



Agenda Date: 4/12/2005  
Agenda Placement: 60

## NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

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**TO:** Board of Supervisors  
**FROM:** Susan Ingalls for Robert Westmeyer - County Counsel  
County Counsel  
**REPORT BY:** Susan Ingalls, Paralegal , 259-8152  
**SUBJECT:** Approval of Agreement with Susan McGuigan to perform the duties of Hearing Officer.

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### **RECOMMENDATION**

County Counsel requests approval of and authorization for the Chair to sign an agreement with Susan McGuigan for a maximum of \$10,000 for the term April 12, 2005 through June 29, 2006 to perform the function and duties of County Hearing Officer.

### **EXECUTIVE SUMMARY**

The requested action will engage Susan McGuigan to act as the County Hearing Officer through June 29, 2006. The hearing officer, required to be an attorney with 5 years experience, is a position set forth in Chapter 2.22 of the code, and conducts hearings and appeals of matters as may be assigned by the board, which are not otherwise heard by the board of supervisors or zoning administrator. The County Hearing Officer would also hear appeals of administrative citations as provided in Chapter 1.28.

The alternative to appointing the County Hearing Officer is that assigned appeals would need to be heard by the State Office of Administrative Hearings. That office charges a higher hourly fee, a separate per case fee, and the hearings are held in Oakland which would necessitate staff traveling there. The State Office is also unable to guarantee that hearings would be scheduled within the time frames required under the County Code.

### **FISCAL IMPACT**

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	No
What is the revenue source?	Though this particular item was not specifically budgeted, sufficient funds are included in the FY 04/05 County Counsel budget.
Is it Mandatory or Discretionary?	Discretionary

Discretionary Justification: The County would be required to contract with the State Office of Administrative Hearings at a much greater expense to the County. Including, but not limited to, the cost of staff to travel to Oakland.

Is the general fund affected? Yes

Future fiscal impact: It is expected to be absorbed within the approved budget.

Consequences if not approved: The County would be forced to contract with the State Office of Administrative Hearings. Beside the additional cost to the County described above, the State has indicated that there would be a substantial wait until hearings would be calendared.

Additional Information: None

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

### **BACKGROUND AND DISCUSSION**

Napa County Ordinance No. 1098 which was adopted by the Board on February 20, 1996 established the County Hearing Officer pursuant to Government Code Section 27720. The County Hearing Officer, appointed pursuant to Chapter 2.22 of the Napa County Code, needs to be an attorney at law having been admitted to practice before the courts of this state for at least five years prior to his or her appointment. Susan McGuigan is qualified to act as the County Hearing Officer, she has been an active, practicing, California attorney since 1994, and she has proficient knowledge of the Napa County Code.

The duties of the County Hearing Officer are to conduct hearings and appeals for the County, including appeals of Administrative Citations as may be assigned. The Hearing Officer does not hold hearings which by code are assigned to the Zoning Administrator or the Board of Supervisors.

### **SUPPORTING DOCUMENTS**

None

CEO Recommendation: Approve

Reviewed By: Lorenzo Zíalcita