

Office of the County Auditor

Auditor's Analysis

Council Bill No. 77-2021

Introduced: October 4, 2021

Auditor: Michael A. Martin

Fiscal Impact:

The fiscal impact of this legislation cannot be determined at this time as it depends on the number of Zoning Board hearings that will be held in the future as well as the nature of each hearing – more complex cases will require extensive review and examination, which may result in more billable hours paid to the County's Hearing Examiner.

According to the sponsors, an additional Hearing Examiner will not be required as a result of this legislation and, until the Council makes a final decision, the two existing Hearing Examiners will fulfill the requirements proposed in this bill. It was also indicated that no additional costs for support staff will result from this legislation.

There was a funded vacancy in the County Council's FY 2022 Approved Operating Budget for a full-time Principal Attorney I with a budget of \$54,800 for four months. The County Council has not yet decided how the remaining funds will be utilized.

According to the Hearing Examiners' contracts, they are paid \$200 per hour and are reimbursed for travel costs.

For comparison purposes, **Attachment A** details the number of hours worked and compensation earned for each Hearing Examiner during FY 2021 as it relates to Board of Appeals' cases.

Purpose:

This legislation would allow for the Hearing Examiner to hear all petitions prior to the Zoning Board. Within 60 days after the conclusion of the hearing, the Hearing Examiner will prepare and issue a report which will be sent to all involved parties and posted on the Zoning Board's website.

If the Hearing Examiner position is vacant or they are unable to hear the petition and prepare a report, then the Zoning Board will hear the petition themselves before issuing a decision.

There will be a process for any involved party to submit exceptions to the report issued by the Hearing Examiner within 20 business days of the report being issued.

Every decision and final order in a piecemeal map amendment or development plan case will be in writing and:

- Signed by a majority of the Zoning Board,
- Attested to by the Zoning Board Administrator, and
- Accompanied by the findings gathered by the Hearing Examiner.

The Zoning Board can choose to remand the petition to the Hearing Examiner for additional testimony and hearing should it be decided by a majority vote.

Other Comments:

Both Hearing Examiners have contracts through June 30, 2022, at which time a renewal or amendment to their existing agreements will be required.

Attachment A

| Joyce Nichols - Board of Appeals Hearing Examiner | | |
|--|---------------------|----------------------|
| FY 2021 Contracted Services/Compensation | | |
| Month | Hours Worked | Amount Earned |
| July 2020 | 12 | \$ 2,415 |
| August 2020 | 56 | 11,144 |
| September 2020 | 97 | 19,383 |
| October 2020 | 35 | 7,030 |
| November 2020 | 40 | 7,935 |
| December 2020 | 4 | 800 |
| January 2021 | 13 | 2,567 |
| February 2021 | 29 | 5,715 |
| March 2021 | 5 | 970 |
| April 2021 | 5 | 1,008 |
| May 2021 | 42 | 8,380 |
| June 2021 | 81 | 16,116 |
| Total | 419 | 83,463 |
| Average | 35 | 6,955 |

| Katherine Taylor - Board of Appeals Hearing Examiner | | |
|---|---------------------|----------------------|
| FY 2021 Contracted Services/Compensation | | |
| Month | Hours Worked | Amount Earned |
| July 2020 | 17 | \$ 3,354 |
| August 2020 | 8 | 1,601 |
| September 2020 | 29 | 5,881 |
| October 2020 | 14 | 2,835 |
| November 2020 | 11 | 2,207 |
| December 2020 | 34 | 6,841 |
| January 2021 | - | - |
| February 2021 | 4 | 749 |
| March 2021 | 18 | 3,500 |
| April 2021 | 6 | 1,241 |
| May 2021 | - | - |
| June 2021 | 28 | 5,568 |
| Total | 169 | 33,777 |
| Average | 14 | 2,815 |