to materials, tools, or other articles used or held for use in connection with the work.

E. Place of Work: The Consultant shall perform the work authorized under this Agreement at its offices in Tacoma, Washington. Meetings with the City staff as described in Exhibit A, Scope of Work, shall take place at the City's offices, or at locations mutually agreed upon by the parties.

F. Entire Agreement: This Agreement and its Exhibits constitutes the entire agreement between the Parties, and the Parties acknowledge that there are no other agreements, written or oral, that have not been set forth in the text of this Agreement.

G. Severability: Should any part of this Agreement be found void, the balance of the Agreement shall remain in full force and effect.

H. Modification: This Agreement may only be modified by written instrument signed by both Parties.

I. Written Notices: All communications regarding this Agreement shall be sent to the parties at the addresses listed below by registered or 1st class mail, or by personal service, and shall be deemed sufficiently given if sent to the addressee at the address stated in this Agreement or such other address as may be hereafter specified in writing.

Notices to be sent to:

Notices to be sent to:

CITY:

CONSULTANT:

Attn: ANDREA SPENCER
City of Bremerton
345 6th Street, Suite 100
Bremerton, WA 98337-1891

Attn: PEREGRIN K. SORTER
LAMINAR LAW, PLLC
1919 N. Union Avenue
Tacoma, WA 98406

J. Waiver: Failure to enforce any provision of this Agreement shall not be deemed a waiver of that provision. Waiver of any right or power arising out of this Agreement shall not be deemed waiver of any other right or power.

K. Non-Waiver of Breach: The failure of the City to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein conferred

in one or more instances shall not be construed to be a waiver or relinquishment of said covenants, agreements or options, and the same shall be and remain in full force and effect.

L. Compliance with Laws: Consultant shall comply with all applicable Federal, State, and local laws in performing its obligations under this Agreement.

M. Choice of Law and Venue: This Agreement shall be interpreted according to the laws of the State of Washington. Any judicial action to resolve disputes arising out of this Agreement shall be brought in Kitsap County Superior Court.

N. Attorneys' Fees: In the event of litigation to enforce any of the terms or provisions herein, each party shall pay all its own costs and attorney's fees.

O. Assignment: Any assignment of this agreement by the Consultant without the written consent of the City shall be void.

VIII. Equal Employment Opportunity Statement: In the hiring of employees for the performance of work under this Agreement, the Consultant, its subConsultants, or any person acting on behalf of Consultant shall not discriminate in any employment practice on the basis of age (40+), sex, race, creed, color, national origin, sexual orientation/gender identity, marital status, military status, or the presence of any physical, mental or sensory disability.

IX. ADA Statement: The City of Bremerton does not discriminate on the basis of disability in programs and activities, which it operates pursuant to the requirements of the Americans with Disabilities Act of 1990, and ADA Amendments Act. This policy extends to both employment and admission to participation in the programs, services and activities of the City of Bremerton. Reasonable accommodation for employees or applicants for employment will be provided.

X. Termination: This Agreement shall remain in force until completion and acceptance of the services. This Agreement can be terminated by either party providing 60 days' notice of termination. This Agreement may be immediately terminated for cause by a Party if the other Party substantially fails to perform through no fault of the terminating Party, and the non-performing Party does not commence correction of the failure of performance within thirty (30) days of the terminating Party's sending notice to the non-performing Party. Any Notice by Consultant shall include a report showing the status of all items listed in the Scope of Work current through the termination date.

If the City receives reimbursement by any federal, state, or other source for work described in Section I herein, and that funding is withdrawn, reduced or limited in any way, or the project is cancelled or substantially reduced after the execution date of this Agreement and prior to the completion of the work, the City may summarily terminate this Agreement.

A. Excusable Delays: The right of Consultant to proceed shall not be terminated nor shall Consultant be charged with liquidated damages for any delays in the completion of the work due to: 1) any acts of the federal government in controlling, restricting, or requisitioning materials,

equipment, tools, or labor by reason of war, national defense, or other national emergency; 2) any acts of the City, its consultants, or other public agencies causing such delay; and 3) causes not reasonably foreseeable by the parties at the time of the execution of the Agreement that are beyond the control and without the fault or negligence of the Consultant, including, but not restricted to, acts of God, fires, floods, strikes, or weather of unusual severity. PROVIDED, HOWEVER, that the Consultant must promptly notify the City within ten (10) calendar days in writing of the cause of the delay. If, on the basis of the facts and the terms of this Agreement, the delay is properly excusable, the City shall, in writing, extend the time for completing the work for a period of time commensurate with the period of excusable delay.

B. Rights Upon Termination: In the event of termination, the City shall pay for all services performed by the Consultant to the effective date of termination, as described on a final invoice submitted to the City. After termination, the City may take possession of all records and data within the Consultant's possession pertaining to this project which may be used by the City without restriction. Any such use not related to the project which Consultant was contracted to perform shall be without liability or legal exposure to the Consultant.

XI. Suspension & Debarment. For contracts involving Washington State and Federal funding, Consultant hereby certifies, by signing this agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any State or Federal department or agency. Consultant shall provide immediate written notice to the City if at any time it learns that it is or has become ineligible for certification. Should Consultant enter into a covered transaction with another firm, Consultant agrees by signing this agreement that it will verify that the firm with whom it intends to do business is not debarred, suspended, ineligible, excluded or disqualified.

IN WITNESS WHEREOF, the parties below have executed this Agreement.

CITY:

CONSULTANT:

CITY OF BREMERTON

Laminar Law, PLLC

By: _____

By: _____

Print Name: _____

Print Name: _____

Its: _____

Its: _____

Date: _____

Date: _____

APPROVED AS TO FORM:

ATTEST:

By: _____

By: _____

Kylie J. Finnell, Bremerton City Attorney

Angela Hoover, City Clerk

SCOPE OF WORK

ESTABLISHMENT OF ADMINISTRATIVE HEARING EXAMINER. The City of Bremerton Establishes Peregrin K. Sorter and Laminar Law, a Professional Limited Liability Company (PLLC), to serve as the City's Administrative Hearing Examiner pursuant to Bremerton Municipal Code (BMC) 2.13.

JURISDICTION. Laminar Law, PLLC will have the jurisdiction established in BMC 2.13.070.

DUTIES. Laminar Law, PLLC will fulfill the duties as established in BMC 2.13.080.

CONDUCT, PROCEDURES, AND DECISIONS. Laminar Law, PLLC will follow the provisions outlined in BMC 2.13 that allows the establishment organizational rules for conducting hearings and agrees to render decisions, recommendations, and reconsiderations pursuant to the provisions contained in the subsections of BMC 2.13.

TERM

This Agreement will continue in full force and effect until terminated. The parties agree that this contract can be terminated by either party giving 60-day written notice of termination.

COMPENSATION

Compensation for the Administrative Hearing Examiner shall be a flat fee of \$3,300.00 per month. In a calendar year, this rate will include twelve days of hearings and all duties and activities set forth above. In the event the City of Bremerton needs to schedule additional hearing days, these hearing will be billed at the rate of \$225.00 per hour. Any hearing scheduled outside of the regular hearing date should be held on a mutually agreed upon date and time. Invoices shall be payable 30 days upon receipt. Upon termination of this Agreement, matters pending shall be completed and compensated pursuant to this compensation schedule. Final payment shall be withheld until all Findings of Fact and Conclusions of Law have been received.

**REQUEST FOR QUOTES
ADMINISTRATIVE HEARING EXAMINER SERVICES
PROPOSALS DUE: Noon Friday April 26, 2024**

The City of Bremerton (City) utilizes a Hearing Examiner system for considering and acting on quasi-judicial land use actions, code enforcement cases, technical building code appeals and related appeals/permits. The current contract for services will end in August of 2023. The City of Bremerton is seeking quotes for the services of an Administrative Hearing Examiner to begin on or about August 28, 2023. The Administrative Hearing Examiner is an independent contractor and not an employee of the City of Bremerton. Quotes should include all the requested information indicated below.

GENERAL SCOPE OF SERVICES:

The successful applicant shall perform the duties of the Administrative Hearing Examiner as set forth in City of Bremerton Municipal Code, as now in effect or as hereafter amended. The City of Bremerton Hearing examiner system is adopted pursuant to RCW 35A.63.170 and Bremerton City Ordinances 4778 and 4798 and Bremerton Municipal Code Chapter 2.13 Administrative Hearing Examiner.

The Administrative Hearing Examiner conducts quasi-judicial hearings on complex land use matters, code enforcement matters and regulatory compliance issues on behalf of the City, and other issues designated to the Hearing Examiner by ordinance or resolution. The Hearing Examiner shall issue decisions and recommendations based on relevant ordinances, regulations, policies, statutes, and other authorities.

All duties shall be performed in a manner consistent with accepted practices for hearing examiner services, including interpreting, reviewing, and implementing the City's land use regulations and the pertinent and appropriate provisions of Bremerton Municipal Code; conducting orderly and impartial hearings and hearing appeals; and preparing written decisions in a timely manner which are understandable and based upon reasoning and all applicable laws.

The City of Bremerton Department of Community Development will provide preparation of case files and records; staff support during hearings; set agendas in consultation with the examiner; prepare legal notices; provide reproduction, mailing, distribution of notices and decisions.

QUALIFICATIONS:

The applicant shall provide information regarding the applicant's background and familiarity with general land use law and regulations and land use hearing processes. The hearing examiner must have expertise and experience in land use planning. A practicing land use attorney is preferred. The applicant must have knowledge of the Washington State Growth Management Act and Washington State Environmental Policy Act. The Administrative Hearing Examiner shall hold no other elective or appointive office or position with the City of Bremerton.

PROPOSAL:

The applicant shall submit a proposal indicating the general conditions of a contract with the City, if the applicant is chosen, including all costs that would be incurred by the City for the provision of the Hearing Examiner services. Prior to beginning work, the Examiner will be required to procure and maintain for the duration of the contract and at the Examiner's expense (not required as part of quote)

Automobile Liability insurance with limits no less than \$1,000,000 combined single limit per accident for bodily injury and property damage; and

Commercial General Liability insurance written on an occurrence basis with limits no less than \$1,000,000 combined single limit per occurrence and general aggregate for personal injury, bodily injury and property damage. Coverage shall include but not be limited to: blanket contractual; products/completed operations/broad form property damage; explosion, collapse and underground (XCU) if applicable; and

Excess Liability insurance with limits not less than \$1,000,000 limit per occurrence and aggregate; and

Professional Liability insurance with limits no less than \$1,000,000 limit per occurrence/claim; and

Workers Compensation insurance as statutorily required by the Industrial Insurance Act of the State of Washington, Title 51, Revised Code of Washington and employer's liability with limits not less than \$1,000,000.

SUBMITTAL REQUIREMENTS:

Interested parties should submit the following:

1. **Letter of Interest** – No more than one (1) page in length that includes contact information and signature. The letter should state the educational degree(s) held by the person, institutions issuing degree(s) and the date such degree(s) were issued. If the proposal is submitted by a law firm, information on all attorneys anticipated to provide services must be provided.
2. **Summary of Qualifications, Experience and Availability** – This must be no more than three (3) pages in length. It should summarize the applicant's qualifications to be a hearing examiner, including his/her relevant experience as a hearing examiner or other type of administrative judge, experience with land use law, environmental law, shoreline laws, municipal codes, code enforcement and building codes. For judicial or quasi-judicial experience, please list jurisdictions, types of cases, number of cases and approximate dates such work was performed.
3. **Method and Approach** – A summary of the applicant's approach to providing examiner services, including a description of applicant's support staff and how applicant will have the ability to meet decision deadlines.
4. **Example of Written Work** – At least three (3) examples of the applicant's written decisions, preferably as a hearing examiner, must be provided.

5. **Professional References** – At least three (3) professional references, including phone numbers and other contact information.

6. **Fee Proposal**—A description of the proposed compensation required by the applicant. Specify whether the proposal is for a lump sum annual fee, a cost per hour fee or a combination of lump sum and cost per hour fees. Specify whether mileage, travel time and/or out of pocket expenses are factored into the fee proposal.

SELECTION CRITERIA AND PROCESS:

Selection will be based upon:

1. Knowledge and experience in:
 - Adjudication or Litigation related to land use planning and zoning
 - Growth Management Act
 - State Environmental Policy Act
 - Municipal Code Enforcement
 - Administrative Procedures
2. Experience with writing legally defensible local land use decisions.
3. Approach to quality control, case management and decision delivery.
4. Making effective use of public resources through a reasonable fee proposal.
5. Experience and manner of holding public meetings and quasi-judicial proceedings in various formats (in-person and via Zoom).
6. Response of references.

All proposals shall be submitted by e-mailing andrea.spencer@ci.bremerton.wa.us by **Noon., on Friday, April 26, 2024**. Proposals received after this time will not be considered. For specific questions concerning this Request for Quotes (RFQ) please email Andrea Spencer, Director of Community Development at andrea.spencer@ci.bremerton.wa.us

TERMS AND CONDITIONS:

1. The City reserves the right to reject any and all proposals, to waive irregularities and informalities in the submittal and evaluation process, and to change the selection process or timeline.
2. The City reserves the right to request clarification of information submitted and to request additional information from any proposer.
3. The contract resulting from acceptance of a proposal by the City shall be in a form supplied by the City and shall reflect the specifications on this RFQ. This RFQ does not obligate the City to accept or contract for any expressed or implied services.
4. The City shall not be responsible for any costs incurred by an interested party in preparing, submitting, or presenting its response to the RFQ.
5. All submitted documents are public record and subject to disclosure.



STATEMENT OF QUALIFICATIONS FOR HEARING EXAMINER SERVICES

To Review Team:

We propose that attorney Peregrin K. Sorter (WSBA #40961) of Laminar Law, PLLC, be selected to serve as the City of Bremerton Hearing Examiner to provide land use application hearings, code enforcement hearings, administrative appeal hearings, and other quasi-judicial hearings at the City's request. We believe that Mr. Sorter's expertise in land use law and his demonstrated ability to produce timely decisions that are clear, thorough, and drafted efficiently to provide cost savings to the jurisdictions he serves will benefit the City of Bremerton and its residents.

Attached please find background information on Laminar Law, a summary of Mr. Sorter's experience and qualifications, a discussion of Mr. Sorter's approach to the Hearing Examiner process, fee proposal information, Mr. Sorter's resume, and a list of professional references. Examples of recent land use decisions issued by Mr. Sorter are provided by separate submittal.

Thank you for considering Laminar Law to provide hearing examiner services for the City of Bremerton. We look forward to hearing from you.

Sincerely,

A handwritten signature in black ink, appearing to read "Peregrin Sorter", is written over a horizontal line.

Peregrin K. Sorter, Managing Attorney of Laminar Law

Laminar Law, PLLC
1919 N. Union Avenue Tacoma, WA 98406
Phone: 206 658-3784 (Cell)
Email: peregrin@laminarlaw.com
UBI Number: 605 164 033
Federal EIN Number: 93-3236461

QUALIFICATIONS AND EXPERIENCE

Introduction to Laminar Law and Chief Hearing Examiner Peregrin Sorter

Laminar Law, PLLC is a hearing examiner services company committed to providing high-quality land use hearing examiner services to a select number of jurisdictions in Western Washington. We believe that limiting the number of jurisdictions we serve ensures that our hearing examiners and support staff are readily available to schedule requested hearings, knowledgeable about the local planning policies and regulations governing our decisions, and able to efficiently produce decisions that are clear, thorough, and timely issued. Peregrin Sorter, founding member and Chief Hearing Examiner for Laminar Law, would serve the City of Bremerton as its Hearing Examiner, with support provided by additional Laminar Law members as needed.

Prior to founding Laminar Law in early 2023, Mr. Sorter served as a managing attorney, chief legal writer, and pro tem hearing examiner for Sound Law Center (SLC). As chief legal writer for SLC, Mr. Sorter was responsible for drafting and reviewing hundreds of decisions produced by SLC. These prior decisions serve as an example of the high-quality land use decisions that the City, applicants, and members of the public can expect from Laminar Law.

Mr. Sorter currently serves as the Hearing Examiner for the Cities of Woodinville, Port Angeles, Sequim, SeaTac, Arlington, and Ocean Shores. He has also served as a pro tem Hearing Examiner in jurisdictions that include Hunts Point and Yarrow Point. In addition, Mr. Sorter has served as the Hearing Examiner addressing ethics complaints in the City of Mercer Island.

Mr. Sorter also has over 10 years of experience as a staff attorney for Division II of the Washington State Court of Appeals, where he assisted judges in deciding appeals and drafting appellate opinions. Through that experience, Mr. Sorter gained valuable insight into what makes a hearing examiner decision withstand judicial scrutiny on appeal and has shaped his practice of producing timely, concise, and legally sound decisions, as well as his demeanor as a judicial officer.

Mr. Sorter graduated in 2008 from Rutgers School of Law, with high honors, where he received the law school's top writing award and was honored to teach Constitutional Law to high school students as a Marshall Brennan Fellow. Mr. Sorter currently volunteers as Board President for Banchemo Disability Partners (BDP), a nonprofit organization providing residential support services for clients with developmental disabilities and mental illnesses.

As BDP President, Mr. Sorter oversaw the organization's adoption of a diversity, equity, and inclusion statement. Laminar Law is similarly committed to diversity, equity, and inclusion, and Mr. Sorter incorporates these values in his role as a Hearing Examiner, particularly in his interactions with members of the public who participate at hearings. Mr. Sorter understands that applicants and members of the public come to hearings with different backgrounds and levels of knowledge and/or information about the process, and he strives to create an atmosphere that is welcoming and informative for all hearing participants. Laminar Law is certified as a Minority Business Enterprise from the Washington State Office of Minority and Women's Business Enterprises.

Supporting Attorneys

Neil Savage

Neil Savage serves as Laminar Law's legal editor. Mr. Savage reviews all decisions prior to delivery to ensure consistency and readability. We believe that the services of a legal editor are vital for ensuring that our written decisions reflect the professionalism and neutrality that are embodied in the entire hearing examiner process. Mr. Savage graduated from Lewis and Clark Law School in 1989 and works as a freelance editor and indexer for legal publishers across the country.

APPROACH TO HEARING PROCESS

Laminar Law prides itself on conducting hearings that are respectful and efficient while welcoming members of the public to express their concerns. Mr. Sorter facilitates this process by creating an atmosphere that is courteous to witnesses and acknowledges their opinions. Mr. Sorter believes that a good result from the hearing process is that, regardless of the ultimate outcome of his decision, all interested parties feel that their concerns were heard and addressed.

Hearing Preparation

Mr. Sorter begins this process by reviewing the entire record prior to the hearing so that he is familiar with the law governing his decision and any potential issues that may arise at the hearing. He then prepares questions designed to streamline the hearing process by ensuring both that he has a thorough understanding of the proposal and that issues raised by members of the public are heard and addressed. For example, if the record contains several public comments raising concerns about tree removal associated with a project, Mr. Sorter may ask City staff to discuss tree removal and replacement requirements of the municipal code. Similarly, if members of the public raise concerns about a project's traffic impacts, Mr. Sorter's questions may be focused on level-of-service and traffic impact fee requirements. He has found that addressing the laws and regulations governing issues raised by members of the public prior to their opportunity to testify helps to focus public testimony on issues relevant to the decision and thereby facilitates an orderly and efficient hearing process.

Specific Hearing Formats

For application hearings, Mr. Sorter generally adheres to the following format:

1. Mr. Sorter provides introductory remarks that explain the application, applicable laws, and the process for the hearing. Providing this initial explanation helps lay the groundwork for how the hearing will proceed and provides applicants and the public with confidence in the Hearing Examiner.
2. City staff provide an overview of the proposal and any City recommendations.
3. The Applicant and any witnesses for the Applicant are given the opportunity to provide additional information.
4. Members of the public are invited to provide comments on the application.
5. The Applicant and City staff may respond to public comments.
6. Mr. Sorter closes the hearings, thanks all present for attending, and explains that a decision shall be issued within 10 business days of the record closing.

For administrative appeal hearings, Mr. Sorter generally adheres to the following format:

1. Mr. Sorter provides introductory remarks that explain the appeal, applicable laws, and the process for the appeal hearing.
2. Mr. Sorter addresses any motions raised by the Appellant, the City, and/or the Applicant
3. The Appellant presents testimony of witnesses, and the City and Applicant are provided with the opportunity to cross-examine those witnesses.
4. The City presents testimony of witnesses, and the Appellant and Applicant are provided with the opportunity to cross-examine those witnesses.
5. The Applicant presents testimony of witnesses, and the Appellant and City are provided with the opportunity to cross-examine those witnesses.
6. If requested, Mr. Sorter allows closing remarks from each party. Alternatively, he may allow for the submission of written closing remarks from each party.
7. Mr. Sorter closes the hearing, thanks all present for attending, and explains that a decision shall be issued within the time specified under the municipal code.

Decision

Mr. Sorter's greatest asset to the jurisdictions he serves is his ability to consistently produce decisions in an efficient manner to provide significant cost savings, while ensuring that those decisions are easily understood by applicants and members of the public. His decisions also include detailed legal analyses to provide guidance to City staff and potential applicants on future land use matters. Mr. Sorter's decisions are reviewed by Laminar Law's legal editor prior to being issued to confirm that they reflect the professionalism and neutrality that is embodied in the entire hearing process.

FEE PROPOSAL

Our typical contract rate for all legal work associated with hearing examiner services is \$225/hour. Laminar Law does not charge for travel time or materials. Mr. Sorter is aware through his prior associations with SLC and the City's current Hearing Examiner, Alex Sidles, that the City currently pays a flat monthly fee for all work associated with Hearing Examiner services, and it would be his preference to implement a similar fee arrangement should the City select him to serve as their new Hearing Examiner.

PEREGRIN SORTER

1919 N. Union Ave. | Tacoma, Washington 98406 | (206) 658-3784 | peregrin@laminarlaw.com

Experience and qualifications

Washington State Bar Association member in good standing (admitted 2008).

WSBA number: 40961

Laminar Law, PLLC

Tacoma, WA

Founder, Managing Attorney, Hearing Examiner

March 2023–Present

Founded Laminar Law, PLLC, to provide land use hearing examiner services to local governments in Washington State. Responsibilities include presiding over, and issuing decisions for, land use application hearings and administrative appeals.

Sound Law Center, LLC

Seattle and Tacoma, WA

Managing Attorney, Chief Legal Writer

January 2020–February 2023

Served as managing attorney and Chief Legal Writer for Sound Law Center.

Responsibilities included overseeing all business matters related to the operation of Sound Law Center, drafting and editing decisions issued by hearing examiners, and supervising contract legal writers and pro tem hearing examiners.

Washington State Court of Appeals, Division II

Tacoma, WA

Staff Attorney

August 2012–December 2020

Assisted the Court in resolving direct appeals and personal restraint petitions by reviewing record, researching applicable law, and drafting prehearing memoranda and opinions. Screen notices of appeal for compliance with appellate rules, consolidation with other pending cases, and disposition track. Made recommendations for disposition of all types of motions and draft orders and rulings for panels.

Law Clerk for the Honorable Marywave Van Deren

August 2011–July 2012

Law Clerk for the Honorable Christine Quinn-Brintnall

August 2008–July 2010

Reviewed appellate briefs and trial court records, researched applicable law, and drafted bench memoranda. Assisted judges in drafting and editing an average of three court opinions per month. Performed technical source citation checks on opinions in accordance with Washington Court standards.

Banchero Disability Partners

Seattle and Shoreline, WA

Board Member, President

November 2008–Present

On a volunteer basis, responsible for the functions of an agency that provides 24-hour case management services to clients with developmental disabilities and mental illnesses, including policy administration, public and community relations, finance, personnel and program planning and evaluation.

Independent Living Advocate

September 1999–August 2005

Provided direct support and services to adults with developmental disabilities in their homes and community.

Nielson, Broman & Koch PLLC.

Seattle, WA

Indigent Criminal and Parental Dependency Appeals Attorney

August 2010–July 2011

Contracted with law firm to represent clients appealing from criminal convictions and parental dependency/termination orders. Reviewed trial record, drafted briefs, and presented oral argument in all three divisions of the Court of Appeals.

Disability Rights New Jersey

Trenton, NJ

Legal Intern

Summer 2007

Worked with the Director of Litigation on two high-impact systemic litigation cases. Conducted fact investigations at all New Jersey Psychiatric Hospitals.

Disability Rights Washington

Seattle, WA

Legal Intern

Summer 2006

Screened potential clients and provided self-help information and referral services. Handled all prisoner correspondence, requests for information, and referrals.

Education

Rutgers University School of Law – Camden, NJ

J.D. magna cum laude, May 2008

Blaine E. Caphart Award for Excellence in Legal Writing, 2008

Pro Bono Publico Award, 2008

Marshall-Brennan Fellow, Fall 2007–Spring 2008

Research Assistant for Professor Sarah Ricks, Fall 2007–Spring 2008

University of Washington – Seattle, WA

B.S. in Psychology, June 2004

Professional References:

Marshall Read
Lead Planner
City of Ocean Shores
360-940-7489 (Office)
360-580-4465 (Cell)
mread@osgov.com

Charisse Deschenes
Deputy City Manager/Director of Community and Economic Development
City of Sequim
360-681-3432 (Office)
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Ben Braudrick
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Alex Sidles
Law Office of Alex Sidles, PLLC
206-518-8611
alex@sidleslaw.com

Hon. Judge Lisa Worswick (Ret.)
Former Judge at Division II of the Washington State Court of Appeals
Pierce County Superior Court
Pierce County District Court
253-691-7050
lworswick@yahoo.com

Chapter 2.13 ADMINISTRATIVE HEARING EXAMINER

Sections:

- 2.13.010 PURPOSE.**
- 2.13.020 CREATION.**
- 2.13.030 APPOINTMENT AND REMOVAL.**
- 2.13.040 QUALIFICATION AND REMOVAL.**
- 2.13.050 IMPROPER INFLUENCE, CONFLICT OF INTEREST AND APPEARANCE OF FAIRNESS.**
- 2.13.060 ORGANIZATION, RULES.**
- 2.13.070 JURISDICTION.**
- 2.13.080 DUTIES.**
- 2.13.090 FILING OF APPLICATIONS AND APPEALS.**
- 2.13.100 OPEN RECORD PUBLIC HEARING.**
- 2.13.110 DECISIONS AND RECOMMENDATION.**
- 2.13.120 RECONSIDERATION.**
- 2.13.130 APPEAL OF DECISION.**
- 2.13.140 CITY COUNCIL ACTION.**
- 2.13.150 CITY ADMINISTRATIVE STAFF ARE TO BE CONSIDERED A PERSON OR PARTY.**

2.13.010 PURPOSE.

The purpose of this chapter is to:

- (1) Separate the land use regulatory function from the land use planning process;
- (2) Ensure procedural due process and appearance of fairness in regulatory hearings and decisions;
- (3) Provide an efficient and effective land use regulatory system which integrates the public hearing and decision-making processes for land use matters;
- (4) Provide for consistency and predictability in decision making and the application of policies and regulations adopted by the city;
- (5) Provide a forum for conducting public hearings required by the Bremerton Municipal Code; and
- (6) Provide a forum for hearing appeals of administrative decisions and other matters as established by the Bremerton Municipal Code. (Ord. 4798, Amended, 05/10/2002; Ord. 4778, Added, 11/05/2001)

2.13.020 CREATION.

The position of the Administrative Hearing Examiner (also referred to in this chapter as "Hearing Examiner" or "examiner") is hereby created. The Administrative Hearing Examiner shall review and interpret land use regulations; conduct hearings, render decisions, and make recommendations on land use applications; hear appeals from administrative orders,

recommendations, permits, decisions or determinations made by a city official as set forth in this chapter, and review and hear other matters as provided for in the Bremerton Municipal Code and other ordinances. The term "Administrative Hearing Examiner" shall likewise include the examiner pro tem. (Ord. 4798, Added, 05/10/2002)

2.13.030 APPOINTMENT AND REMOVAL.

The Administrative Hearing Examiner shall be appointed by the Mayor subject to confirmation by the City Council. The appointment may be made as a contract employee or as an independent contractor for a term and on conditions determined appropriate by the City Council. The Examiner(s) pro tem shall be selected by and serve at the pleasure of the Mayor. In the absence or the inability of the Administrative Hearing Examiner to act, or when expertise is needed to hear a particular matter, the examiner pro tem shall serve in place of the Administrative Hearing Examiner and shall have all the duties and powers of the Administrative Hearing Examiner. The Administrative Hearing Examiner may be terminated in accordance with the contract terms. An examiner pro tem may be terminated by the Mayor at will. (Ord. 4798, Amended, 05/10/2002; Ord. 4778, Added, 11/05/2001)

2.13.040 QUALIFICATION AND REMOVAL.

Examiners shall be appointed solely with regard to their qualifications for the duties of their office and will have such training and experience as will qualify them to conduct administrative or quasi-judicial hearings on regulatory enactments and to discharge the other functions conferred upon them. Examiners shall hold no other elective or appointive office or position with the City of Bremerton. (Ord. 4798, Amended, 05/10/2002; Ord. 4778, Added, 11/05/2001)

2.13.050 IMPROPER INFLUENCE, CONFLICT OF INTEREST AND APPEARANCE OF FAIRNESS.

No city official, elective or appointive, shall attempt to influence the Administrative Hearing Examiner in any matter officially before him so as to constitute misconduct of a public office under Chapter [42.20](#) RCW or a violation of the appearance of fairness doctrine. No member of the council shall participate in any proceedings on appeal from the Administrative Hearing Examiner's decision if to do so will constitute a conflict of interest or violation of the appearance of fairness doctrine. The Administrative Hearing Examiner shall conduct all proceedings in a manner to avoid conflicts of interest or other misconduct and to avoid violations of the appearance of fairness doctrine. If such conflicts or violations cannot be avoided in a particular case, the examiner shall assign an examiner pro tem to act in his absence. (Ord. 4778, Added, 11/05/2001)

2.13.060 ORGANIZATION, RULES.

The Administrative Hearings Examiner is empowered to adopt rules for the scheduling and conduct of hearings and other procedural matters related to the duties he is required to perform. The rules shall include any procedural rules for conducting hearings as set forth in the Bremerton Municipal Code. The rules shall provide for the process to be effective and efficient while assuring that the participants are afforded an opportunity to present their case without unnecessary emphasis upon formal procedure. The examiner shall have the authority to subpoena witnesses, and to the extent necessary to assure a fair hearing and to afford each party the opportunity to present their case, may allow limited discovery if it is not unduly burdensome, will not unnecessarily delay the proceedings, and the information is not otherwise available. (Ord. 4798, Amended, 05/10/2002; Ord. 4778, Added, 11/05/2001)

2.13.070 JURISDICTION.

- (1) The Administrative Hearing Examiner shall have jurisdiction to:
 - (a) Conduct hearings, render decisions, make recommendations and to hear appeals of administrative decisions on land use applications as specified in BMC Title [20](#), as amended.
 - (b) Conduct public hearings on all local improvement districts and utility local improvement districts.
 - (c) Hear an appeal of a department director's administrative decision when provided in the Bremerton Municipal Code.
 - (d) Hear code enforcement matters pursuant to provisions of the Bremerton Municipal Code.
 - (e) Conduct public hearings when required under the provisions of the State Environmental Policy Act; conduct open-record public hearings or closed-record appeals in accordance with the provisions of the Bremerton Municipal Code; conduct such other hearings as the city council may from time to time deem appropriate.
 - (f) Hear such other matters as may be designated by the Bremerton Municipal Code and/or the City Council.
- (2) It is the intent that all quasi-judicial appeals of land use decisions, which have prior to the enactment of this chapter been heard by the city council and/or the planning commission, now be heard by the Administrative Hearing Examiner pursuant to this chapter, and to the extent other provisions of the Bremerton Municipal Code are inconsistent, jurisdiction for such quasi-judicial appeals will be with the Administrative Hearing Examiner unless otherwise required by state or federal law.
- (3) Unless otherwise indicated, all other references in the Bremerton Municipal Code to "Hearing Examiner" shall not mean the Municipal Court Hearing Examiner except for those matters established pursuant to Chapter [2.62](#) of the Bremerton Municipal Code over which the Municipal Court Hearing Examiner will have jurisdiction. (Ord. 4970 §1, 2006: Ord. 4798, Amended, 05/10/2002; Ord. 4778, Added, 11/05/2001)

2.13.080 DUTIES.

The Administrative Hearing Examiner shall have the following duties with respect to applications of matters submitted before him or her.

- (1) Appeals of Administrative Decisions/Determinations. The Administrative Hearing Examiner shall hear open-record appeals of administrative decisions/determinations submitted before him or her, prepare a record thereof, and enter findings of fact and conclusions based upon these facts, which findings and conclusions shall represent final action unless appealed as specified in BMC [2.13.130](#), for the following:
 - (a) Appeals of all Type I and Type II project permit decisions identified in BMC [20.02.040](#) and appealed pursuant to BMC [20.02.140\(a\)\(3\)](#).
 - (b) Appeals of business license denials, revocations and regulations as authorized pursuant to BMC Title [5](#).
 - (c) Appeals of right-of-way use permit application decisions made pursuant to Chapter [11.02](#) BMC.

- (d) Appeals of administrative decisions on shoreline substantial developmental permits pursuant to BMC [20.02.140](#)(b) and Chapter 7(c)(4) of the City of Bremerton Shoreline Master Program.
- (e) Appeals of administrative decisions on short subdivisions and plats pursuant to BMC [20.12.100](#).
- (f) Appeals of administrative determinations applying the City Building Code pursuant to BMC [17.04.140](#).
- (g) Appeals of administrative determinations applying the Uniform Fire Code pursuant to BMC [18.02.180](#).

(2) Decisions of the Administrative Hearing Examiner. The Administrative Hearing Examiner shall receive and examine available information, conduct open-record public hearings, prepare a record thereof, enter findings of fact and conclusions based upon these facts, and render a decision, which decision shall represent the final action on the application, unless appealed, as specified in BMC [2.13.130](#) for all Type III project permit applications identified in BMC [20.02.040](#).

(3) Recommendations of the Administrative Hearing Examiner. The Administrative Hearing Examiner shall receive and examine available information, conduct open predecision public hearings, prepare a record thereof and enter findings of fact and conclusions based upon those facts, together with a recommendation to the city council, for the following:

- (a) All Type IV project permit applications identified in BMC [20.02.040](#).
- (b) Local Improvement districts and utility local improvement district formation and assessments pursuant to Chapter [11.04](#) BMC and Chapters [35.43](#) and [35.44](#) RCW. (Ord. 4970 §2, 2006; Ord. 4798, Added, 05/10/2002)

2.13.090 FILING OF APPLICATIONS AND APPEALS.

Applications to the Administrative Hearing Examiner for a decision, recommendation or an appeal shall be filed with the Department of Community Development. Applications shall be filed with the applicable filing fee as set forth in Chapter [3.01](#) BMC. When it is found an application or appeal meets the filing requirements of the affected City Code, rule or regulation, the application shall be accepted. The Administrative Hearing Examiner shall be responsible for assigning a date for the public hearing for each application or appeal. Hearings on project permit applications are subject to the notice and hearing requirements set forth in the Bremerton Municipal Code. (Ord. 4894 §1, 2004; Ord. 4836, Amended, 12/20/2002; Ord. 4798, Added, 05/10/2002)

2.13.100 OPEN RECORD PUBLIC HEARING.

- (1) Before rendering a decision or recommendation on any land use application, the Administrative Hearing Examiner shall hold one (1) open-record public hearing thereon.
- (2) For all applications, notice of the time and place of the public hearing shall be given as provided in the ordinance governing the application. If none is specifically set forth, such notice shall be given at least ten (10) working days prior to such hearing.
- (3) The Administrative Hearing Examiner shall have the power to prescribe rules and regulations for the conduct of hearings under this chapter and also to administer oaths, and preserve order. (Ord. 4798, Added, 05/10/2002)

2.13.110 DECISIONS AND RECOMMENDATION.

(1) The Administrative Hearing Examiner's recommendation or decision may be to grant or deny the application, or the Administrative Hearing Examiner may recommend or require of the applicant such conditions, modifications and restrictions as the Administrative Hearing Examiner finds necessary to make the application compatible with its environment, with applicable State laws, and to carry out the objectives and goals of the comprehensive plan, the zoning code, the subdivision code, and other codes and ordinances of the City. Conditions, modifications and restrictions which may be imposed are, but are not limited to, additional setbacks, screenings in the form of landscaping and fencing, covenants, easements and dedications of additional road rights-of-way. Performance bonds or other financial assurances may be required to ensure compliance with conditions, modifications and restrictions.

(2) In regard to all Type IV project permit applications identified in BMC [20.02.040](#), the Administrative Hearing Examiner's findings and conclusions and recommendation shall be submitted to the City Council, which shall have the final authority to act on such applications. The hearing by the Administrative Hearing Examiner shall constitute an open-record predecision hearing before the final decision is made by the City Council. The Administrative Hearing Examiner shall file its recommendation with the City Council at the expiration of the period provided for reconsideration, or if reconsideration is accepted, within ten (10) working days after the decision on reconsideration.

(3) When the Administrative Hearing Examiner renders a decision or recommendation, the Administrative Hearing Examiner shall make and enter written findings from the record and conclusions therefrom which support such decision. The decision shall be rendered within ten (10) working days following conclusion of all testimony and hearings, unless a longer period is mutually agreed to on the record by the applicant and the Administrative Hearing Examiner. The copy of such decision, including findings and conclusions, shall be transmitted by first class mail to the applicant and other parties of record in the case requesting the same.

(4) In the case of shoreline substantial development permits, pursuant to RCW [90.58.140](#)(11)(a)(iii), appeals shall be decided within thirty (30) calendar days of filing of the appeal.

(5) The filing fee as set forth in Chapter [3.01](#) BMC paid by the appellant for any appeal to the Administrative Hearing Examiner shall be refunded to the appellant if the appellant is the substantially prevailing party. (Ord. 4970 §3, 2006; Ord. 4894 §2, 2004; Ord. 4798, Added, 05/10/2002)

2.13.120 RECONSIDERATION.

A party of record believing that a decision or recommendation of the Administrative Hearing Examiner is based on erroneous procedures, errors of law or fact, or the discovery of new evidence which could not be reasonably available at the prior hearing may make a written request for reconsideration by the Administrative Hearing Examiner within fourteen (14) calendar days of the date the decision or recommendation is rendered. This request shall set forth the specific errors or new information relied upon by such appellant, and the Administrative Hearing Examiner may, after review of the record, take further action as he or she deems proper. If a request for reconsideration is accepted, a decision is not final until after a decision on reconsideration is issued. (Ord. 5148 §2, 2011; Ord. 4798, Added, 05/10/2002)

2.13.130 APPEAL OF DECISION.

(1) Any party who feels aggrieved by the decision or other final action of the Administrative Hearing Examiner may submit an appeal within twenty-one (21) calendar days from the date the final decision of the Administrative Hearing Examiner is rendered to the Superior Court or to another designated forum.

(2) No appeal may be made from a recommendation of the Administrative Hearing Examiner. (Ord. 4798, Added, 05/10/2002)

2.13.140 CITY COUNCIL ACTION.

(1) Any application requiring action by the City Council shall be taken by the adoption of a motion, resolution or ordinance by the City Council. When taking any such final action, the City Council shall make and enter findings of fact from the record and conclusions therefrom which support its action. The City Council may adopt all or portions of the findings and conclusions from the Administrative Hearing Examiner's recommendation.

(2) The action of the City Council, approving, modifying, or rejecting a recommendation of the Administrative Hearing Examiner, shall be final and conclusive. Appellants have twenty-one (21) calendar days from the date of City Council action to file an appeal with the superior court. (Ord. 4798, Added, 05/10/2002)

2.13.150 CITY ADMINISTRATIVE STAFF ARE TO BE CONSIDERED A PERSON OR PARTY.

For the purpose of BMC [2.13.130](#) and [2.13.140](#), the City's administrative staff shall be considered a "person" and/or "party" and shall have the same rights as any other person or party to make requests for reconsideration to the Administrative Hearing Examiner or to appeal decisions of the Administrative Hearing Examiner to Superior Court or to another designated forum. (Ord. 4970 §4, 2006: Ord. 4798, Added, 05/10/2002)

AGENDA BILL
CITY OF BREMERTON
CITY COUNCIL

4E

SUBJECT:

Ordinance No. 5492 amending Section 2.50.032 of the Bremerton Municipal Code entitled "Actual Salary Rate"

Study Session Date: May 8, 2024
COUNCIL MEETING Date: May 15, 2024

Department: Legal/HR
Presenter: Charlotte Nelson
Phone: (360) 473-5926

SUMMARY: The proposed ordinance amends Section 2.50.032 of the Bremerton Municipal Code to allow department heads to promote management/professional employees above a rate higher than one rate above what they are currently making with the approval of the Mayor.

ATTACHMENTS:

Ordinance No. 5492

FISCAL IMPACTS (Include Budgeted Amount):

STUDY SESSION ACTION: Consent Agenda General Business Public Hearing

RECOMMENDED MOTION:

Move to pass Ordinance No. 5492 amending Section 2.50.032 of the Bremerton Municipal Code entitled "Actual Salary Rate".

COUNCIL ACTION: Approve Deny Table Continue No Action

ORDINANCE NO. 5492

AN ORDINANCE of the City Council of the City of Bremerton, Washington, amending Section 2.50.032 of the Bremerton Municipal Code entitled "Actual Salary Rate."

WHEREAS, the City Council desires to amend provisions of Section 2.50.032 relating to setting the salary rate for management and professional employees upon promotion; NOW THEREFORE,

THE CITY COUNCIL OF THE CITY OF BREMERTON, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Section 2.50.032 of the Bremerton Municipal Code entitled "Actual Salary Rate" is hereby amended to read as follows:

2.50.032 ACTUAL SALARY RATE.

(a) Initial Rate. The salary rate of a person upon appointment to a management or professional position shall be set no lower than Rate 1 of the salary band to which an employee's position is assigned. When it is in the best interest of the City, the department heads (with the Mayor's approval) may authorize an initial salary of a newly hired or promoted person at a rate which exceeds Rate 1. Newly hired persons who report directly to the Mayor require the approval of City Council when being hired at a rate which exceeds Rate 1.

(b) Salaries may be increased as follows:

(1) Salary Rate Advancement. Each person shall be eligible for a salary rate advancement upon completion of twelve (12) full months of regular (as opposed to interim) service at each rate in the salary band. To receive a salary rate advancement, the employee must be evaluated as "meets expectations" (or equivalent) on his or her work performance evaluation. Salary rate advancements shall be an increase of one (1) rate in the same salary band, if available.

(2) Additional Advancement. Those employees who receive a rating that exceeds the rating "meets expectations" (or equivalent) may be eligible to receive an additional salary rate advancement for an increase of one (1) additional rate in the same salary band, if available, above the initial rate advancement provided in subsection (b)(1) of this section. This additional advancement shall require the recommendation of the department head, or equivalent, and approval of the Mayor and City Council.

(3) A rate advancement that was denied may be granted following a minimum sixty (60) day review period of the employee's performance.

(4) Notwithstanding the above, when it is in the best interest of the City, the City Council upon the recommendation of the Mayor may authorize an in-range adjustment to provide additional salary in instances of promotion, to provide for internal equity corrections, or for another reason deemed appropriate by the City Council.

(c) Changes to Employee Classifications.

(1) Downgrading an Employee's Classification. Upon the City Council's approval of downgrading a person's classification to a lower salary band, the person's initial

salary rate will be set at the same rate in the new band that was in effect in the former salary band. In the event a person's salary rate exceeds the maximum rate of the salary band to which his or her position is assigned on the date of downgrading, his or her actual salary rate shall be frozen until such time as the maximum rate of the new band is equal to or greater than his or her actual salary and, at such time, the employee's salary rate shall be set at the maximum rate of the salary band to which his or her position is assigned.

(2) Upgrading an Employee's Classification. If an employee's classification is moved from one salary band to a higher band (excluding promotions), the employee's salary rate at the higher band shall be set at the next rate which is higher than the salary the employee was receiving at the former band. Any additional rate advancements shall require City Council approval. The employee's salary rate advancement date does not change.

(3) Promotions.

(A) In the event an employee is promoted from one management/professional classification to a higher classification (one (1) salary band to a higher salary band), the employee's salary shall be set no lower than Rate 1 of the salary band to which an employee's position is assigned. When it is in the best interest of the City, the department heads (with the Mayor's approval) may authorize the rate of a promoted person at a rate which is higher than described above. ~~rate at the higher band shall be set at the next rate which is higher than the salary the employee was receiving at the former band.~~ Promoted employees shall be eligible for a salary rate advancement upon completion of twelve (12) full months of regular (as opposed to interim) service at each rate in the new salary band, which shall be the employee's new salary rate advancement date.

(B) In the event an employee is promoted to a management/professional classification from another employee group, excluding IAFF Bargaining Unit members, their salary shall be set no lower than Rate 1 of the salary band to which an employee's position is assigned. When it is in the best interest of the City, the department heads (with the Mayor's approval) may authorize the rate of a promoted person at a rate which is higher than described above. Promoted employees shall be eligible for a salary rate advancement upon completion of twelve (12) full months of regular (as opposed to interim) service at each rate in the new salary band, which shall be the employee's new salary rate advancement date.

SECTION 2. *Corrections.* The City Clerk and codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener, clerical, typographical, and spelling errors, references, ordinance numbering, section/subsection numbers and any references thereto.

SECTION 3. *Severability.* If any one or more sections, subsections, or sentences of this ordinance are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance and the same shall remain in full force and effect.

SECTION 4. *Effective Date.* This ordinance shall take effect and be in force ten (10) days from and after its passage, approval and publication as provided by law.

PASSED by the City Council the _____ day of _____, 20__.

JENNIFER CHAMBERLIN,
Council President

Approved this _____ day of _____, 20__.

GREG WHEELER, Mayor

ATTEST:

APPROVED AS TO FORM:

ANGELA HOOVER, City Clerk

KYLIE J. FINNELL, City Attorney

PUBLISHED the _____ day of _____, 20__.
EFFECTIVE the _____ day of _____, 20__.
ORDINANCE NO. _____.

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