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Court of Appeals
Division I
State of Washington

No. 73195-5-I

IN THE COURT OF APPEALS, DIVISION ONE

WARREN E. BOHON,

Appellant,

v.

CITY OF STANWOOD,

Respondent.

BRIEF OF APPELLANT

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I. ASSIGNMENTS OF ERROR

Trial court committed reversible error when it

(a) Considered and relied upon unsigned declarations filed by Defendant Movant City of Stanwood in support of the City's Motion for Summary Judgment;

(b) denied Appellant Warren Bohon's Motion to Continue the improperly noticed hearing on the City's Motion for Summary Judgment,

(c) denied Mr. Bohon's request to present argument and sworn declarations and other relevant and admissible evidence in his possession at the February 5, 2015, hearing of the summary judgment motion, including the introduction of portions of Mr. Bohon's depositions that had been omitted by Defendant City of Stanwood in its Motion for Summary Judgment filings;

(d) failed to perform an on-the-record consideration of the **Burnet v. Spokane Ambulance** factors prior to excluding Mr. Bohon's proffered evidence and declarations in opposition to summary judgment;

(e) granted summary judgment to the Defendant City at the February 5, 2015, hearing, on all of Mr. Bohon's claims.

II. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

The issues are follows:

- Whether the trial court should have excluded and not relied upon two unsigned declarations filed by Defendant Movant City of Stanwood in support of the City's Motion for Summary Judgment;
- Whether the trial court should have granted Appellant Warren Bohon's Motion to Continue the improperly noticed hearing on the City's Motion for Summary Judgment;
- Whether the trial court should have allowed Mr. Bohon to present argument and sworn declarations and other relevant and admissible evidence in his possession at the February 5, 2015, hearing of the summary judgment motion, including the introduction of portions

of Mr. Bohon's depositions that had been omitted by Defendant City of Stanwood in its Motion for Summary Judgment filings;

- Whether the trial court abused its discretion when it failed to perform an on-the-record consideration of the **Burnet v. Spokane Ambulance** factors prior to excluding Mr. Bohon's proffered evidence and declarations in opposition to summary judgment;
- Whether construing all facts and inferences in the light most favorable to the Plaintiff non-movant, the trial court erred in granting summary judgment to the Defendant City at the February 5, 2015, hearing, on all of Mr. Bohon's claims, after barring Mr. Bohon from presenting any evidence or argument.

III. STATEMENT OF THE CASE

A. Work History and Termination.

Appellant Warren Bohon began working as a Code Enforcement Officer for the City of Stanwood in 1992. **CP 440**. At the time he was 59 years old. **Id.** At that time, he had already earned two college degrees. He had also served for four years in the United States Marine Corp rising to the level of a non-commissioned officer, squad leader and tank commander, and earning a Korean War campaign ribbon and Good Conduct metal. He had more than forty years of prior private sector experience prior to being hired by Stanwood, most recently having served for 30 consecutive years with a major oil company.

Mr. Bohon worked for the City of Stanwood from 1992 to January 2006—13 years—receiving favorable performance evaluations and without any prior disciplinary actions. Mr. Bohon discovered fraud by

two City employees catching them fabricating readings on water meters of customers to avoid working to read meters and understating readings of water usage for properties with which the readers were personally connected to reduce water payments owed. **Appendix A hereto, Warren Bohon 1/29/16 Declaration at ¶5.** He reported these findings promptly to management acting as a whistleblower. **Id.**; see also **CP 64-128, 139-142.** He also uncovered evidence of City employees drinking on the job, including while operating City vehicles, and the City's violation of state, federal and local laws requiring the giving of preference to military veterans, and the requirement to post for public bid all City jobs so that employees and members of the public could bid for such positions, and to hire the most qualified applicants. **Appendix A hereto, Warren Bohon 1/29/16 Declaration at ¶5; CP 64-128, 139-142.** Mr. Bohon reported the City's violations of these laws and the employee on-the-job drinking to City management, drawing attention to acts of favoritism and nepotism by City officials, including the hiring of a former City Councilperson Les Anderson, who had no military service, for a position for which Mr. Anderson had inadequate experience and qualifications, and the passing over of other more qualified applicants for the position, as well as the repeated failure of the City to post jobs for bid by current employees and

members of the public. **Appendix A Bohon 1/29/16 Decl. at ¶5; CP 64-128, 139-142.**

In the Spring of 2005, Mr. Bohon also coordinated a meeting of several concerned and aggrieved employees with a personnel committee to report acts of workplace harassment of female and older employees, public disparagement and ridicule of employees by supervisors, employee on-the-job drinking and safety violations, and the repeated failure to properly post jobs or honor veteran preferences required by law or to hire the most qualified candidates. The allegations were so striking and pervasive that the City scheduled a workplace Needs Assessment by Sound Employment Solutions and interviewed employees, including Mr. Bohon, in the summer of 2005, and Sound Employment Solutions held a formal workplace training as a result entitled “Understanding Discrimination, Harassment and Retaliation” in October 2005, and on November 14, 2005, issued formal Employee Expectations for managers Les Anderson and Bill Beckman identifying areas they each needed to improve. **Appendix B.**¹

¹ Appendix B contains records produced in discovery in this case which Mr. Bohon had with him to present, and sought to present, at the February 5, 2015, summary judgment hearing and was denied the right to do so by the trial court. They contain documentation of the Needs Assessment performed by Sound Employment Solutions in the Spring of 2005, the training performed in October 2005 along with the sign in sheet, and the formal “Expectations” issued by Sound Employment Solutions to supervisors Anderson and Beckman in November 2005.

On December 1, 2005, Mr. Bohon sent a written memo to his supervisor Stephanie Hansen and the incoming Mayor Dianne White. **CP 139-142.** The memo sought “all protections afforded a “Whistleblower” provided in Federal, State and City laws” and reported on the meeting Bohon had coordinated with other aggrieved employees and the Personnel Committee in the Spring of 2005. **Id.**

On December 13, 2005, Mr. Bohon sent a handwritten memo to Ms. Hansen reporting illegal actions and retaliation against himself for reporting it earlier. **CP 145-149.**

The City claims—in an unsigned Declaration—that it orally instructed Mr. Bohon on November 30, 2005, to move from an office he held in the Public Works Building, where he had worked efficiently and without incident for 13 years, to a desk in City Hall. The sole support for this claimed instruction is a declaration purporting to be from Stephanie Hansen but **the filed declaration was not signed** (CP 391). The unsigned Hansen Declaration references an Exhibit B as this supposed notice, but Exhibit B to the Hansen Declaration is not a notice of any kind to Mr. Bohon but instead purports to be a memo from Ms. Hansen to William “Bill” Beckman “wondering” if Mr. Bohon’s workspace could be moved to City Hall at some point. See **CP 399.** The City did not file, or serve, a

signed declaration for Ms. Hansen, nor any November 2005 notice to Mr. Bohon to move his workspace, nor any earlier notice to Mr. Bohon.

On December 20, 2005, the City claims through the unsigned Hansen Declaration that Ms. Hansen issued a memo to then-Stanwood Mayor Herb Kuhnly recommending termination of Mr. Bohon. **CP 426-427.** The declaration purporting to authenticate this document was not signed. **CP 391.** The memo recommended termination claiming Mr. Bohon remained at work after his work was completed—allegedly loitering—for purposes of organizing other employees to report workplace grievances, that he made statements that “are intended or could reasonably be expected to damage the integrity or reputation of the City or our employees” based on his whistleblower reports of illegal activities of officials and employees, and finally for alleged insubordination for the alleged refusal to move to a desk at City Hall. The memo claimed Mr. Bohon

has organized at least one off-hours meeting and engaged with Public Works employees and city counsel members in order to discredit and undermine the work efforts and reputations Mr. [William] Bill Beckman, City Administrator/Public Works Director, and Mr. Les Andersen, Public Works Supervisor. He has made several written and verbal unsubstantiated and/or false derogatory statements intending to damage the integrity of these two persons and to undermine their supervisory authority.

CP 426. The memo was referring to meetings Mr. Bohon organized with aggrieved employees to report their workplace grievances to the Personnel Committee of City Council members which led to the Needs Assessment discussed above and in Appendix B, and Mr. Bohon's whistleblower complaints documenting fraud and illegal behavior by the City and City employees and officials.

After the above actions by Mr. Bohon, and only after the above actions by Mr. Bohon, did City management order Mr. Bohon to vacate his office in the Public Works Building where he had worked for 13 years without incident to a desk at City Hall next to and under the eye and arm of those about whom he had just reported and away from those he had recently organized to report their concerns to the Personnel Committee. Mr. Bohon protested the ordered move seeing it as an act of retaliation and sabotage, to ensure he had difficulty performing his job duties by placing him with those about whom he had just blown the whistle.

Within a month, the City fired Mr. Bohon, after 13 years on the job with favorable performance evaluations, allegedly for the refusal to move from his office in the Public Works Building to a desk at City Hall.

The Declaration purportedly by the Mayor who fired him, Dianne White, is also **unsigned**, and no signed copy was ever filed or served. **CP**

350. The exhibits to the purported White Declaration are also thus not authenticated. **Id.**

The City hired a man aged 56 years of age to replace Mr. Bohon, as the replacement himself stated. **CP 344** at ¶ 3. The replacement was thus 17 years younger than Mr. Bohon, who was 72 years old when he was fired. The City did not provide any details of the replacement’s qualifications or experience, nor explain why someone 17 years younger and decades away from retirement was not “significantly” younger than Mr. Bohon who was then 72.

Mr. Bohon timely filed a federal lawsuit, which was dismissed without prejudice, and timely replaced by this current action. He withdrew money from his retirement savings to pay lawyers to represent him on the case, but each withdrew after conflicts of interest or scheduling conflicts arose with their other caseloads. He proceeded pro se, making diligent attempts to secure new counsel, for significant portions of the case. In December 2014, Mr. Bohon remained pro se.

B. Stanwood’s Motion for Summary Judgment:

On December 19, 2014, six days before Christmas, the City of Stanwood filed a Note for Hearing for a Summary Judgment Motion seeking a hearing on January 16, 2015, exactly 28 calendar days’ later. **CP 17-18.** The City did not determine whether Mr. Bohon was available

on this date and did not warn him of its intent to file such a motion that month. On December 19, 2014, the City attempted to serve the Notice and accompanying Motion and supporting declarations on Mr. Bohon at his home in Camano Island by legal messenger, but its messenger reported such service was not successful as there was “no answer at door, no noise inside, no movement inside and no lights” during each of the six attempts on December 19, 20, 21, 22 and 26, 2014. **CP 36.** The failure to serve Mr. Bohon in person on December 19, 2014, meant that the hearing on January 16, 2015, could not lawfully have gone forward as the Plaintiff had not been afforded the required 28 calendar days’ notice required by CR 56(c). Despite this failure to serve Mr. Bohon by messenger, the City of Stanwood continued its efforts to have its summary judgment motion heard on January 16, 2015, without highlighting to the trial court the fact Mr. Bohon had not timely been served. The City’s attorney Jayne Freeman claimed she had sent an email to Mr. Bohon with the materials at an email she had exchanged communications with Mr. Bohon in the distant past, but Ms. Freeman did not reveal that she and Mr. Bohon had never entered into an email service agreement and that she could not establish whether Mr. Bohon had actually received any emailed copies. She further did not reveal that the purported “mail” service going out on December 19, 2014, did not provide sufficient notice, nor that the package

had been left unattended with signature waived by the City on Mr. Bohon's unsecured front porch on December 20, 2014, rather than in his mailbox, when the City knew from its messenger that no one had been at the residence from December 19, 2014 to December 26, 2014. **CP 39** (Showing package left on porch and not mailbox), **CP 41** (express mail form showing signature was waived by sender), **CP 36** (Affidavit of Non-Delivery showing no one present at home from December 19-26, 2014).

Mr. Bohon has confirmed in a sworn declaration that he never received the mailed package allegedly left on his unattended front porch on December 20, 2014, as he was out of town for several days over the holidays and that the package was not present when he returned home after the holidays. **Warren Bohon Decl., filed 1/29/16 at ¶¶ 9-11, attached hereto as Appendix A.**

Two key purported declarations upon which the trial court relied in granting summary judgment to the City—that of Stephanie Hansen who allegedly ordered Mr. Bohon to relocate his office and that of the Mayor Dianne White who fired Mr. Bohon—were not signed, and signed copies were never filed or served. **CP 350, 391.**

Despite failing to timely serve Mr. Bohon with the Notice, Motion, and declarations, the City and Ms. Freeman still sought to have the hearing held on January 16, 2015, and Ms. Freeman filed a new declaration on

January 9, 2015, claiming to have served Mr. Bohon on December 19, 2014 by email and by mail on December 20, 2014 (a day too late), and falsely claiming that the Motion and Declarations and Note for Motion was “delivered by a process service to his residence” on December 19, 2014. **CP 9 at ¶4 line 19** (1/9/15 Freeman Decl.). The Declaration of Non-Service Ms. Freeman had received by that date, and which she attached to her January 9, 2015 Declaration showed Mr. Bohon had **not** been served by messenger because the messenger documented that he had tried for six days from December 19, 2014 to December 26, 2014, but that each time there was “no answer at door, no noise inside, no movement inside and no lights.” **CP 36** (showing attempted deliveries on December 19, 20, 21, 22 and 26, 2014).

Ms. Freeman attached to her January 9, 2015 Declaration the face sheet and certificate of service page of the Motion and Declarations but not the remainder the pages. **CP 8-11, 17-34**. This declaration was served by mail going out on January 9, 2014, and again signature of the recipient was waived by the City, but this time the Post Office confirmed the package was placed in Mr. Bohon’s mailbox, rather than his unattended front porch (**CP 487**), so Mr. Bohon at least received word the City was trying to hold a hearing of some kind on January 16, 2015. Mr. Bohon called the trial court and informed it he could not appear at a hearing on

that date as he was staying with his girl friend in another City caring for her following her surgery. The hearing was to be continued to the week of January 27, 2015, but the docket shows Ms. Freeman never filed a new Note for Motion for that date, and in her January 30, 2015, Declaration (**CP 475-76**), she states she failed to confirm such hearing and it was canceled by the trial court (without revealing she failed to file the Note for Motion at all). See **CP 475-76**. Mr. Bohon was told by the trial court that the January 27, 2015, hearing was being stricken as it had not been confirmed. **CP 476**. Freeman then filed a Note for Motion on January 27, 2015, seeking a hearing just nine days later. **CP 481-82**. Ms. Freeman served this Note by mail on Mr. Bohon sending it out two day mail on January 27, 2015 (**CP 487-89**) despite her sworn statement on the Note claiming it was mailed on January 26, 2015. **CP 481-82**. The delivery confirmation confirms the envelope was delivered on January 28, 2015—just eight days before the hearing—and left in Mr. Bohon’s mailbox. **CP 487**.

The City admits it did not re-serve the motion for summary judgment or any of the declarations, relying solely on its mailing of materials left unattended on Mr. Bohon’s unsecured front porch on December 20, 2014, despite its messenger’s affidavit confirming Mr.

Bohon was not at home that day or for at least five days' thereafter. **CP 36, 39.**

In the eight days' notice afforded to him before the February 5, 2015 hearing, Mr. Bohon pulled together signed sworn declarations of persons who had worked with him at the City, including a former City Councilman Erik Abrahamson who had attended his termination hearing, and former co-workers Jerry Fure and Randall Richard—(those three declaration are attached hereto as **Appendix C**)—and an additional box full of other opposition materials to preclude summary judgment to the City. **Bohon 1/29/16 Decl. at ¶12, attached as App. A hereto.** Mr. Bohon came to the hearing with a witness willing to testify and several signed declarations of witnesses and his opposition. **Id.** He asked to present those materials and to be heard in opposition to the summary judgment motion. **Id.** He asked for a continuance to allow him to file those materials with sufficient time before the hearing. **CP 65** (Minute Order on 2/5/15 Hearing acknowledging the request for a continuance and denial of same.) The trial court had not been informed that Ms. Freeman had not served the Note for Motion until eight days' before the hearing contrary to her certificate of service, nor that Ms. Freeman's sole delivery to Mr. Bohon of the motion and declarations had been a package left unattended on a unsecured porch at a residence where the City knew from

its messenger that no one had been present at the home that day or for at least five days thereafter. The trial court instead had been told by Ms. Freeman, falsely, in a January 30, 2015, Declaration that the matters were “served ... by various means on December 19, 2014.” **CP 475 at ¶ 2.**

Ms. Freeman was aware when she made that declaration that Mr. Bohon had not been served by **any** means on December 19, 2014, and that the sole delivery had been left on his unattended porch on December 20, 2014, at a home that was vacant that day and for a week thereafter. The trial court had been told by Ms. Freeman that she had mailed the records to Mr. Bohon earlier than Ms. Freeman’s records show she actually mailed them. And Ms. Freeman suggested service had been effected by messenger, without revealing that the December 2014 messenger efforts had been unsuccessful, and that no subsequent messenger attempts included the summary judgment motion or declarations. This trial judge, who was deprived of all of the above relevant facts, refused to let Mr. Bohon argue or be heard, even to explain the lack of service and receipt, refused to accept Mr. Bohon’s submissions, denied Mr. Bohon’s motion for continuance, and signed the City’s Proposed Order declaring, with no findings, that the City was “entitled to judgment as a matter of law.” **CP 5-7.** The City had not requested that the hearing be recorded and so the sole basis for the summary judgment dismissal is the Order the City

drafted, which contains no findings and no explanation, and the bare statement only that the City was “entitled to judgment as a matter of law.”

Id.

This appeal followed. A Commissioner of this Court granted an extension to today to newly-retained counsel to file this Brief of Appellant.

IV. LEGAL AUTHORITY AND ARGUMENT

A. Standard of Review

1. Summary Judgment

In reviewing a trial court’s order granting summary judgment, the appellate court views all the facts and reasonable inferences in the light most favorable to the non-moving party. **Stewart Title Guar. Co. v. Sterling Sav. Bank**, 178 Wn.2d 561, 565, 311 P.3d 1, 3 (2013) (in reviewing a trial court’s order granting summary judgment, the appellate court views all the evidence in the light most favorable to the nonmoving party); **McNabb v. Department of Corrections**, 163 Wn.2d 393, 397, 180 P.3d 1257, 1260 (2008) (on review of an order granting summary judgment, facts and reasonable inferences are considered in the light most favorable to the nonmoving party and questions of law are reviewed de novo).

The appellate court reviews questions of law and the grant of summary judgment *de novo*. **McNabb**, 163 Wn.2d at 397. The trial court’s “findings” in a summary judgment proceeding are superfluous and are to be ignored on appeal. **Neuson v. Macy's Dept. Stores Inc.**, 160 Wn. App. 786, 792-93, 249 P.3d 1054 (2011), **review denied**, 172 Wn.2d 1005, 257 P.3d 666 (2011) (trial court's “findings” in a summary proceeding are superfluous and are to be ignored on appeal).

2. **Denial of Continuance and Exclusion of Evidence**

“The de novo standard of review is used by an appellate court when reviewing all trial court rulings made in conjunction with a summary judgment motion.” **Momah v. Bharti**, 144 Wn. App. 731, 749, 182 P.3d 455 (2008); **see also Rice v. Offshore Systems, Inc.**, 167 Wn. App. 77, 85, 272 P.3d 865 (2012). The Washington State Supreme Court has made clear that when a trial court decides not to consider materials in opposition to summary judgment because they are submitted late, that such ruling is considered on an abuse of discretion standard, but that it is an abuse of discretion for the trial court not to provide on-the-record findings showing application of the test set forth in **Burnet v. Spokane Ambulance**, 131 Wn.2d 484, 933 P.2d 1036 (1997). **Keck v. Collins**, 184 Wn.2d 358, 357 P.3d 1080 (2015). Once the on-the-record **Burnet** analysis has been

provided, such ruling is reviewed for an abuse of discretion. **Keck**, 184 Wn.2d at 367.

B. Bohon Did Not Timely Receive the Summary Judgment Materials.

The City was required to provide Mr. Bohon with copies of its Note for Hearing, Motion for Summary Judgment, and all supporting declarations at least 28 calendar days prior to the hearing. CR 56(c). The City sought a hearing on January 16, 2005. **CP 17-18**. It claims it tried to serve Mr. Bohon by legal messenger, by email and by mail. **CP 17-18, 20, 22, 24, 26, 28, 30, 32, 34**.

1. Email Not Effective Service

CR 5(b)(7) allows for “service by other means” including fax and “electronic means” (presumably email) but only when “consented to in writing by the person served or as authorized under local court rule.” Thus email service was only effective **if** the parties had entered into a valid written email service agreement. The City and Mr. Bohon never entered into an email service agreement of any kind, written or otherwise, and the City provided no evidence of such an agreement. The City’s attorney sent an unsolicited email to an email she claims she had used to communicate with Mr. Bohon in the distant past, but no evidence was provided showing this was still a valid email for Mr. Bohon on December 19, 2014, or that he actually received the email. Due to the lack of a

written email service agreement, and proof of one, an email even if received would not have been effective service of the summary judgment materials.

2. Messenger Service Did Not Occur.

The City attempted to serve Mr. Bohon with the materials by legal messenger on December 19, 2014, and December 20, 21, 22 and 26, 2014. **CP 36-37.** The messenger Declaration of Non-Service states that service was not accomplished on any of those days as no one was home, stating clearly “no answer at door, no noise inside, no movement inside and no lights” for each of the six days from December 19, 2014 through December 26, 2014, that service was attempted. **Id.** Mr. Bohon was never served by messenger with the Motion for Summary Judgment or the Declarations since the City never again attempted to serve him with these materials by messenger. The City served only the face sheet of the motion and declarations and their certificate of service pages as attachments to the January 9, 2015, Freeman Declaration, serving that by mail, and did not re-serve the entire Motion and Declaration at any time by any method.

3. Mail Service Did Not Afford 28 Days’ Notice and Further was Not Received.

CR 5(b)(2) addresses service by mailing and states “The service shall be deemed complete upon the third day following the day upon which they are placed in the mail, unless the third day falls on a Saturday,

Sunday or legal holiday, in which event service shall be deemed complete on the first day other than a Saturday, Sunday or legal holiday following the third day.” The City claims it mailed a copy of the Notice of Hearing for the January 16, 2015, hearing, the Motion for Summary Judgment, and the supporting Declarations and their hundreds of pages of attachments to Mr. Bohon at his Camano Island address, but the City’s records show the package was mailed out on December 19, 2014, and as mailed service added three days to the presumed receipt date, the presumed receipt date would have been December 22, 2014—less than 28 days before the hearing.

The mailed copy of the records going out on December 19, 2014, was sent with signature waived by the City meaning Mr. Bohon was not required to sign for it. **CP 41.** The delivery confirmation from the Post Office revealed the package had **not** been left in Mr. Bohon’s mailbox as it ought to have been but instead had been left on Saturday, December 20, 2014, on Mr. Bohon’s unsecured and unattended porch. **CP 39.**

December 20, 2014, was a day when the City’s legal messenger confirmed no one was at the Camano Island residence, no one had been at that residence the day before (December 19, 2014), and no one was at that residence for at least five days’ thereafter as the messenger attempted delivery on December 19, 20, 21, 22, and 26, 2014, and each time the

messenger noted that there was “no answer at door, no noise inside, no movement inside and no lights.” **CP 36.**

Based on CR 5(b)(2), the delivery on a Saturday was not an effective day of service, and so the service would not have been deemed received until Monday, December 22, 2014, only 25 calendar days before the hearing.

The City has provided no evidence that Mr. Bohon recovered the package left on his unattended porch while he was out of town for more than a week.

“The mailbox rule provides that the proper and timely mailing of a document raises a rebuttable presumption that the document has been received by the address in the usual time.” **Olson v. The Bon, Inc.**, 144 Wn. App. 627, 634, 183 P.3d 359 (2008). “The presumption of receipt permitted under the common law mailbox rule is not invoked lightly. It requires proof of mailing, a dated receipt, or evidence of mailing apart from party’s own self-serving testimony.” **Olson**, 183 P.3d at 634 (internal citations omitted). If the presumption of mailing is shown, then the presumption of receipt attaches, but this does not, however, end the inquiry, because the sender’s “showing gives rise to a presumption and only a presumption; the presumption is not conclusive.” **Neuson**, 160 Wn. App. at 794. “Presumption are the ‘bats of the law, flitting in the twilight

but disappearing in the sunshine of actual facts.” **Id.** (internal citations omitted).

The City’s attorney Jayne Freeman claims she mailed the Summary Judgment Motion, Notice of Hearing, and supporting declarations to Mr. Bohon going out in the mail on December 19, 2014, to Mr. Bohon’s home in Camano Island. The postal records show the City waived signature by the recipient on the package (**CP 41**) and that it was left, not in the mailbox as it should have been, but on Mr. Bohon’s unattended and unsecured porch on December 20, 2014, (**CP 39**) a day the City’s messenger confirmed no one was home, no one had been home the day before, and no one was home for at least six days afterward. **CP 36-37**. Mr. Bohon has provided a sworn declaration attesting under penalty of perjury that the package was not on his porch when he returned in early January 2015 and that he did not receive a copy prior to the February 5, 2015, hearing. **Bohon 1/29/16 Decl. at ¶¶9-11, attached as Appendix A hereto.**

Mr. Bohon has effectively rebutted the presumption that he received the mailed package on December 20, 2014. The fact the package was left on his unattended porch on a day when the legal messenger confirmed no one was home that day and for a week afterward effectively rebutted the presumption even without Mr. Bohon’s declaration testimony.

Mr. Bohon was entitled to present argument and filings disputing such receipt at the hearing on February 5, 2015, and was improperly denied that opportunity. The City did not re-serve Mr. Bohon with the summary judgment Motion and supporting declarations at any time after the December 20, 2014, package left on his front porch, choosing instead not to re-serve him when the hearing was continued, and to instead serve him with only the face pages and certificate of service pages as attachments to the January 9, 2015, Freeman Declaration.

If Mr. Bohon did not actually receive the City's mailed package at least 28 days before the February 5, 2015, hearing, then the City should not been allowed to have summary judgment granted for the City, and the trial court could not have properly refused Mr. Bohon's request for a continuance and request to submit declarations and argument in opposition. Mr. Bohon was never allowed to present his evidence of a lack of receipt of the December 20, 2014, package as the trial court refused to accept his proffered filings as untimely and refused to allow him to speak at the February 5, 2015, hearing since he had not filed opposition materials 11 days before the hearing.

When the January 16, 2015, hearing was stricken, Ms. Freeman was to re-note the hearing to January 27, 2015, but she admits she failed to confirm such hearing and so it was stricken by the trial court. The docket

indicates Ms. Freeman did not file a new Note for Motion for a January 27, 2015, hearing, not merely that she failed to confirm such hearing. Mr. Bohon was informed by the trial court that there would be no hearing on January 27, 2015. Ms. Freeman served Mr. Bohon with a Note for Motion for a February 5, 2015, hearing by mail going out on January 27, 2015, thus affording him just six days notice from the presumed receipt date of January 30, 2015. The City did not serve him with the Motion or the Declarations at that time, or at any other time, relying solely on the mailed package left on his front porch on December 20, 2014 on a day the City had been informed no one was home and that no one was home for a week after. Its service of the Note for Motion for the February 5, 2015, hearing by mail going out January 27, 2015, provided just six days notice, not the 28 required, and did not include the Motion and Declarations. Its service on December 20, 2014, of the Motion and Declarations, left on his unattended front porch, was never received, affording no notice at all.

4. Mr. Bohon was Prejudiced by the Inadequate Notice.

Mr. Bohon was prejudiced by the lack of receipt of the City's summary judgment motion and declarations and a lack of 28 days' notice of the hearing. Mr. Bohon was precluded from presenting his evidence in opposition to the City's summary judgment motion and was prevented

from presenting any argument at the hearing because the trial court deemed him required to file materials 11 days before the hearing in order to present that evidence or any opposition argument. Had Mr. Bohon received the actual Motion and Declarations and Note for Hearing at least 28 days before the hearing, he could have completed and filed his sworn declarations so they were provided 11 days before the hearing and considered by the trial court. The lack of notice was not only prejudicial to Mr. Bohon, it proved fatal to his claims at the trial court level. Reversal is warranted to afford Mr. Bohon proper notice.

C. **The Trial Court Was Required to Consider the *Burnet v. Spokane Ambulance* Factors on the Record Before Rejecting Mr. Bohon's Proffered Allegedly Untimely Materials.**

Mr. Bohon brought with him to the February 5, 2015, hearing signed declarations and numerous documents he wished to introduce to oppose the grant of summary judgment to the City. (See **Appendices B and C** hereto for selected materials Mr. Bohon sought to introduce on February 5, 2015.) He asked the trial court to accept that evidence or in the alternative to accept it and grant a continuance to allow such material to have been deemed timely filed. The trial court, with no explanation, denied both requests. **CP 65.**

In **Keck v. Collins**, 184 Wn.2d 358, 357 P.3d 1080 (2015), the Washington State Supreme Court held that a refusal of a trial court to consider untimely declarations and materials in opposition to a summary judgment motion was an abuse of discretion when the trial judge did not consider on the record what is described as the “**Burnet**² factors.” The **Burnett** factors are “whether a lesser sanction would probably suffice, whether the violation was willful or deliberate, and whether the violation substantially prejudiced the opposing party.” **Keck**, 184 Wn.2d at 368. In **Keck** a plaintiff sought to present a declaration one day before a hearing of the defendant’s motion for summary judgment. The plaintiff asked to have the untimely declaration accepted, or in the alternative for a continuance of the hearing so the declaration could be timely filed. The trial court rejected both requests. The trial court did not make on the record findings of the above **Burnet** factors. The State Supreme Court held that by failing to perform this on-the-record evaluation of the **Burnet** factors that the trial court had abused its discretion and its decision to reject the late-filed declaration was overturned, along with the grant of summary judgment, and the matter was remanded for further proceedings. As the Supreme Court explained:

We have said that the decision to exclude evidence that

² **Burnet v. Spokane Ambulance**, 131 Wn.2d 484, 933 P.2d 1036 (1997).

would affect a party's ability to present its case amounts to a severe sanction. *Id.* And before imposing a severe sanction, the court must consider the three *Burnet* factors on the record: whether a lesser sanction would probably suffice, whether the violation was willful or deliberate, and whether the violation substantially prejudiced the opposing party. *Jones v. City of Seattle*, 179 Wash.2d 322, 338, 314 P.3d 380 (2013).

While our cases have required the *Burnet* analysis only when severe sanctions are imposed for discovery violations, **we conclude that the analysis is equally appropriate when the trial court excludes untimely evidence submitted in response to a summary judgment motion.** Here, after striking the untimely filed expert affidavit, the trial court determined that the remaining affidavits were insufficient to support the contention that the Doctors' actions fell below the applicable standard of care. Essentially, the court dismissed the plaintiffs' claim because they filed their expert's affidavit late.⁷ But "our overriding responsibility is to interpret the rules in a way that advances the underlying purpose of the rules, which is to reach a just determination in every action." *Burnet*, 131 Wash.2d at 498, 933 P.2d 1036 (citing CR 1). The "'purpose [of summary judgment] is not to cut litigants off from their right of trial by jury if *they really have evidence which they will offer on a trial*, it is to carefully test this out, in advance of trial *by inquiring and determining whether such evidence exist.*' " *Preston v. Duncan*, 55 Wash.2d 678, 683, 349 P.2d 605 (1960) (quoting *Whitaker v. Coleman*, 115 F.2d 305, 307 (5th Cir.1940)).

In this case, the trial court abused its discretion by not considering the *Burnet* factors before striking the third affidavit. Aside from noting that the trial date was several months away, which tended to reduce the prejudice to the defendants, the court made no finding regarding willfulness or the propriety of a lesser sanction. We reverse the order striking the third affidavit.

Keck, 184 Wn.2d 368-69.

Before excluding untimely evidence submitted in response to a summary judgment motion, the trial court must consider the *Burnet* factors on the record. On appeal, a ruling to exclude is reviewed for an abuse of discretion. Applying this standard, we conclude the trial court abused its discretion because it failed to consider the *Burnet* factors before striking the third affidavit.

Id. at 374 (emphasis added)..

The Washington State Supreme Court has made clear that summary judgment proceedings are not meant to deprive parties of trials when there are questions of fact, but only to afford summary judgment when no reasonable trier of fact could rule for the other party. A refusal to accept an untimely declaration to oppose summary judgment is an extraordinary remedy, requiring the trial court to perform, on the record, a Burnet factor analysis to establish such an exclusion is proper. Here, the trial court performed no on-the-record analysis or discussion of any topic. No recording was made of the hearing, as the City did not request one, and the trial court chose not to make one. The trial court did not make any written findings of any kind, and made no written analysis of the Burnet factors. It is clear from the Minute Order (**CP 65**) that Mr. Bohon made a motion for continuance and sought to introduce declarations and argument, but the Minute Order does not show the trial court engaged in the proper Burnet analysis prior to excluding the allegedly late submissions by Mr. Bohon. The Order granting summary judgment was

the form prepared by the City and contains no findings or discussion of the exclusion or prohibition of Mr. Bohon to present argument. **CP 5-7.**

A failure to document the **Burnet** factor analysis is an abuse of discretion as is the failure to perform such an analysis. Both failures occurred here. These failures require a reversal and remand for the trial court to properly consider such exclusion and document its analysis of the **Burnet** factors.

An appellate court may not consider the facts in the records itself as a substitute for the trial court findings the Supreme Court's precedent requires at the time of the trial court decision. **Blair v. Ta-Seattle East, No. 176**, 171 Wn.2d 342, 351, 254 P.3d 797 (2011) (overturning Court of Appeals decision that had upheld witness exclusion ruling and summary judgment decision based on appellate court's own review of the record and **Burnet** factors). The trial court must perform an on-the-record consideration of the **Burnet** factors at the time of the decision to exclude the material, and a failure to do so is an automatic abuse of discretion requiring reversal. **Blair**, 171 Wn.2d at 351; **Keck**, 184 Wn.2d at 374.

Here, there was no showing the late filing was willful or deliberate. Mr. Bohon was not given the Note for Motion, Motion and declarations 28 days before the hearing. He never received copies of the Motion and Declarations and the original Note for Motion since the only delivery was

left on his unattended front porch over the holidays on a day when the City had notice from its messenger no one was home, and that no one was home for at least a week afterward. And knowing those facts, the City chose not to serve him again with the entire motion and declarations, and instead served him only with the face sheets and certificate of service pages in a delivery mailed out on January 9, 2015—which was less than 28 days’ notice of the actual hearing even if the January 9, 2015, delivery had been served by messenger. Mr. Bohon was not provided with notice of the hearing and the Note for Motion until just six days before the hearing, making it impossible for him to file materials 11 days before such hearing. And since he never received the Motion and Declarations (other than the first page and a certificate of service page with the January 9, 2015, Freeman Declaration) he would have been hard pressed to adequately address the Motion and Declarations in full.

There was further no showing of prejudice to the City, since the Court could have continued the matter and any relevant upcoming dates to afford Mr. Bohon proper notice and the opportunity to present timely materials. The City chose to first attempt service just 28 days before the hearing, over a holiday period when many people are away, leaving itself no room for error if Mr. Bohon happened to not be home. The City chose to waive signature on the mailed copy sent out on December 19, 2014, and

did not insist the package be left in the mailbox and did not re-serve the materials when it received delivery confirmation noting it had been left instead on the unattended and unsecured porch at a time the City knew from its messenger no one was home and would not be home for at least a week. The City created the time crunch for its own service, and the faulty and unreceived mailed delivery, and did not re-reserve the materials properly and securely when the hearing was continued. The City did not, and could not, show prejudice from a brief continuance to allow for proper notice to Mr. Bohon.

Finally, there was no showing of the permissibility of a “sanction” of excluding evidence at all, nor any showing that any lesser sanction than excluding all opposition materials and precluding any argument at the hearing would have sufficed even had a sanction been appropriate.

But even had Mr. Bohon been afforded proper notice, the trial court still was required to perform a **Burnet** analysis, with on-the-record findings, before excluding Mr. Bohon’s proffered opposition materials, before precluding him from presenting argument, and before denying a continuance of the matter to another date to allow for consideration of Mr. Bohon’s opposition and declarations. The record is clear that no such **Burnet** factor analysis took place, on the record or otherwise. This Court

must reverse the trial court's decision to deny a continuance and to refuse to consider Mr. Bohon's allegedly late declarations and brief.

D. Bohon's Entire Deposition Transcript Should Have Been Considered.

Mr. Bohon was deposed on two separate days created nearly 400 pages of testimony, of which the City attached less than half as excerpts taken out of context. CP 64-113.

Mr. Bohon wished to introduce other portions of his transcript. CR

32(a)(4) requires:

If only part of a deposition is offered in evidence by a party, an adverse party may require the party to introduce any other part which ought in fairness to be considered with the part introduced, and any party may introduce any other parts.

ER 106 requires:

When a writing or recorded statement or part thereof is introduced by a party, an adverse party may require the party at that time to introduce any other part, or any other writing or recorded statement, which ought in fairness to be considered contemporaneously with it.

Mr. Bohon was entitled to have his entire transcript introduced, and the trial court should have considered his entire transcript, not merely the portions introduced by the City, in determining whether or not there was a question of fact to preclude summary judgment to the City. The trial

court's order should be overturned and the matter remanded for consideration of the entire transcript.

E. The Trial Court Should Not Have Considered the City's Unsigned Declaration and Unauthenticated Exhibits to Same.

The primary documentation for the City's reasons to terminate Mr. Bohon came through a declaration purportedly by Stephanie Hansen, the person who recommended Mr. Bohon's termination, and the Mayor Dianne White who fired him. Those two declarations were never signed. **CP 350, 391.** The attachments they sought to introduced were thus never properly authenticated. The trial court nonetheless considered those declarations and their attachments in granting summary judgment to the City, as the Order reveals. **CP 5-7.** The unsigned declarations and unauthenticated exhibits should not have been considered and should have been stricken.

F. Construing All Facts and Inferences in Light Most Favorable to Mr. Bohon, Summary Judgment Should Have Been Denied.

An appellate court must construe all facts and inferences in the light most favorable to the nonmovant,³ here Mr. Bohon the Plaintiff. The Defendant City's own documents provide ample evidence to raise a

³ **Scrivener v. Clark College**, 181 Wn.2d 439, 444, 334 P.3d 541 (2014); **Stewart Title Guar. Co.**, 178 Wn.2d at 565; **McNabb**, 163 Wn.2d at 397.

question of fact precluding summary judgment to the City. As this Court explained:

“Summary judgment should rarely be granted in employment discrimination cases.” *Sangster v. Albertson’s, Inc.*, 99 Wash.App. 156, 160, 991 P.2d 674 (2000).

“It is an unfair practice for any employer ... [t]o discharge or bar any person from employment because of age...” RCW 49.60.180(2)....

In an action alleging age discrimination in employment, the employee has the initial burden of presenting a prima facie case of age discrimination. *Roberts v. Atl. Richfield Co.*, 88 Wash.2d 887, 892, 568 P.2d 764 (1977). To make out a prima facie case, an employee must show: (1) he or she was within the statutorily protected age group, (2) was discharged, (3) was doing satisfactory work, and (4) was replaced by a younger person. *Grimwood*, 110 Wash.2d at 362, 753 P.2d 517 (citing *McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 804, 93 S.Ct. 1817, 36 L.Ed.2d 668 (1973)). The protected age group includes employees 40 years of age and older. RCW 49.44.090(1). “ ‘A prima facie case under *McDonnell Douglas* raises an inference of discrimination only because we presume these acts, if otherwise unexplained, are more likely than not based on the consideration of impermissible factors.’ ” *Sellsted v. Wash. Mut. Savs. Bank*, 69 Wash.App. 852, 862, 851 P.2d 716 (1993) (quoting *Furnco Constr. Corp. v. Waters*, 438 U.S. 567, 577, 98 S.Ct. 2943, 57 L.Ed.2d 957 (1978))....

Once the employee makes a prima facie case, the burden then shifts to the employer who “must articulate a legitimate, non-discriminatory reason for termination. The employer’s burden at this stage is not one of persuasion, but rather a burden of production.” *Grimwood*, 110 Wash.2d at 364, 753 P.2d 517....

Once the employer meets its burden, the presumption of

discrimination raised by the prima facie case is rebutted. *Texas Dep't of Cmty. Affairs v. Burdine*, 450 U.S. 248, 255, 101 S.Ct. 1089, 67 L.Ed.2d 207 (1981). The employee resisting summary judgment then must produce evidence that raises a genuine issue of material fact on whether the reasons given by the employer for discharging the employee are unworthy of belief or are mere pretext for what is in fact a discriminatory purpose. *Sellsted*, 69 Wash.App. at 859, 851 P.2d 716. **The employee is not required to produce evidence beyond that offered to establish the prima facie case, nor introduce direct or "smoking gun" evidence.** *Sellsted*, 69 Wash.App. at 860, 851 P.2d 716. **Circumstantial, indirect, and inferential evidence will suffice to discharge the plaintiff's burden.** *Sellsted*, 69 Wash.App. at 861, 851 P.2d 716. **He must meet his burden of production to create an issue of fact but is not required to resolve that issue on summary judgment. "For these reasons, summary judgment in favor of employers is often inappropriate in employment discrimination cases."** *Sellsted*, 69 Wash.App. at 861, 851 P.2d 716....

An employee can show that the employer's proffered reason is pretextual in several ways:

"(1) the company's reasons have no basis in fact; or (2) if they have a basis in fact, by showing that they were not really motivating factors; or (3) if they are factors, by showing they were jointly insufficient to motivate the adverse employment decision, [*e.g.*], the proffered reason was so removed in time that it was unlikely to be the cause or the proffered reason applied to other employee[s] with equal or greater force and the company made a different decision with respect to them."

Sellsted, 69 Wash.App. at 859, n. 14, 851 P.2d 716 (quoting *Grabb v. Bendix Corp.*, 666 F.Supp. 1223, 1244 (N.D.Ind.1986)).

Generally, when an employee produces his or her prima facie case plus evidence of pretext, a trier of fact must determine the true reason for the action because the

record contains reasonable but competing inferences of both discrimination and nondiscrimination. *Riehl v. Foodmaker, Inc.*, 152 Wash.2d 138, 150, 94 P.3d 930 (2004).

Rice v. Offshore Systems, Inc., 167 Wn. App. 77, 88-90, 272 P.3d 865 (2012).; **see also Scrivener v. Clark College**, 181 Wn.2d 439, 444-51, 334 P.3d 541 (2014).

The Washington State Supreme Court and Courts of Appeal have repeatedly stated that summary judgment is seldom appropriate and should rarely be granted to an employer in employee discriminate cases. **See, e.g., Scrivener**, 181 Wn.2d at 445 (“summary judgment to an employer is seldom appropriate in the WLAD cases because of the difficulty of proving a discriminatory motivation.”); **Riehl v. Foodmaker, Inc.**, 152 Wn.2d 138, 144, 94 P.3d 930 (2004); **Sangster v. Albertson’s, Inc.**, 99 Wn. App. 156, 160, 991 P.2d 674 (2000) (“Summary judgment should rarely be granted in employment discrimination cases.”); **see also Rice**, 167 Wn. App. at 90 (when the record contains reasonable but competing inferences of both discrimination and nondiscrimination, the trier of fact must determine the true motivation).

To overcome summary judgment, a plaintiff only needs to show that a reasonable jury could find that the plaintiff’s protected trait was a substantial factor motivating the employer’s adverse actions. **Riehl**, 152

Wn.2d at 149; **Scrivener**, 181 Wn.2d at 445. This is a burden of production, not persuasion, and may be proved through direct or circumstantial evidence. **Riehl**, 152 Wn.2d at 149; **Scrivener**, 181 Wn.2d at 445.

An employee may satisfy the pretext prong of the **McDonnell Douglas**⁴ framework by offering sufficient evidence to create a genuine issue of material fact either (1) that the defendant's reason is pretextual or (2) that although the employer's stated reason is legitimate, discrimination nevertheless was a substantial factor motivating the employer. **Scrivener**, 181 Wn.2d at 446-47; **Fell v. Spokane Transit Auth.**, 128 Wn.2d 618, 643 n.32, 911 P.2d 1319 (1996,. An employee does not need to disprove each of the employer's articulated reasons to satisfy the pretext burden of production. **Scrivener**, 181 Wn.2d at 447. An employer may be motivated by multiple purposes, both legitimate and illegitimate, when making employment decisions and still be liable for discrimination. **Id.**

In **Rice** an employee who had worked for a company for 16 years was fired allegedly for his behavior during a fire at his workplace which included abusive behavior to police and fire personnel (i.e. calling a female officer a "dyke" and a "bitch" and spitting at her) and claims he had been drunk during the fire. He was approximately 59 years old when

⁴ **McDonnell Douglas Corp. v. Green**, 411 U.S. 792, 93 S. Ct. 1817, 36 L.Ed.2d 668 (1973).

he was fired. **Rice**, 167 Wn. App. at 80-86. He alleged the reasons for his termination were a pretext and that he was actually fired due to his age. The company was able to produce just one negative evaluation from the 16 years he had been employed, although they produced several records documenting his behavior during the fire. This Court held that the employee had stated a prima facie case of age discrimination, that the employer had sufficiently stated a non-discriminatory reason for the firing, but that the employee had met his burden of production sufficient to raise a question of fact showing the grounds for his firing were a pretext to defeat summary judgment.

Here, Mr. Bohon sued the City for age discrimination, wrongful discharge, disparate treatment, unlawful harassment, willful withholding of wages, negligent and intentional infliction of emotional distress and breach of contract. **CP 470-73** (Complaint). It is undisputed that he was fired. It is undisputed that he was 72 years old when he was fired. It is undisputed that Mr. Bohon had worked for the City for 13 years prior to his termination, and the City did not provide evidence of any previous disciplinary actions against him or any unfavorable evaluations. Mr. Bohon had worked as a Code Enforcement Officer for the City of Stanwood for 13 years and received only positive performance evaluations during that time. The City fired him in January 2006. He had just

reported acts of fraud by two water meter readers whom he had caught making up meter readings for customers so they did not have to get out of their cars, and of underreporting readings for properties they owned to avoid paying for water used. He had just reported employees he had discovered drinking on-the-job including those operating City vehicles. He had just coordinated a meeting of several aggrieved employees with Personnel Committee of the City Council to report on harassment of older and female workers, public disparagement of workers by supervisors, violations of state and federal and local laws regarding the granting of preferences to veterans and the posting of all open positions and the hiring of the most qualified candidates, among other concerns. Mr. Bohon had complained about the improper hiring of Les Anderson, a former City Councilperson, over several more qualified candidates, for a position for which Mr. Anderson was not qualified and had no experience. He had complained about nepotism and favoritism in hiring and promotion. The City of Stanwood had engaged an independent company to perform a needs assessment in August 2005 and a training of supervisors on recognizing workplace harassment, discrimination and retaliation in October 2005, and on November 14, 2005, had issued formal Employee Expectations to Mr. Anderson and supervisor Bill Beckman noting

improvements they were to make in their behavior as supervisors. **App.**

B.

The City claims, in an **unsigned** affidavit purportedly by Ms. Hansen, that two weeks after these formal Employee Expectations were issued to Mr. Anderson and Mr. Beckman by the independent Needs Assessment evaluator, that Ms. Hansen told Mr. Bohon to move from his office in the Public Works Building, where he had worked effectively and efficiently for the past 13 years without incident, to a desk at City Hall under the direct eye and supervision of many of those about whom he had just complained. The unauthenticated recommendation for termination allegedly prepared by Ms. Hansen claimed he was guilty of organizing meetings of employees to document damaging things about Mr. Anderson and Mr. Beckman and “loitering” after work for this purpose, and then it claimed he refused to move from his office to a desk at City Hall. These were the alleged offenses the City claimed justified firing this 72 year old 13 year veteran employee just months after he reported illegal activity by co-workers and officials and City management.

The City did not provide a single negative evaluation of Mr. Bohon. They instead stated the person they hired to replace him was 56 years old—17 years younger than Mr. Bohon when he was fired—and that the Mayor who fired him was herself 60 when she fired him—12 years

younger than Mr. Bohon when he was fired, but that because both the new employee and the Mayor were over 40 that there had been no age discrimination. The City failed to explain why replacing Mr. Bohon with someone 17 years younger than he was not a significantly younger person. The City further failed to show that it had acted as harshly with other employees who had refused to move from an office to a desk after 13 years as it did with Mr. Bohon, failing to address, for example, why it failed to fire employees caught drinking on the job, fabricating water meter readings, and harassing older and female employees. The allegations against Mr. Bohon were nowhere near as serious as those raised in **Rice**⁵ and yet this Court found Mr. Rice to have produced sufficient evidence of pretext due to only one negative evaluation and the hiring of a less experienced person to replace him. **Rice**, 167 Wn. App. at 80-93. The City here introduced **no** negative evaluations of Mr. Bohon, and their reasons for firing him were primarily for coordinating employees to report illegal actions by the bosses and then refusing a retaliatory order to move from an office to a desk in a different building under the eye and thumb of those he had just reported. It is undisputed that the City hired a person 17 years younger than Mr. Bohon, and far further from retirement

⁵ In **Rice** the employee was accused of being drunk and disorderly during a fire at his workplace and spitting at a female officer and calling her a “dyke” and a “bitch” when she restrained him from bodily removing fire personnel. **Rice**, 167 Wn. App. at 83.

than Mr. Bohon. It is undisputed that the City took its action against Mr. Bohon after the Needs Assessment and whistleblower activity by Mr. Bohon. It is undisputed that the City did not show that it had ever acted as harshly to another employee as it did Mr. Bohon for the minor acts of which he was accused or that the City explained why it had failed to fire younger employees who had committed criminal and fraudulent acts and significant safety violations.

Taking all facts and inferences of those facts in the light most favorable to Mr. Bohon, there were questions of fact as to whether the stated grounds for firing were a mere pretext such that the City really was retaliating against an elderly employee who had recently reported significant illegal behavior by co-workers and management.

The City devoted little attention to the breach of contract and emotion distress claims in its motion, focusing instead on the age discrimination claims. The Court should not have granted summary judgment, as the trial court did, on all of Mr. Bohon's claims.

Summary judgment should further have been denied on the employment claims even if acting solely on the record the City provided. The trial court at a minimum should have afforded Mr. Bohon a continuance to present his counter-affidavits and opposing brief to provide the box full of documents he had amassed showing the stated grounds for

his firing was a pretext. But on the record before the trial court, when construing the facts and inferences in the light most favorable to Mr. Bohon, there were questions of fact from that record alone that precluded summary judgment to the City.

G. Bohon is Entitled to an Award of Fees and Costs as a Prevailing Party in this Appeal.

The City improperly sought and obtained summary judgment on less than 28 day's notice, and misled the trial court as to the actual service effected. Mr. Bohon was deprived his right to argue and to present materials in opposition to the City's Motion for Summary Judgment, and has now incurred fees and costs waging this appeal to get his day in court. Mr. Bohon should be awarded his fees and costs incurred in this appeal to overturn the grant of summary judgment to the City.

V. CONCLUSION

For the reasons set forth above, Warren Bohon respectfully requests that this Court (a) overturn the trial court's grant of the City's motion for summary judgment, (b) reverse the trial court's ruling denying Mr. Bohon's request for a continuance to present his declarations and documentation in opposition to such motion and (c) reverse the trial court's ruling precluding Mr. Bohon from presenting argument at the summary judgment, and that this Court remand this matter for a hearing with proper notice and proper opportunity for Mr. Bohon to be heard and

to present his evidence, and award Mr. Bohon his attorneys fees and costs incurred in this appeal.

RESPECTFULLY SUBMITTED this 26th day of February, 2016



Attorneys for Appellant Warren Bohon

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CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the State of Washington that on February 26, 2016, I delivered a copy of the foregoing by U.S. Mail to the following:

Jayne Lyn Freeman, WSBA # 24318
Keating, Bucklin & McCormack
800 5th Avenue, Suite 4141, Seattle, WA 98104-3189
jfreeman@kbmlawyers.com; Fax: 206-223-9423

Dated this 26th day of February, 2016, at Seattle, Washington.



Michele Earl-Hubbard

Bohon v. Stanwood, Cause No. 73195-5-I

Brief of Appellant

Appendix A

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IN THE IN THE COURT OF APPEALS, DIVISION ONE

WARREN E. BOHON,

Appellant,

vs.

CITY OF STANWOOD,

Respondent.

No. 731955-I

DECLARATION OF WARREN BOHON IN SUPPORT OF MOTION FOR EXTENSION OF TIME TO FILE BRIEF OF APPELLANT

I, Warren Bohon, Declare as follows:

1. I am over the age of 18 and competent to testify as to all matters herein and make the following statement based on my own personal knowledge.
2. Respondent City of Stanwood has claimed that I chose to be pro se. That was a misrepresentation.
3. Only a fool would choose to act Pro Se.
4. I have read the briefs and declarations of the City's attorney regarding my efforts to handle this appeal on my own while I tried to find a lawyer. She is a lawyer with nearly twenty years of experience, at a large Seattle law firm, and yet her briefs and declarations spend a great deal of time and effort to openly make fun of me and try to make me seem foolish and stupid rather than address the actual issues here.

1 5. I had, and have, very legitimate claims against her client, the City of
2 Stanwood, for whom I worked for many years as a building inspector. I made whistleblower
3 reports against several of my co-workers documenting incidents of bribery, fraud, drinking on
4 the job, improper use a of public facilities and employees and property for political
5 campaigns, and harassment of female employees. A Water department Public Works
6 employee was caught sitting in their cars and fabricating water meter readings to charge
7 citizens for meters he had never read, and another for entering fabricated, and under-stated,
8 meter readings for his own property. I filed complaints when the City unlawfully hired
9 unqualified former councilpersons for jobs without lawfully putting the jobs out to bid, and
10 for passing over, and denying military service credits to serviceman such as myself for pay
11 and promotion consideration. (I am a decorated Marine combat veteran required by law to
12 have been given veteran preferences for promotion and compensation that was deserved me
13 when former council people were hired illegally for positions not put out for bids.) I was not
14 popular among some in power for trying to reign in their bad actions. And I came to realize
15 those in power would do what they could to try and force me out of my job to retaliate against
16 me for my whistleblower activities and to replace me with someone younger, who could be
17 paid less, and who would not report their illegal actions.

18 6. After I made my whistleblower complaints against several employees, the City
19 tried to force me to move my office to a building where I would be housed with those about
20 whom I had just reported. I knew I would be harassed and sabotaged if my work space was
21 next to theirs, and I objected to the relocation as retaliatory. The City claims it fired me for
22 refusing to remove my office. The City hired a younger person to replace me and took no
23 action on the illegal events I had reported as a whistleblower. They fired me on a pretext and
24

1 then tried to discredit me in the lawsuit to prevent people from learning the truth about all of
2 the illegal actions and corruption at the City where I had worked.

3 7. As an employee, I should have had an attorney appointed for me paid for by
4 the City for the grievance process. Instead, I was left to fend for myself and to fight against
5 the City's attorney, paid for by taxpayers. I found lawyers to represent me in connection with
6 this civil lawsuit, who I had to pay out of my own pocket and savings, but those lawyers
7 withdrew leaving me with deadlines to which they, and not I, had agreed, and without an
8 adequate understanding of what steps I needed to take to follow through on the projects they
9 started and then dumped in my lap. I am not a lawyer, and I do not know the court processes
10 like a lawyer would, so I tried diligently to get a new attorney in the trial court after my last
11 one withdrew, but a client who has been dropped by a lawyer is like a hot potato – no one
12 wants to touch him or his case in fear they could get burned.

13 8. This appeal is about the dismissal of my lawsuit in February 2015, and at the
14 heart of the appeal is the fact the City did not give me adequate notice of its summary
15 judgment motion, and that the trial judge made absolutely no findings supporting his bare
16 statement that summary judgment should be granted as a matter of law.

17 9. In 2015, I was in very poor health and had had surgery and was hospitalized,
18 and then spent time away from home during the December holidays working on my case in
19 Marysville where I rent a office space and have someone that types for me and does the
20 research. . The City claims it mailed me a Note for Motion Hearing for a Summary Judgment
21 Motion. Attorney Jayne Lyn Freeman claimed on the Note that she mailed it to me on
22 December 19, 2014. The City did not serve me by messenger. I did not get a copy by email.
23 (I had not used the email they claim they sent it to for some time and never had an email
24 service agreement with the City's attorneys for this matter.) The City's records they

1 eventually filed showed the mailed copy was left on my front porch (not my mailbox) on
2 December 20, 2014. This means even if this package had been received, I would have been
3 given just 27 days' notice of the requested January 16, 2015, hearing, and not the required 28
4 days' notice for summary judgment hearings. And I got even less notice because I did not get
5 the copy that was left on my porch (instead of in my mailbox) since I had been away from
6 home (a fact noted by their messenger in his Declaration of Non-Service noting he had tried
7 to serve me for five days between December 19, 2014, and December 26, 2014 and that there
8 was "No answer at door, no noise inside, no movement inside and no lights") and the mailed
9 package left on my porch was not there when I returned home after the holidays.

10 10. I learned the City was trying to note a hearing when I got in the mail a January
11 9, 2015, Declaration of the City's attorney Jayne Lyn Freeman that had the Note for Motion
12 and the first page and certificate of service pages of the documents she claimed she filed back
13 on December 19, 2014. I never received the original version she claims was left on my front
14 porch on December 20, 2014. When I got back home and saw that January 9, 2015,
15 Declaration that had come in the mail, I contacted the Court and told them I had medical
16 issues with my girl friend going into surgery for Breast Mase and could not appear at a
17 hearing on January 16, 2015 I need to take her to surgery and bring her home as she could not
18 drive herself home after surgery. The Court person who took the message may not have
19 noticed that the Notice for Hearing had not given sufficient notice to me in the first place even
20 if I had received the mailed copy on December 20, 2014. Ms. Freeman apparently never told
21 the Court that I had been given just 27 days' notice.

22 11. On January 16, 2015, a Court Commissioner continued the hearing to "the
23 week of January 27, 2015". The City was to re-note and re-serve with me their materials. Ms.
24 Freeman does not seem to have filed a re-note for a hearing the week of January 27, 2015.

1 She claims she intended to note a hearing for January 27, 2015, but did not properly confirm it
2 (or even file it it seems) so I was told the hearing for the week of January 27, 2015, was
3 canceled. On January 28, 2015, I received a Note for Motion seeking a hearing on February
4 5, 2015 – just eight days after service. Although the Note for Motion had Ms. Freeman
5 swearing under penalty of perjury she had served me with the Note by mail on January 26,
6 2015, her Declaration and supporting documents show she actually mailed it out on January
7 27, 2015, and that the post office put it in my mailbox (as opposed to my front porch this
8 time) on January 28, 2015, just eight day’s before her requested hearing. She did not send me
9 a copy of the actual summary judgment motion or declarations, and I had never received those
10 since she had never re-sent them and the only copy she delivered was left on my front porch
11 during the holidays when I was away from home for several days, as her messenger
12 confirmed. Ms. Freeman has never truthfully told the Court (the trial court or appellate one),
13 the actual date I was sent materials and that I was never afforded the 28 days’ notice required
14 for summary judgment hearings.

15 12 After getting the Note for Motion on January 28, 2015, I scrambled in my eight
16 days before the hearing and obtained signed sworn declarations from people I had worked
17 with at the City to support the claims made in my lawsuit and to oppose a summary judgment
18 dismissal for the City. On February 5, 2015, I came to the hearing with those signed
19 declarations and opposition materials and a live witness prepared to testify. Although the
20 Judge allowed Ms. Freeman to argue for many minutes, he refused to let me speak or to let
21 me present my signed declarations and opposition. He would not let me explain that I had not
22 been given sufficient notice by Ms. Freeman to respond according to the Rules. There was no
23 way I could have filed opposition declarations and a brief 11 days before the hearing when I
24 was only given notice of the hearing eight days before it happened, and I had never been

1 given the apparently hundreds of pages of materials Ms. Freeman filed with the Court on
2 December 19, 2014, and had left on my porch (instead of put in my mailbox) on December
3 20, 2014, when I was away for several days working on my case in Marysville .

4 13. The Trial Judge ruled in the Order that summary judgment was appropriate “as
5 a matter of law” and made no findings whatsoever to support that summary judgment
6 dismissal.

7 14. All I have been trying to do in this appeal was to get my day in court and to get
8 a chance to respond. If the City was so sure of its case, one would expect it would have noted
9 its hearing, and given me copies of its materials, and enough notice that I could respond. One
10 would have thought that it would not have been worried about letting me have my say and
11 introduce my declarations and opposition. The City also deliberately neglected to ask for a
12 recording of that hearing, so all we have is that Order, the City prepared, with no findings as
13 the basis for the dismissal.

14 15. But the City’s own documents, attached to my lawyer’s Motion as an
15 Appendix, show what I am saying here about the lack of notice is true. I should be allowed to
16 present my appeal and let the appellate judges decide if the trial judge erred in dismissing my
17 lawsuit “as a matter of law” in favor of the City and whether his lack of findings make his
18 ruling subject to reversal and remand. I should be able to present my appeal and let the
19 appellate judges decide if, based on the lack of notice to me, whether the trial judge erred in
20 denying me the right to speak and to present my opposition and opposing declarations and in
21 denying my motion for a continuance to allow those materials to be considered.

22 16. I have secured counsel and met with her for the first time on January 21, 2016.
23 I have talked to many many lawyers and begged them to take my case, but other lawyers
24 refused to get involved due to the short deadlines. My current lawyer has reviewed and

1 downloaded all of the trial court records from a website she understands how to use that I had
2 not been aware existed. She has prepared a Supplemental Designation of Clerk's Papers for
3 some additional records I did not know to designate, and those will be provided by the
4 Superior Court according to its own schedule and workload. I have copied and provided my
5 lawyer with the appellate court materials and have purchased a set of the previously-
6 designated Clerk's Papers to be given to her. And she has drafted a Motion for Extension to
7 allow her a little more time to obtain these sets of Clerk's Papers and to write the brief. She
8 cannot finish that brief without the copy of the Clerk's Papers I have ordered for her and the
9 records newly-designated.

10 17. I am pleading with the Court to please give me just one last extension to get
11 my Brief of Appellant filed. My lawyer asks for sixty days to allow time to get the newly-
12 designated Clerk's Papers from the Superior Court and copies of the previously-designated
13 ones, and to allow her to research all of the relevant issues so she can fully inform the Court.
14 If the Court will not give her an extension, she has explained she cannot submit a brief in time
15 and will have to withdraw, leaving me again unrepresented and unable to protect myself
16 against the City and its attorneys.

17 18. I understand that this appeal will go more smoothly with lawyers on both sides,
18 and ask the Court to please grant me a sixty day extension so my new lawyer can submit a
19 brief.

20 I declare under penalty of perjury under the laws of the State of Washington that the
21 foregoing is true and correct.

22 Signed this 29th day of January, 2016, at Camano Island, Washington.

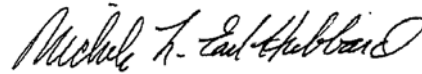
23 
24 WARREN E. BOHON

1 **CERTIFICATE OF SERVICE**

2 I certify under penalty of perjury under the laws of the State of Washington that on January
3 29, 2016, I delivered a copy of the foregoing by email and legal messenger to the following:

4 Jayne Lyn Freeman, WSBA # 24318
5 Keating, Bucklin & McCormack
800 5th Avenue, Suite 4141, Seattle, WA 98104-3189
6 jfreeman@kbmlawyers.com; Fax: 206-223-9423

7 Dated this 29th day of January, 2016, at Seattle, Washington.

8 

9 _____
10 Michele Earl-Hubbard
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Bohon v. Stanwood, Cause No. 73195-5-I

Brief of Appellant

Appendix B

**City of Stanwood – Public Works Department
Needs Assessment Results**

Employee Communications – August 1, 2005

First, I want to say thank everyone in the Public Works Department for your participation in the Needs Assessment interviews recently conducted by Janice Corbin of Sound Employment Solutions.

Mayor Kuhnly, Lynda Jeffries, and I were provided with the Needs Assessment results from Janice last week. As result of the information gleaned during the interviews, Janice has prepared a number of recommendations about how the employees' issues and concerns may best be addressed. The Mayor and I feel the recommendations are sound and we have secured the necessary resources so Janice can continue working with the Public Works Department's team. Please read the information below to learn more about how we might accomplish the goals as outlined in the recommendations.

Next Steps

All employees including the ^{PREVENT}supervisor will attend a two-hour training session to learn more about how to stop discrimination, harassment, and retaliation from occurring in the workplace. This session has been scheduled for Tuesday, September 7. You will be notified of the location and time as that date draws nearer.

Approximately a week later, employees and the supervisor will participate in a facilitated discussion/training that will assist the group in learning new strategies for managing day-to-day communications and resolving conflict without creating hard feelings. Finally, the group will meet a third time to establish workplace goals and determine priorities of work to be performed. The facilitated sessions will begin in mid-September and continue through the first of October.

In addition to the training/facilitated discussions, Les will work directly with Janice to address some of the concerns identified by employees during the Needs Assessment, i.e., communications, building trust with employees, identifying goals and objectives. These sessions will begin in early August and continue through early October.

Needs Assessment Results

Janice has summarized the results of the Needs Assessment as follows:

- The majority of the employees assigned to the Public Works Department are capable of performing their jobs, and for the most part, enjoy working for the City of Stanwood.
- The employees and Les alike acknowledge that their communications and interaction with each other is often strained and uncomfortable.
- The workgroup communicates in a very casual manner that is sometimes objectionable to some of the employees. Without exception, employees report they do not feel comfortable when they encounter conflict.
- Employees report that they feel the supervisor "micromanages" most work tasks, even those tasks that employees are comfortable in performing.
- Gossip is the primary mode of communications in the workgroup. Employees often engage in making disparaging remarks about the supervisor, and at times about each other. A small number of the employees initiate negative comments about the supervisor as a means of creating discomfort with others.
- Employees report that they do not feel they know the goals and objectives of the Public Works Department.
- Employees do not have a clear understanding about discrimination, harassment, and retaliation. Employees did not know the legal criteria that must be met before a claim of a "hostile work environment" can be sustained, although a number of employees use the term rather liberally when describing the workplace environment within the Public Works Department.
- A majority of the employees told the Consultant they were interested and willing to work together, with the Consultant and the supervisor, if it meant the work environment would become more comfortable and pleasant for everyone.

I encourage everyone to participate in the training and discussion groups as completely and fully as you participated in the Needs Assessment, so the issues and concerns can be resolved. Together we can create a Public Works Department that we are not only proud of, but that we all find a great place to work!

Sound Employment Solutions Training
 (Understanding Discrimination, Harassment, and Retaliation)
City of Stanwood
October 2005

Sign-In Sheet

<u>Printed Name</u>	<u>Dept./Title</u>
1. LES ANDERSON	P/W SUPERVISOR
2. Bill BECKMAN	CITY ADMINISTRATOR
3. Stephanie Hansen	Community Dev. Director
4. Debra J. Sousa	Stanwood Police / Admin.
5. WILLIAM S. BACHARD	STANWOOD POLICE / SGT.
6. Lynda Jeffries	City Clerk / HR Director
7. Jeannie Brown	Finance Director / Finance
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Sound Employment Solutions Training
 (Understanding Discrimination, Harassment, and Retaliation)
 City of Stanwood
 October 2005

Sign-In Sheet

<u>Printed Name</u>	<u>Dept./Title</u>
1. Linda Thayer	Police
2. Lori Kirkeby	Community Development
3. Peggy Girard	Police
4. Nancy Fullerton	Community Development
5. Sandy Horn	Finance
6. JOYCE GEORGE	Finance
7. JERRY CRONIN	Public Works
8. Leon Adams	Streets/Parks
9. Leigh Danielson	Water
10. Gina Melander	Water
11. Jeff Manns	Waste Water
12. Kevin Hushagen	Waste water
13. Linda Webb	Community Development
14. Randy Richard	Public Works
15. Dick Killingsworth	Public Works
16. ROD SUNDBERG	WATER DEPT.
17. WARREN BOHON	BUILDING INSP-COMM DEVEL.
18. Tara Trowbridge	Acctng Clerk
19. John Everett	City Planner
20. Craig Hollenbeck	Waste water
21.	

**Employee Expectations of Management
City of Stanwood - Public Works Department
November 14, 2005**

*See Follow
Beckman file*

Employee Expectations of Les Anderson

Maintaining consistent communications on the team is one of the most challenging aspects of being part of a team. Continue to have daily, monthly, and quarterly staff meetings.

Recognize that the labor-management relationship is interdependent which is to say that each party is dependent on the other. It is important for you to refrain from making any negative comments about the labor-management relationship.

Make every effort to be inclusive when meeting or conversing with employees, i.e., when talking with one employee, unless about a sensitive personnel issue, remember to include the other employee in the conversation. Recognize that when any two employees talk frequently while excluding others that this behavior creates an atmosphere of exclusiveness.

Monthly safety meetings are required and need to be supported by management. (Les – we didn't talk about this, but you might want to require that the safety officer take and publish minutes of the safety meeting and keep a safety meeting log. You may also want to keep a safety complaint log that identifies any complaints you received and what you did in response. The log will keep the Safety Officer or others from using safety issues as measurement of your effectiveness.)

Les, you are being asked to make changes in how you interact, communicate, and delegate work to employees. You have demonstrated a sincere interest in trying to make changes in the Public Works Department. In support of your efforts, the team offers you support and patience as you work to implement the changes in your interactions with the team more consistently. It is the hope of the team that you will have accomplished these changes within 90 days. Meanwhile, the team will not judge your efforts.

Take your concerns about an employee's performance or behavior directly to the individual employee. Refrain from discussing your concerns about one staff member with another person on the team or other city employees.

Don't repeat gossip and don't accept it from anyone else. As a leader of the team, take steps to identify when team members are engaging in gossip, and direct them to stop doing so.

Help employees understand your thinking and reasons for making some of the decisions you must make. By sharing your reasoning/thinking, you can help encourage and support employee involvement, and develop leadership skills in employees who hope to someday be a supervisor.

Identify the 2005/2006 goals and tasks that need to be done and keep track of those, i.e. project oversight, staff meetings.

When conflict arises, please remain committed to the workplace expectations by listening to both sides of the story. Remember that by listening to the other side of the story, a solution or better understanding of the issue may be realized and/or a conflict avoided. The primary objective in resolving conflict is for both parties to come to an understanding about how the individual differences will be managed, except in those instances when management must adhere to sound management practices.

Expectations of Bill Beckman

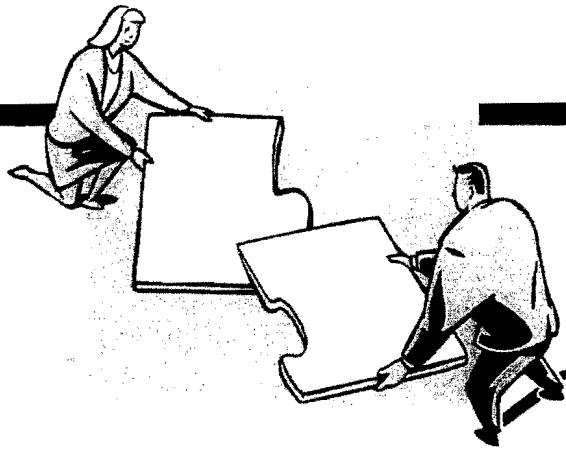
Don't make promises that you can't keep. It is better to say that you simply don't know or that you aren't sure, rather than guess or make assumptions, which often sounds like a promise or commitment.

Don't criticize others in front of employees or engage in gossiping about employees or other city representatives. The Public Works Department has made a commitment to stop gossip from occurring in the workplace and ask that you honor their commitment by not engaging in gossip.

Demonstrate your support and understanding of the interdependence of the labor-management relationship by not making critical or negative remarks about the union.

Stay committed to making an appearance at the Public Works Department's quarterly staff meetings. We ask that you share information about the City's goals and objectives as they relate to the Public Works Department, provide insight about the activities of the Planning Department, and offer information about what the Public Works Department may encounter in the future.

The employees of the Public Works Department are committed to performing their job tasks and conduct business as true professionals. The workgroup asks that you recognize their commitment to professionalism by approaching them as a professional. Although you and many of the employees were at one time colleagues, your relationship with members of the workgroup has changed with your appointment to the City Manager position. We recognize that you are the City Manager and thus we no longer expect you to interact with us as a "buddy."



Understanding Discrimination, Harassment, and Retaliation

City of Stanwood

Fall 2005

Presented By:

Sound Employment Solutions, LLC

11700 Mukilteo Speedway, Ste 201, PMB 1211
Mukilteo, WA 98275

sescorbin@msn.com or sesimay@msn.com

206 334-5003 or 334-5004

www.soundemploymentsolutions.com

■ The contents of the manual and the information presented during the seminar do not constitute legal advice.

What are the types of harassment and discrimination?

1. Harassment – Hostile Work Environment


Hostile work environment is defined as conduct that is unwanted and unwelcome, is because of an individual's protected class status and is severe or pervasive (continuous) enough that it affects the terms and conditions of an individual's employment.

Harassment of any employee on the basis of his or her race, religion, color, national origin, age, sex, sexual orientation, marital status, or the presence of any physical, mental, or sensory disability is a serious violation of City policy and will not be tolerated. According to the City of Stanwood, examples of conduct that constitutes harassment that is prohibited by the City policy include, but are not limited to, the following:

- ✓ Slurs, jokes, innuendo, unwelcome compliments, pictures, cartoons, pranks or other verbal or physical conduct which: (1) has the purpose or effect of creating an intimidating, hostile, or offensive working environment; (2) has the purpose or effect of unreasonably interfering with an individual's work performance; (3) otherwise unreasonably affects an individual's employment opportunities.

Additional examples may include written or graphic material displayed or circulated in the City workplace (including vehicles) that denigrates or shows hostility or aversion toward an individual or race, religion, color, national origin, age, sex, sexual orientation, marital status, or the presence of any physical, mental, or sensory disability, or other characteristic protected by law.

Exercise One: "We Tease Him Because We Like Him"

 Joe Calhoun is the oldest member of the staff at the agency. At the age of sixty-two (62) he is considered somewhat of a phenomenon in the building inspector's industry as most people find the job just too physically demanding to continue doing beyond the age of fifty. Coworkers often tease Joe about his age and for the most part he doesn't seem to mind being called, "the old man" since he knows he is indeed the oldest member of the staff.

In January, Joe sustained a serious knee injury that required surgery and an extended recuperation period. Many of his coworkers were very concerned about his ability to manage the extended recovery period. In an attempt to help him cope with the boredom of being inactive during his recuperation, coworkers sent him a series of e-mails and phoned him each week. Joe appreciated the on-

going support of his coworkers, and for the most part, he felt the teasing was a sign of endearment. Although the intent of the e-mails and phone calls was to let Joe know how much he was missed, the interactions soon took on a theme about Joe "being too old," or "needing to retire." When the e-mails began containing information about retirement communities, Joe e-mailed a message to coworkers saying he would be returning to work soon.

Not long after, doctors told Joe they were uncertain as to whether he would be able to have full use of his knee, a fact he shared with a few close friends at work. Afterwards he began receiving e-mails about assisted living housing and advertisements for equipment designed to assist handicapped people. His supervisor joined in the fun and sent an e-mail that said, "We sure missed you at the office luncheon, but I am sure you wouldn't have been able to stay awake since most old people take an afternoon nap."

Joe ignored the e-mails and stopped responding to phone calls. His focus was on getting well and continuing his rehabilitation so he could return to work, which he did in late April.

Is the behavior by the coworkers and supervisor of concern? Why or why not?



2. Sexual Harassment – Quid Pro Quo

This form of harassment occurs when someone in a position of power, such as a manager, supervisor, or any representative of the City, conditions an employment benefit on sexual favors or threatens negative job actions if sexual favors are not provided, and such action unreasonably affects the individual's ability to perform the job.

Examples of conduct that constitute sexual harassment include, but are not limited to, the following;

- Verbal behavior such as comments, suggestions, jokes, or derogatory remarks based on sex;
- Physical behavior such as pats, squeezes, repeatedly brushing against someone's body, or impeding or blocking normal work or movement;
- Visual harassment such as posting sexually suggestive or derogatory pictures, cartoons, or drawings, even at one's work station;
- Unwanted sexual advances, pressure for sexual favors and/or basing employment decisions (such as an employee's performance evaluations, work assignments, or advancement) upon the employee's acquiescence to sexually harassing behavior in the workplace;
- Sexual assault; and

- Intimidating, hostile, or derogatory conduct or remarks that are directed at a person because of that person's sex, whether or not the remarks themselves are sexual in nature.

Exercise Two: "Questionable Break Room Behavior"

Part A

Sally has just joined a new crew. There are no men on the crew although there are men within the Department's workforce. Every morning, the crew generally meets in the Department break room for coffee. Sally is surprised by some of the conversation amongst the crew. Specifically, two of Sally's coworkers, Debbie and Linda, who are single, make jokes to each other to the effect of "hey, did you get any this weekend", and routinely describe their sexual exploits from the prior weekend. Sally and some of her coworkers stop going to the break room so they won't have to hear the conversation.

1. **Is there anything problematic about the conversations between Debbie and Linda?**
2. **Would your answer change if the new crewmember were male?**

Part B

Julie, Sally's supervisor, often comes to the break room to provide information to the crew about training opportunities and special assignments. When Sally learns that this is the method of communicating job opportunities she realizes that she needs to start going to the break room again. She tells Julie about the conversations between Debbie and Linda, and explains she is offended. Julie responds that Debbie and Linda are simply sowing their wild oats a bit. She then tells Sally that "I really can't tell them not to engage in jokes, it's about their personal life, and besides, it's a more fun workplace with the two of them around." Julie advises Sally that if she is offended she should either leave the break room or talk to her coworkers about her concerns.

Is Julie's response appropriate? Why or why not?

Part C

Based on Julie's advice, Sally does talk to Debbie and Linda. From that point on, every time someone begins any kind of conversation in the break room, snide remarks are made that they better stop talking because certain individuals are so sensitive. Debbie and Linda also suggest that if Sally is uncomfortable with their conversations, she should consider transferring to another crew or getting another job.

Does Debbie and Linda's behavior pose any risk for this employer?

3. Disparate Treatment – Disparate treatment occurs when an employee suffers an adverse job action, such as a failure to be promoted, or some form of disciplinary action, **because they are a member of a protected class.**



Exercise Three “Joan and the City of Trees”

Joan Acorn has been employed with the City of Trees since May 2004. She was hired as a clerical assistant in the Engineering Department. Joan has had some problems performing all of the tasks assigned, but did show some improvement after receiving additional training from a coworker.

A recent audit of payroll and timekeeping records revealed that Joan had not reported her work time appropriately. The audit revealed that Joan had in fact misrepresented her time, and appeared to have done so deliberately. Joan, who was still a probationary employee, was terminated.

Joan filed a complaint with the EEOC in which she alleged she had been discriminated against because of her race. In support of her claim, Joan reported to the EEOC that within the last year a Caucasian coworker, who had been employed with the Engineering Department for about 20 years, had been found to have misrepresented her time as well. That employee had not been terminated, but instead had been suspended for 10 days.

Joan felt that this was proof she had been discriminated against, and that the only reason she had been terminated was because she was Native American.

Was Joan Acorn discriminated against due to her race when she was terminated for misrepresenting her time?

4. Disparate Impact – Cases of disparate impact occur fairly infrequently. Under the disparate impact theory, an employee or applicant must show that an employment policy or practice that appears neutral on its face, adversely impacts a particular protected class.



What Should I Do If I Believe I Am Being Harassed?

As noted above, harassment is prohibited conduct. According to the City's policy, any employee that feels they have been harassed, or is aware that another employee is being harassed, are encouraged to identify the offensive behavior to the harasser and request that it stop.



If the employee is uncomfortable in addressing the matter directly with the harasser, or if the employee does not stop, then discuss the matter immediately with your Department Head or the Mayor. Supervisors and managers who receive a harassment complaint are to contact the Mayor.

The City encourages any employee to bring questions he or she may have regarding harassment of this type to their Department Head or the Mayor.

An Investigation May Be Initiated

Once the harassment is reported, an investigation will be initiated promptly, impartially, and as discreetly as possible. Upon completion of the investigation, the appropriate parties will be notified of the findings.



What Is Retaliation?

Retaliation occurs when an employee engages in "protected activity" and is then subjected to some type of detrimental job action. Protected activity includes, but is not limited to, things like filing a grievance, participating in other union activity, reporting improper governmental action pursuant to a whistleblower policy, reporting alleged harassment or discrimination, or participating as a witness in an investigation of a discrimination or harassment complaint. It generally does not include bringing up more generalized issues regarding managerial style or practices.

Retaliation sometimes occurs because individuals let their emotions get the better of them. It is human nature for a supervisor or fellow employee who is the subject of a complaint to have hurt or angry feelings. When the supervisor or employee allows those hurt or angry feelings to bleed into the workplace in a manner that significantly impacts the complainant's ability to perform his/her job, however, retaliation may occur.

The bottom line is, although you do not have to be friends with someone who may have filed a complaint against you or a coworker, or have any kind of personal relationship with the individual, you must remain professional at work and not interfere with the individual's ability to perform his/her job.

Retaliation generally must materially affect the employee's terms and conditions of employment. Examples of conduct that could be seen as retaliatory if they begin to affect the employee's employment include, but are not limited to:

- ✓ Discussing or gossiping about an employee's complaint, or a witness's participation in an investigation into a complaint



What Every City of Stanwood Supervisor Needs to Know About the City's Anti-Harassment Policy

- ✓ The City of Stanwood Anti-Harassment policy includes sexual orientation as a protected class. The City's policy extends protection beyond what is required by the state or federal laws. Supervisors are responsible for adhering to the City policy, as well as the applicable laws.
- ✓ An employee who feels that he/she, or another employee, is being harassed, is encouraged to identify the offensive behavior to the harasser and request that the individual to stop. If the employee feels uncomfortable in discussing the issue with the harasser, they are to report the behavior to the Department Head or the Mayor.
- ✓ Supervisor, managers, and Department Heads who receive a harassment complaint from an employee are required to immediately contact the Mayor. Although not stated in the policy, the City Administrator should also be notified.
- ✓ Employees who are found to have harassed another employee in violation of the City's policy, may be subjected to discipline up to and including termination.

Bohon v. Stanwood, Cause No. 73195-5-I

Brief of Appellant

Appendix C

SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR SNOHOMISH COUNTY

Case No: 09-2-01891-8

WARREN E. BOHAN

Plaintiff

v.

CITY OF STANWOOD

Defendant

**DECLARATION OF RANDALL
RICHARD IN SUPPORT OF
WARREN E. BOHAN OF
STANWOOD'S MOTION FOR
SUMMARY JUDGMENT**

Randall Richard _____ hereby declares under penalty of perjury under the laws of the State of Washington that the following is true and correct:

That he or she is now and at all times herein mentioned was a citizen of the United States and resident of the State of Washington over the age of eighteen years, and Competent to be a witness herein, and sates as follows:

Since the underhanded, unwarranted end of my employment with the City of Stanwood in 2010, the misery that the entire group of employees, with the exception of one Rod Sundberg, the only one who did not vote "No Confidence" in Leslie Anderson as Public Works Manager at a "Safety Meeting" for employees to vote on Anderson's competence, continues to plague us all. The Crew had observed every six month probation period five good, eager to learn, hard working employees terminated who were simply reaching the six month period after which they would be entitled to become a permanent employee. This was unfair treatment of good experienced
DECLARATION OF Randall Richard

workers, some married with children who trusted that they were obeying the orders of honest managers, some planning a career in public service with the Public Works, Wastewater and Water Departments of the City.

I had transferred to the Wastewater Department to avoid the managerial misconduct of Leslie Anderson, a man who became Public Works Manager due to alleged Mayoral and City Administrator dishonest misconduct, conflict of interest, a City Councilman contrary to City Ordinance, unlawfully being appointed conspiratorially to the position of Public Works Manager through alleged, apparent rigging of the “hiring committee” process which I, Mr. Bohon, Mr. Hushagen, Mr. Abrahamson, Mr. Fure and others would willingly testify to under oath.

I also observed Mr. Bill Beckman contract all engineering jobs for the City to RH-2, an engineering firm, then after retiring as City Administrator went to work for RH-2, representing RH-2 at Stanwood City Council. I believe, along with Matt Pruitt H.R. Manager at the time, that Mr. Beckman was wrongly employed by RH-2 before retiring from the city.

Les Anderson was a councilman who ruled by intimidation, who had problems with city office personnel, John Magill previous Public Works Manager; the general public he dealt with in unkindly ways while on the Council after unlawfully wrongly being appointed as Public Works Manager
Declaration of Randall Richard p.2

for the City, even his neighbors and any local citizen that had to deal with him as he butted in on the territories of Public Works employees.

After John Magill, previous Public Works Manager retired the position to replace him was advertised. From the City I and Kevin Hushagen of the Wastewater Dept both applied for the position along Leslie Anderson and some outsiders. An interview committee according to ordinance was organized. At a Public Works meeting Bill Beckman said Anderson “will only get a courtesy interview”; “there was no way that fat _ _ _ _ _ was going to get it.” Do I need to spell that word out?

The results of that interview were tossed out. A second interview committee was formed. *Both Kevin Hushagen and I were asked by Mr. Beckman to step aside and to not re-apply.* We have always wondered if that was lawful for Beckman to do that. We both naturally assumed that one of us had been selected by the committee and Mr. Beckman or Mayor MacCune were rigging the results for Anderson to get the job. Neither would disclose who the committee selected. The second *hand-picked* committee selected Councilman Leslie Anderson for the position contrary to city hiring policy ordinance. Most of the Public Works and Office staff of the City have since that time wondered if Beckman and McCune conspired to perform the wrongful hiring practice or if Beckman was compelled by Mayor McCune to Declaration of Randall Richard p.3

carry out the lawless hiring practice. In any case, after the second rigged interview process, Anderson resigned from Council and took the position of Public Works Manager to the chagrin of most City employees.

As of this date, either Kevin Hushagen or myself have lost about six years of our otherwise deserved career in City of Stanwood public service which we both were qualified and entitled. Kevin Hushagen was eventually promoted to where he is today but lost other promotions due him but denied his due rights under City of Stanwood Hiring policies for many years. It would be wonderful to have him subpoenaed to testify in court on his own behalf at a future trial that this proposed "summary judgment" could deny him. Hushagen could not risk his employment with the City by joining this group of Declarations voluntarily, especially with the City Attorney who has appeared to participate in this alleged cooperative corruption and cronyism for it is the responsibility of the City Attorney to advise the Mayor, Council, employees and the public about what is lawful and what is not. Then again, perhaps neither Mayor McCune nor City Administrator Bill Beckman accepted the City Attorney's advice regarding this matter.

See attachment of Randall Richards letter to the EEOC 13 PAGES

Signed at Stanwood, Washington this 41 day of Feb, 2015


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Addendum to Inquiry Number: 551-2007-0 1498

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History:

Some five years ago, an opening position became available entitled, Stanwood "Public Works Manager" since of the two of Stanwood Public Works managers one had recently retired and the other soon to do so. The intent appeared to be to replace both retiring managers with one individual.

Being familiar with the City of Stanwood "hiring policy" governed by City Ordinance, both Kevin Hushagen and I applied since there is a clause in that hiring policy implying that, "hiring experienced employees from within" the City ranks would be an objective. Kevin, Lead Man in "waste water" with many other additional City and State certifications applied. I, with management experience in the private sector having owned and operated my own retail business enterprise, DBA firearms dealer; U Haul Dealership, Sporting Goods with RV and Boat Storage and also as a ten year experienced employee within the ranks of Public Works, I possessed the highest number of City and State certifications of any other City employee in Public Works outside Mr. Beckman and Kevin Hushagen in Water and Wastewater.

At the time of the 2002 application process Kevin had about twenty years with the City, first with Parks but most of the latter years with Wastewater. I had been with the City at that time for about ten years having become the most experienced in Parks, Streets, Drainage and Pesticides with quite a number of City and State "certifications".

Bill Beckman, Public Works Director, arranged the application and interview process in concert with Mr. McCune, City Mayor, at the time. Mr. Beckman did so appearing to conform to the Stanwood City Hiring Policy. There appeared to be nothing out of the ordinary as the position was advertised publicly, applications were received and interviews with each applicant arranged.

The first indication that something irregular was likely occurring was when we were told after all the applicants were interviewed that the entire application process was disregarded, set aside and we were later told there would be a second application process and interviews. During the first application process we discovered that Mr. Lesli Anderson, at that time a member of the City Council, had made application and was interviewed like everyone else. Mr. Anderson's application for the job was unusual for two reasons, one, that he was on the City Council and State Law prohibits City Council Members from competing with rank and file City employees for promotional jobs within the City. Secondly, it seemed nearly everyone in town knew that this Mr. Anderson and Mayor McCune were tight friends and this event did look suspicious that Anderson may get favored treatment or consideration in the selection process. When it became clear that nobody including Mr. Anderson was selected for the open position and the entire application process was tossed out, it became clear that one of the applicants other than Mr. Anderson had been selected by the interview committee but the results were kept concealed. Certainly, if Mr. Anderson had been selected by the committee there would never have been a need to have a second application process. It became doubly suspicious among observers of the process that some "chicanery" was under way when the second application and interview process was published and specifically, both Kevin Hushagen and myself, the only two candidates "from within" who had applied, were personally asked by Mr. Beckman separately not to reapply, a "right" we were both

entitled to especially because of our management and certification experience in Public Works. We were each told by Mr. Beckman separately later that week ‘there is no use in going for the second interview because there are more qualified people applying’ and assured Kevin he would still be in charge of his crew and I was promised “Lead Man” position” if we would “bow out” of the application process. Both Kevin Hushagen and I did willingly cooperate and “bow out” of the application process gracefully trusting in Bill Beckman’s assessment.

As it turns out, both Kevin and I were misled by Mr. Beckman when he asked us both not to reapply for the open position with his promise that Lesli Anderson, in no way, would ever be selected. Little did we realize until it was too late that during the time between the tossing out of the results of the first interviews and the second process, the requirements for applicants and the job description had been intentionally altered to help “rule out” the possibility for both Kevin and I. This later convinced both of us of the great possibility that one of us had been selected for the position during the first application process, not Mr. Anderson, therefore, the results were thrown out to give an unfair advantage to Mr. Anderson in the second application process. This possibility became even more clear when, during the first week in May 2007, some five years later, Mr. Pruitt, current Human Resources Officer for the City of Stanwood, told Kevin that Mayor McCune had recently been in his office and personally confessed that he, individually, was responsible for canceling the results of both the first and second application processes and assigned Anderson the job. Such a statement implies that in spite of all their efforts to give Anderson an unfair advantage in getting the job, Anderson failed to be selected by both the first and the second application process. We now have it from Mayor McCune’s own lips that it took his personal authority to arbitrarily override the results of both interview committees. A clear abuse of authority totally misleading all applicants into believing they had a chance, thus the City of Stanwood having insulted all applicants by having wasted their personal time to make application and be interviewed. A virtual total abuse of trust by a “public servant” in a position of authority and public trust.

While a member of the Stanwood City Council, Mr. Anderson had acquired a negative personal reputation around town and among City employees from Public Works to City Hall as an individual who wrongly appeared to believe he had some phantom managerial authority he was known to exhibit with a hostile attitude as he would mistreat by bossing around people over which he had no direct authority – ordinary citizens in the community, merchants, employees in City Hall and Public Works. As councilman, Anderson somehow was given a wireless phone paid for by the taxpayer, not offered to all individuals on the Council. Among others, Anderson was known to frequently call the City’s Code Enforcer, reporting to the code enforcer possible, alleged ordinance violations by citizens all around the City including reporting his own neighbors up and down the street trying to repair their own vehicles in their driveway. Some of these people were unemployed, some on welfare thus unable to afford to take their cars to a mechanic. Mr. Anderson became the City’s self-appointed, one man “goon squad” calling in all the infractions he could find of the City’s “The Design Standards Ordinance” pushed down the throats of the Council by his Ordinance Committee. Both Anderson

and Councilman McCune, eventual Mayor, were known to have aided and abetted in the eventual bankruptcy of one of Stanwood's home spun, long time family property owners by legally influencing the changes in building codes and city ordinances to legally terrorize him and many of his low income, helpless tenants into conforming to McCune and Anderson's personal whims about what the City should look like. There was deep concern among all City employees, not just employees in Public Works, that with the Mayor's influence, some actually horrified and fearful this Lesli Anderson was going to get the Public Works management job because of the danger he presented to "freedom" in America and worse, his apparent close relationship with Mayor McCune that might land him the coveted job through inside influence.

Some have come to believe that Warren Bohan's later eventual wrongful termination was influenced by Anderson as well, carrying a grudge because as Code Enforcer for the City, Mr. Bohan refused to give citations to struggling citizens simply trying to keep their vehicles operating by working on them themselves and put a FOR SALE sign on their vehicle in their own yard when it was time to sell. I noticed that after Anderson got the job as Public Works Manager, he himself was in violation of the same ordinance he created and wanted to turn other citizens in for and sold automobiles from his yard with a FOR SALE sign in it, an old Jaguar and something else I cannot recall.

Along with Mr. Beckman, there were two others from different cities carrying out the interviews. One name at least that came up twice, a friend of Mr. Beckman, Terry Hawley, from the City of Marysville. Without the competition of both Kevin and myself, it was then reported after the second set of interviews that Lesli Anderson was in fact selected by the committee, a shock and fearful notion to many employees within the City who knew of Anderson's characteristic a-social conduct. Only recently in May 2007 did we discover, as described above, the second application process failed to select Anderson as well, and now, in May 2007 Mayor McCune has confessed to interfering in the process the second time back in 2001 by overriding the hiring committee's decision to assure Anderson the job and we will now not know the winner of either of the two sets of interviews designed to hire a new Public Works manager.

When it was revealed that Lesli Anderson, a personal friend of the Mayor, was selected to get the management position and soon after the shock and anger due to Mr. Beckman's failure to keep his word, employees in both City Hall and Public Works, with little choice, made the decision to "let sleeping dogs lie", so to speak, to "bury the hatchet" and therefore, to start things out right, on "an even keel", so to speak. All Public Works employees, in a group meeting decided to give this Anderson a fair chance "to show his metal", so to speak and all employees agreed to treat this Anderson with the respect that would normally be due a person in the Public Works managerial position.

I was Safety Officer at the time, responsible for assuring that all employees were supplied with appropriate safety equipment and that employees operated in a safe manner to reduce the potential of needless accidents. Our "lead man" at the time, Jerry Fure, was soon to retire. Mr. Anderson behaved without respect for Jerry Fure as a long-time valued employee.

Over the first four months or so of Anderson being on the job, I believe that he observed my valued knowledge and contributions to the Department of Public Works. He

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asked me one day to stop by his house for a beer. I accepted his invitation. I met his wife and one son. Anderson then asked me if I would like to have the position of "Lead Man" for Parks, Streets and Drainage when Jerry Fure, the current Lead Man, retires. I said, "Yes". A few days later Bill Beckman called me into his office and asked me, "Where on the pay scale one would start as Lead Man?", as he pointed at the pay matrix. I pointed it out to him what I believed to be a fair wage for the extra responsibility.

A week or so later as Safety Officer at a construction site doing some "striping", I was asked by Les Anderson to take off my orange, safety T-shirt and replace it with the standard blue, short sleeved uniform shirt. I tried to explain to him that the orange T-shirt is P.P.E., Personnel Protective Equipment. Becoming argumentative, Anderson refused to understand my determination for safety on the job as Safety Officer. I later contacted Kurt Kawfold who then faxed to me the WAC on P.P.E. I was called into Beckman's office to meet with he and Anderson to explain my difference of opinion with Anderson over the P.P.E. Anderson had written me up for "insubordination". After my explanation Beckman gave me the OK to go ahead and wear the 'orange' in front of Anderson without conferring with him first.

To this day I do not know if there remains a retaliatory document against my record in my personnel file over this incident but I know there are others over the last five years that should not be in my file.

About a week after this first incident I casually asked Mr. Beckman if I could get his and Anderson's offer for Lead Man position and increased pay in writing. Beckman looked at me with a blank stare as if he did not know what I was talking about. He never did so even though I have been serving the taxpayers of Stanwood as unofficial lead man since the departure of Jerry Fure, soon after Anderson was hired. As another form of retaliation, a newer, inexperienced employee was given the position of Lead Man. He is daily embarrassed because he always has to ask me what to do, when to do it and what to do it with.

I did contact the union and L&I for their opinions but they both advised me that it was a simple case of "their word against mine". After that incident there has been constant, repeated, never ending types of retaliation against me. I am not alone as a target of this managerial retaliation as it appears to all of us who remain from five years ago that **management is intentionally creating a hostile environment with the hope of encouraging the rest of the old guard to quit so the bad management can continue unopposed with all newer employees** who eventually will wonder where the problems are and maybe even blame themselves instead of bad management for their discomfort in the hostile workplace. Many good, dedicated career employees have quit or been terminated needlessly both in City Hall as well as Public Works due to severe working conditions under the authority of Bill Beckman and Lesli Anderson.

I have related this history because my experience is characteristic of the sociopathic harassment and retaliation many employees have experienced who have quit or been terminated in the Public Works Department over the last five years -- good men, reliable employees enjoying their careers. My experience is a classic example of what Anderson has done and continues to do to employees when he wrongly "perceives

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insubordination” that in reality are nothing more than the employees’ desire to be helpful to him, to help him to “learn the ropes” of Public Works. Employees that want to be helpful, Anderson perceives are “crossing him” when he tosses out random orders based upon whim rather than S.O.P, Standard Operating Procedure, without bothering first to find out what the present rules of engagement are before trying to change the rules based upon some random whim, catching off guard everyone who already knows what he is doing, with the exception of a new employee.

Over the last five years there have become many unhappy Public Works employees who were needlessly, unfairly terminated or compelled to quit their jobs with the City because of Anderson’s threats and these typical letters of insubordination by Anderson placed, vindictively with malice or spite, into their personnel files. I would go so far as to describe Anderson’s belief system as “hateful”, as opposed to “helpful” to those employees who serve him. Anderson’s personal conduct has rubbed off on Bill Beckman, both having caused hurt, disappointment and grief among City Hall employees as well, causing faithful, dedicated career employees to retire early due to fear of being terminated. High employment turnover in the City of Stanwood over the last five years has been costly to the taxpayer putting needless stress on fellow employees while new personnel have to be trained.

A hostile work environment occurs with Anderson’s hostile manner in giving random, whimsical orders “out of the blue”, so to speak, when he himself is still learning Public Works after five years. Such conduct is unbecoming a public servant in a position of authority. Anderson’s hostile, il-mannered, ungrateful reactions to employee suggestions about the way things can be done or are done in Public Works. Anderson needs help to learn and does not ask before passing judgment on or before arbitrarily changing common procedure known by each experienced employee of the City on a random whim. Thus Anderson causes confusion and sometimes anger among the employees. Employees like to know that their bosses are grateful for their help.

Within a year of Lesli Anderson’s employment, and after honestly committing themselves to giving Anderson a chance to prove himself as an effective Public Works Manager, the entire crew voted 8 to 1 “no confidence” in Anderson’s character and ability to lead the Public Works Department effectively. The “no confidence” vote was eventually published in the Stanwood/Camano News with little attention. The one dissenting vote was Rod Sundberg who came into city employment with Bill Beckman when the City bought out Beckman’s Water Department. Sundberg continues to be a meter reader in the Water Department, and long-time friend of Bill Beckman, getting favored treatment for promotions. Rod Sundberg has enjoyed blatant “favoritism” via continued wage and authority increases having been promoted to Lead Man over these last five years in spite of his having been caught at least twice cheating the taxpayer by giving false readings to the Billing Department of his own meter and therefore, who knows who else’s? Knowledge of this favoritism along with the abuse of Patricia for reporting Sundberg’s dishonesty and Sundberg not getting written up has caused the entire City Hall staff to throw up their hands in fear for their own retirements should they say or do anything about it. Gina Melander is another innocent, good employee who has

suffered a disgraceful hostile environment for her being the one who agreed to verify Rod Sundberg's meter when his honesty came under question.

Further evidence of this cronyism is Rod Sundberg, a close friend of the City Administrator, has come to be one of Anderson's trusted "spies" against other employees in the Water department and Public Works. There is concern among other employees who have been written up by Anderson that there may not be one letter of reprimand in Rod Sundberg's personnel file, further evidence of "favoritism" that is unsettling to other employees. It is known that Patricia, the Billing Clerk who turned Rod Sundberg in for cheating does have a letter of reprimand in her file from when she did turn Rod Sundberg in for cheating. The inconsiderate manner she was treated by both Anderson and Beckman after reporting Sundberg's dishonesty is another example of why "the problem" in City Hall is Management, not employees. When deposed, all recent woman retirees forced into retirement by Beckman's continued chicanery, will make good witnesses. This event caused new, additional discontent, fear and apprehension in the workplace **for all the women in City Hall** fearing they may one day get the same hostile treatment Patricia experienced from both Lesli Anderson and Bill Beckman for which she had to receive therapy for some weeks afterwards in order to cope with working in the same world at Lesli Anderson..

A Mr. Warren Bohan is one of those faithful career employees who refused to put up with dishonesty in Stanwood City management. He was wrongfully terminated as a result of Mr. Beckman and Anderson's abuse of power causing Mr. Bohan to suffer the hurt and disappointments due to a number of managerial broken promises for pay and benefits and who stood up for the underdog by refusing to turn his back on Rod Sundberg's dishonest conduct, the verbal abuse of Patricia, the clerk who caught Sundberg's cheating, the sloth, the malingering of another of Mr. Beckman's close drinking friends, a John Case, who drew many unearned paychecks the last five years of his employment before he retired with no letters of reprimand in his personnel file, witnessed by all employees in Public Works. Mr. Bohan has my support in his endeavor to find satisfaction for managerial abuse in a hostile work environment and age discrimination through the services of the EEOC.

After the departure of Mayor McCune I believe in late 2003, appointed Mayor Herbert Kuhnly was soon made aware of the conflict between Public Works employees and their management. Mayor Kuhnly was wrongly advised by both Beckman and Anderson that the cause of the dissention among the ranks was irrational, unreasonable expectations of the Public Works personnel, troublemakers, not admitting to the Mayor that the Public Works personnel were simply struggling for survival from retaliations, reprimands put into personnel files, rude, ungrateful management behavior, lack of viable leadership under an unreasonably paranoid manager backed by Mr. Beckman, employees simply attempting to encourage "correction of the problem" by higher authority than Lesli Anderson. Naturally, management never confessed that they were responsible for mistreatment of employees, the lies, false hopes given their employees as if hoping all employees would just quit; go away so new ones who don't know anything could be hired. Beckman wrongly believes that if management tried to act like pals everyone would get along better. Not so. Everyone knows the truth about both Beckman and

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Anderson involving the principle issues of managerial dishonesty that have caused the rift, the dissatisfaction.

Somewhere in the neighborhood of three months after Mayor McCune left for Texas on a special project for Boeing, leaving the mayorship in the hands of Herb Kuhnly, a councilman at the time, a concerned citizen, taxpayer and previous city councilman, Erik Abrahamson, who had become aware of the dissention in Public Works, having speculated that there was chicanery and dishonesty involved in the hiring process of Lesli Anderson made some efforts to encourage management to correct the problem created by the wrongful hiring of Anderson. It was not hard to figure out where the problem lay by just knowing the sequence of events leading to Anderson's appointment. Should the EEOC take on this case, I suggest one of the first witnesses to be contacted is this Abrahamson.

Frankly, had Anderson been a good, effective manager with any leadership skill, to speak of, there still would not have been a problem with personnel because the employees had already, in their helpless situation, "buried the hatchet" being willing to give this Anderson a chance. Anderson blew his chances due to manager misconduct, abusing his employees nearly from the start. Abrahamson claims that he waited three months after Mr. Kuhnly became Mayor, hoping Beckman wanted to and would set things straight with the Public Works employees on his own after McCune's departure. After three months waiting for Beckman to take some corrective action, Abrahamson decided Beckman was not going to do so on his own and would need encouragement from outside to have the courage to set things right. Setting things right would naturally take the hostility out of the workplace both in City Hall and Public works. Abrahamson hoped to encourage Beckman that Mc Cune's absence now was a wonderful opportunity for him to be a "hero" like he has never been. He was now finally free to "**set things straight**" in Public Works now that he himself no longer had to fear being fired by the previous Mayor whose orders we discovered just recently in May 2007 caused him not to follow the honest protocol of the hiring process; breaching the public trust, breaching the trust of all the applicants and breaching the trust of those volunteering to help Mr. Beckman with the interviews. Setting things straight could mean talking to the present Mayor Mr. Kuhnly and encouraging him to support him with some plan to terminate the employment of the man who was given every chance to succeed but has demonstrated his inability to communicate effectively with his staff as a manager. Termination would simultaneously correct the initial wrongs of the hiring processes at the time of his hiring. This concerned citizen, Abrahamson, tried to convince Bill Beckman that if the wrongly appointed Lesli Anderson now with the title of Public Works Supervisor, could be properly replaced, perhaps with one of the individuals legitimately selected by either of the two hiring committees, the problems in both City Hall and Public Works would just, disappear, go away, because the problem was not employee misconduct but management misconduct. Management was and continues to be the problem. A manager's duty is to get the job done correctly at the least possible cost. A manager's duty is to be able to identify problems correctly when they occur so the problems can be dealt with promptly, effectively and efficiently. No manager will ever be able to solve a problem unless the problem has been correctly identified. Management,

Beckman and Anderson, continue to live in denial having wrongly identified the problem as the Public Works employees' misconduct, not their own misconduct.

The problem in Public Works was Anderson's a-social personality and vindictive management style, not the employees. Beckman's continued protection of Anderson, his insistence on maintaining that the falsehood to be true that the Public Works employees were recalcitrant, prevented the problems of discontent from ever being resolved. Abrahamson said he followed up his visit to Beckman with a letter continuing to encourage Beckman "to have the courage to take the bull by the horns and the sooner the better. The taxpayers of Stanwood deserve the best from their highly paid employees."

When there appeared to be no evidence that Mr. Beckman was going to "bite the bullet" and solve the problems in Public Works, Abrahamson called for a meeting with Mayor Kuhnly and Bill Beckman hoping that even if Abrahamson could not convince Beckman to confess the application process chicanery, he would be planting the thought in Mayor Kuhnly's mind about such a possibility and maybe Mayor Kuhnly would work on Beckman and convince him to correct the wrongs that began the internal strife in Public Works and City Hall. Months passed as Abrahamson waited for any sign that something was happening. Mr. Kuhnly never contacted Abrahamson with any type of evidence he was carrying the project forward. From the outside, it eventually became clear Beckman had Kuhnly convinced Abrahamson was wrong about where the problem lay, that Anderson was duly selected by the 2nd interview committee without his persuasion. The first week in May we discovered that that statement was a falsehood.

A few months later, the discontent among Public Works and City Hall staff must have become a matter of importance to Beckman and Mayor Kuhnly, maybe fear of a lawsuit brought about by emotionally battered employees because one day a Janice Corbin showed up at City Hall to carry out a so-called "needs assessment", hired by AWC, the Association of Washington Cities, the insurer of the City, to mitigate the existing dissention between management and staff in both City Hall and Public Works. Being insured by AWC and positive results of such an assessment might likely improve the City's image in case of any lawsuit. This Janice Corbin of Sound Employment Solutions was hired to try to convince all employees to hold hands with management and just 'get along' better as though the underlying problems could just be "swept under the rug". We are convinced Mr. Beckman and the Mayor told her the problem was a disgruntled, hard to please, hard to get along with disobedient, refusal to cooperate Public Works staff.

What Beckman failed to tell her was the real reason Public Works and City Hall office staff were not content. He did not tell Janice that he lied to his employees to get them to do things he wanted them to do to help Mayor McCune in the conspiracy to hire Lesli Anderson, such as "Don't apply for the job the second time". He likely did not tell her he made promises he had no intention of keeping, such as, "I will not allow that fat ass to get the job". Abrahamson helped me put things together by identifying a conspiracy between he and the Mayor to disregard the values laid out by the authorized City hiring process by giving preferential, favored treatment to Anderson regardless of the outcomes of the interview process and worse, lied about it when he denied they did so and made every effort to cover up for those indiscretions when he lied to two succeeding

mayors and two City Councils. Worse yet, the individual hired due to the now admitted favored, preferential treatment turned out to be an individual of low, self-serving, poor personal character, unsuitable as a manager over crews of Public Works staff.

The evidence of Abrahamson's claim of conspiracy to circumvent the authorized City hiring process to fill the position left by the retiring John McGil with Lesli Anderson posed by Mr. Abrahamson may go as far back as some months before John McGil retired December 31, 2001. One day after McGil announced his plans to retire Les Anderson asked Matt McCune if it would be a conflict of interest if he, as a member of the City Council, were to apply for the job. The Mayor told him, "No." According to State Law Mayor McCune gave Anderson incorrect information. Before John McGil retired, McGil told Beckman, Public Works Director at the time that if they hired Les Anderson to replace him, they "would be asking for nothing but trouble". John McGil knew about Les Anderson.

Jerry Fure, Lead Man under John McGil and the first months under Lesli Anderson, retired early, in a sense, forced out by being made to feel unwelcome due to Anderson's evident contempt for him; Anderson's immediate reckless disregard for learning the ropes of Public Works from his inherited experienced staff; his general rudeness and disregard for the Lead Man's and other employees' knowledge and suggestions; his absolute inability to get along with any of the Public Works crews. Jerry Fure, ex-Lead Man retired will be an excellent witness to verify the above.

Anderson's disdain and lack of respect for Public Works Lead Man Jerry Fure could have been an extension of Abrahamson observed while on the Council as Anderson and McCune's contempt and disdain when speaking about Jerry Fure as they proceeded to unilaterally break the contract between the City of Stanwood and Jerry Fure that for some years placed Jerry's manufactured home on Church Creek Park property as a deterrent to vandalism and drug dealing on city/public property. It was Jerry's responsibility to close the gates to the park each evening and during the day, the presence of the home seemed to work as a deterrent. McCune and Anderson succeeded in evicting Jerry Fure at the time by making life miserable for him, causing Jerry a great deal of grief at the time to find a site for his home. After that, Church Creek Park became a haven for teen sex, drugs and vandalism during the day as well as at nighttime and on weekends.

Thus, because neither Beckman nor Anderson correctly identified the problem behind the internal strife in Public Works for Janice Corbin to deal with, every trick she applied in the mitigation process to encourage staff and management to let by-gons be by-gons and "start over" a new relationship simply met a dead end in failure. Nobody can correct a problem that has not been correctly identified. She may have known the real problem but she was paid to make City Management look good because AWC needed the evidence in case of any possible lawsuit, even if falsified.

Now, the cover-up trick may work to deceive the court one day because as much of a failure as the mitigation process was to bring management and staff together, Ms Corbin's report gave the "needs assessment" high marks indicating progress was made in bringing management and staff closer together. This was a lie. Soon thereafter many a long term career employee in Public Works along with several dedicated, long term career employees in City Hall were unhappily, even angrily compelled to retire early due

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to fear and unhappiness with management conditions in City Hall. Any participating employee not recently hired and not being one of Beckman's puppets who benefits from favoritism will give the mitigation process a low grade because it did not improve relationships between management and staff because the same management was untouched, unscathed by Janice Corbin's work. The final report by Janice Corbin was a misleading sham to protect the City in case of such an event as an EEOC legal challenge.

In summary,

What we have here is an example of one of the most dangerous things that can happen in our great, famous experiment in self-government where it is essential that those chosen or selected to serve the people have an obligation to be diligent, conscientious, humble and honest or self-government does not work, in fact, under such conditions, it can be dangerous. There has been dishonesty in the city government of Stanwood and there have been efforts to cover up that dishonesty by trusted, guilty public servants who have decided to lie, cheat and even go so far as to lay the blame on others who are innocent to the point the innocent have their reputations soiled while the dishonest hope to go undetected.

I, along with a number of past and present, dedicated, career employees of the City of Stanwood have suffered abuse in the forms of trust, age discrimination, threats, retaliation, fear and mental trauma in the workplace. The actual breach of trust by those in City management, those that all employees are obligated to trust and depend upon the most, is the most traumatizing for both the men and women having honorably served the citizens of Stanwood in City Hall and Public Works over the last five years.

In the workplace I have been experiencing these last few years an atmosphere of dishonesty and intimidation, the same conditions that has led other employees to quit their job with the City over the last few years. My job is a career I have chosen and I am reluctant to lose my career due to retaliations and otherwise hostile work environment created by a "pretend" manager that has no legitimacy as a leader in the eyes of all employees not on his list of "favorites" who are obligated to follow his inept, self-centered pretend leadership.

Since the wrongful hiring of this manager, Anderson, there have been a number of other examples of cronyism, employees hired disregarding the City hiring policy. Some hired have been personal friends of the mayor, Anderson and Beckman. For example, Dustin McGillvery (spelling), a friend of Mayor Kuhnly's son, admits to having been hired improperly. He soon quit his job with the City because he could not muster respect for Anderson's management demeanor. Dustin and others will be a willing witnesses.

All the retaliation, age discrimination, threats, mental trauma in the workplace are related one way or another to the hiring of **a manager under questionable, dishonest practices** abusing the City hiring policy **and five years of relentless cover-up** to protect those responsible for that decision, and if the above is not serious enough, the subject Public Works Manager hired and protected has been observed as **a mentally insecure egomaniac, a-social, unfit psychologically, a slothful malingerer in his management style, refusing to learn his responsibilities, thus not a model for employees to follow.**

Both Anderson and Beckman, in order to cover up their own indiscretions in having hired Anderson in the first place try to keep peace among the ranks by using phony friendship, favoritism for a few, retaliation against many who simply do not respond favorably to a "bully" type management style creating a hostile work environment. Management has been dishonest to the last two Mayors prolonging the problem by management receiving management pay for not managing = **refusing to identify the problem** so the discontent pervading Stanwood government **cannot be corrected**.

Hoping to have "whistleblower protections", I am ready to produce, in addition to evidence of the enclosed information, a list of names and telephone numbers of past and present employees who, if asked the right questions will produce valid, witness testimony to back up everything mentioned in this addendum and more about dishonesty in Stanwood City Hall; blatant favoritism that causes dissention among the ranks; terror by threats 'to quit if you don't like it'; retaliation in the form of bogus written reprimands placed in employee files to justify wrongful terminations and refusal to grant normal promotions expected; insulting targeted employees into quitting by granting promotions to younger inexperienced employees over the more experienced; verbal abuse of employees = terror in the workplace, age discrimination using terror conduct to encourage dedicated, career employees in both City Hall and Public Works **to quit or retire early** to make way for younger, inexperienced employees who would be less expensive to the cost of government thus loosening up more funds to finance recent, unwarranted promotions of both Mr. Anderson and Mr. Beckman to an extravagant, unwarranted salary as City

Administrator when others have always done his work, with he doing less than ever before. He is rarely in his office. All of the above abuse of employees appears to be desperate actions by management to cover-up their own abuses of authority, indiscretions over the last five years where good, honest, hard-working, dedicated city employees have paid a heavy price in the cover-up. Prior to the event of Anderson's wrongful hiring and attempts to protect the decision by lies and innuendo, Stanwood City Government appeared to be as honest as one could expect with the exception of the Anderson / McCune team on the City Council Ordinance Committee in the '90s who thought it was their calling to use un-American "terror by City ordinance" to compel innocent, fee citizens of Stanwood to conform to their personal whims and random opinions, their design standards ordinance which was the basis for all Anderson's calls to the City Ordinance enforcer to turn citizens in all over the city.

Most significant in this historical sketch was ex-Mayor McCune's recent visit to City Hall and confession the first week in May 2007 accepting responsibility as the one who disregarded the results of both hiring processes giving his friend Lesli Anderson, City Council Member, the unfair advantage in filling the position of Public Works Manager some five years ago, breaching the trust of all those who applied in good faith, breaching the trust of those agreeing to interview the applicants and especially, breaching the trust of the Stanwood taxpayers who depend upon City management to assure, as best it can, the best person for the job at the lowest cost for the taxpayers. If Anderson had not been in the picture, the cost of Public Works Manager five years ago would have been substantially less. This latest evidence discloses the fact Bill Beckman, Public Works

Director and since 2006, City Administrator has lied to two mayors that succeeded Mayor McCune, as he demanded to mislead Mr. Abrahamson and two succeeding mayors, two City Attorneys and two sets of City Council Members about his cooperation in the wrongful appointment of Anderson and worse, covering up that wrongful appointment by both Anderson and Beckman falsely alleging, "recalcitrant" employees instead of Public Works management for the dissention in City government from City Hall office staff to Public Works.

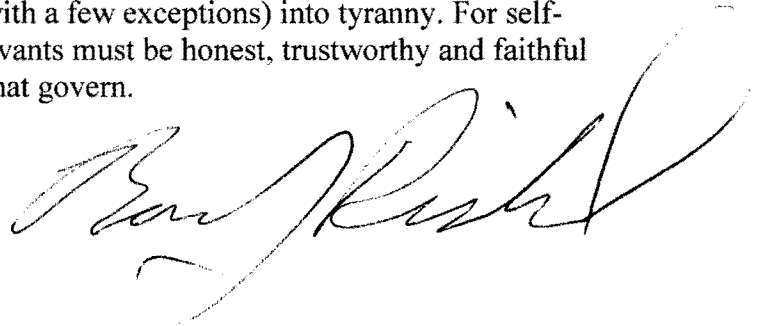
Last minute thought. All this business about a hostile work environment by management intentionally harming employees' self-image and personal career plans is management's style of trying to cover up the indiscretions caused by **a conspiracy** by Mayor McCune, expecting Bill Beckman, then Director of Public Works to hire Les Anderson, for the opening for Public Works Manager due to retirement. While it is true that a Mayor or Director of Public Works can select the man he or they may prefer to fill a job opening for the City, it should have been done so honestly, above-board, without the City Officials putting on the unethical, amoral charade of taking applications and giving interviews for the job, building up hopes of applicants, stealing their time away as they attempt to compete for the position. Since the City Officials decided to **fraudulently make it appear that the job would be filled in a fair manner**, it turns out to be conspiracy to hire an individual selected before the two application processes occurred, circumventing the hiring process governed by ordinance is a governmental decision that deserves legal discipline.

The Director of Public Works' lied to citizens who inquired about the travesty; to cover up and protect his own participation in the chicanery, he lied to the succeeding two mayors, leading them to wrongly believe Anderson did, in fact, get properly selected and gaining the confidence of the mayor sufficiently through lies, his getting promoted to City Administrator is unconscionable. He deserves to be censored, fined and demoted.

Worse, the individual selected was a City of Stanwood Councilman, who, against State Law governing City Council and Mayoral conduct, **got favored inside treatment from the Mayor** who has admitted to Matt Pruitt, Stanwood's H.R officer years later he had intended to give the job to Anderson throughout the entire two application processes.

And worse yet, dozens of City employees had to suffer five years of a hostile work environment with management's obvious intent to "rid" the City of Stanwood with all older employees who may have been opposed to the wrongful appointment of this Anderson to the job of Manager of Public Works, changed later at the request of Anderson to Superintendent of Public Works, giving him a wider authority than he was first entitled when first hired. It should be noted that if this Anderson had been a normal, good, effective manager, the hostile environment over the last five years would never have occurred but he was cruel, selfish, inconsiderate, self-centered making it a difficult place for City employees to work.

Such conduct as has been pointed out here is the kind of evil cronyism, that turns the "self-government" experiment created by our Founding Fathers and successfully maintained by 200 years of Forefathers, (with a few exceptions) into tyranny. For self-government to work effectively, public servants must be honest, trustworthy and faithful to the law and ordinances, not the "men" that govern.

A handwritten signature in black ink, appearing to read "Ben Rush". The signature is written in a cursive style with a large, sweeping initial "B" and a long, horizontal stroke extending to the right.

SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR SNOHOMISH COUNTY

Case No: 09-2-01891-8

JERRY FURE

Plaintiff

v.

**DECLARATION OF JERRY FURE
IN SUPPORT OF WARREN E.
BOHON OF THE CITY OF
STANWOOD'S SUMMARY
JUDGMENT**

CITY OF STANWOOD

Defendant

Jerry Fure hereby declares under penalty of perjury under the laws of the State of Washington that the following is true and correct:

That he or she is now and at all times herein mentioned was a citizen of the United States and resident of the State of Washington over the age of eighteen years, and Competent to be a witness herein, and sates as follows:

SEE P.2

1 EARLY 2000 AT CREW MEETING
2 I ASKED BECKMAN ABOUT THE CITY
3 OF STANWOOD HIRING LES ANDERSON
4 FOR PUBLIC WORKS MANAGER, HIS RESPONSE
5 WAS "NO WAY I WILL HIRE HIM"
6 ONLY IN STONGER LANGUAGE.

7 FEW WEEKS LATER AT CREW MEETING
8 I ASKED BECKMAN ABOUT CITY GIVING
9 ANDERSON AN INTERVIEW FOR JOB,
10 HIS RESPONSE "IT'S ONLY A CORTISY
11 INTERVIEW BECAUSE HE WAS A COUNCILMAN."
12

13
14 FEW WEEKS LATER AT CREW MEETING
15 AFTER THE CITY WAS ABOUT TO HIRE
16 ANDERSON, I ASKED AGAIN ABOUT HIS
17 RESPONSE TO MY EARLY MEETING'S QUESTION'S
18 I WAS TOLD DON'T GO THERE AND
19 DON'T BRING IT UP. ~~REBRING~~ AGAIN.
20
21

22 Signed at Stanwood, Washington this 4TH day of FEBRUARY, 2015.

23
24 J. A. Fe
25 CITY OF STANWOOD
26 EMPLOYEE 1972 TO 2003
P.W.D. LEADMAN - 1993 - 2003

DECLARATION OF

SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR SNOHOMISH COUNTY

Case No: 09-2-01891-8

WARREN E. BOHON

v

Plaintiff

CITY OF STANWOOD

Defendant

**DECLARATION OF ERIK R.
ABRAHAMSON IN SUPPORT OF
WARREN BOHON AND THE CITY
OF STANWOOD'S SUMMARY
JUDGMENT**

Erik R. Abrahamson hereby declares under penalty of perjury under the laws of the State of Washington that the following is true and correct:

That he or she is now and at all times herein mentioned was a citizen of the United States and resident of the State of Washington over the age of eighteen years, and Competent to be a witness herein, and sates as follows:

I became a citizen of Stanwood the month of September 1989. In the early '90s as I read the local news after each meeting of the City Council, I began to notice some very troubling news, finding myself often saying, 'Hey, what's going on in this city? We just don't do that to citizens here in the United States.' Being so busy restoring my depreciated house and another one in Mansfield, WA, I had overlooked the significance of the passage of the GMA, Growth Management Act as the possible reason for my dismay about so many decisions by the City Council. After becoming a member of the City Council I discovered that my alarm was due to the City of Stanwood attempting to conform to the requirements of cities to follow the rules set forth by the GMA as the Declaration of Erik Abrahamson Page 1

reason for the many perceived “un-American” decisions by the City Council with which I was philosophically at odds and it was clear I was going to have to accept this “Brave New World”.

It became evident that the ordinances to conform to the GMA I was opposed to were acted upon before my arrival to the council so there would be little evidence in the minutes that I was opposed philosophically to those rules and subsequent ordinances. I noticed that membership on the Ordinance committee was stacked with two of the same people who are subjects of this lawsuit -- Mr. Matt McCune and Mr. Leslie Anderson. I was often shocked to hear the anti-developer, anti-certain citizen remarks by these two individuals as they proposed, even out of the confines of Ordinance Committee meetings, unexpected disdain for certain individual citizen as targets of proposed ordinances to attack their personal preferences, behavior and professions – especially land developers in general and a particular landowner in the city they wanted to harm, to alter his behavior overlooking the fact that this is a “free country”, at least it used to be until these guys came along.

As I grew in my more clear understanding of the un-American expectations of the GMA, destroying what many good Americans had diligently and properly done to plan and prepare intelligently for their personal growth and retirement – the purchasing of land for development, timber harvest I observed that these two individuals on the ordinance committee of Stanwood appeared to enjoy the power to alter the plans of smart Americans whose future now lay in the balance.

We saw the end coming for future self-starter American families would be able to buy a piece of land to build their starter home on a lot they could afford rather than five

Declaration of Erik Abrahamson Page 2

acres because many owners of large pieces of land would be legally denied the right to subdivide in so many cases less than five acre parcels. I saw committees being formed of citizens who knew little if anything about our natural resources forming into committees according to GMA rules designed to make law governing those natural resources with the help of closet U.N. (socialist) staffers and “pretend” environmentalists telling the ignorant what to do and the ignorant so proud of themselves executing the powers vested in them under the “undue influence” .those were, I discovered that Chelan County was maybe the only County in the State of Washington that refused to accept the un-American guiding demands of the GMA. Hurrah for them!

The individuals that are engaged in this lawsuit seemed to enjoy the powers vested in them to push smart Americans around. Perhaps those powers went to their heads when they wrongly believed they could manipulate the Stanwood Ordinances governing the hiring of higher level employees as described in the Declarations of Jerry Fure and Randy Richard.

Because so many years have passed, I am obligated to provide as my evidence, unsent as well as sent letters to Mayors and others perhaps of Stanwood alerting them to the chicanery happening under their noses inviting them to investigate. They may have been investigated but surely they fell under the spell of “undue influence” not to proceed by investigating further.

I did not run again for City Council because somehow I knew I was going to have do what evidence shows here, and I would not have been able to do this as a member of the City Council.

See Attachment 1, many correspondence stapled together
Declaration of Erik Abrahamson Page 3 (Ran out of time to proof-read)

Signed at Stanwood, Washington this 4 day of February, 2015



A handwritten signature in black ink, appearing to read "Curt R. Allen", written over a horizontal line.

27119 102nd Dr. NW
Stanwood, WA 98292
July 11, 26, August 10, 15, 22, 31 2006

TO: Councilwoman Mrs. Shelley Klasse SIX PAGES.
Councilman Mr. Andy Chappel THIS DOCUMENT IS FOR
DISCUSSION ONLY BETWEEN
FROM: Erik R. Abrahamson, taxpayer MEMBERS OF THE PERSONNEL
COMMITTEE FIRST AND OTHER
DATE: ~~August 31, 2006~~ COUNCIL MEMBERS IN
September 1, 2006 CLOSED SESSION ONLY
SUBJECTS: 1. A "cover-up" of dishonest, conspiratorial, out of compliance hiring
practices and "reckless disregard" by the current City Administrator to
correct said management defects since the departure of Mayor McCune,
even after repeated invitations by me to do the right thing.
2. The maintaining on the payroll, with impunity, certain personal friends
of the Administrator after flagrant dishonest acts equal to stealing from the
taxpayer brought to his attention my employees but his refusal to punish
said employees properly. Both should have been terminated. Neither had
to pay one cent of restitution.
3. Unfairness practiced by management in denying advances in pay and
responsibility to the few remaining original "career" Public Works
employees. It has been unnecessarily costly for the City to train new
employees to replace those who have been fired, others who have quit out
of deep employee dissatisfaction over the last four years. Poor
management practices from the top pervade all departments of the City
where employees keep their mouths shut to avoid retribution as has
happened to those few with the courage to speak out. All of the above has
been the basis for years of subsequent, unnecessary, costly unrest which
continues even after the results of a wasteful, ineffective, costly to
taxpayers "Needs Assessment", the results of which have never been
disclosed to members of the City Council as additional cover-up.

Over the last three years since the departure of Mayor McCune, before writing to the Mayor Elect, to new and returning Council members in anticipation of the January 5, 2006 workshop, there had been a number of efforts on my part to persuade both Bill Beckman first then later Mayor Kuhnly to take charge of the low employee morale by correcting the serious management error, the wrongful hiring of the current Superintendent of Public Works. Other difficulties between management and the rank and file deserved to be set right by setting right the wrongful hiring. A costly to taxpayers effort was made to mislead, to make it appear that efforts were being taken to resolve internal strife by ordering a so-called "Needs Assessment", another "conflict resolution" failure due to refusal in the first place **to disclose the known problem** causing the unrest -- thus continued refusal by city management to correct the cause of the internal strife through continued cover-up and not taking appropriate action.

This letter will now be my last effort to encourage the straightening-out of the

wrongful, dishonest, conspiratorial hiring of the City's Public Works Supervisor and continued misconduct of both Leslie Anderson and Bill Beckman as they engage in the continued cover-up of the alleged misconduct with "reckless disregard" for the employee dissatisfaction.

I have written this document because I recently noticed I failed to make the evidence clear about how the conspiracy unfolded. I was depending upon the natural curiosity of civic leaders to ask for a serious investigation to determine fact from fiction about the allegations. I am hoping that with a better explanation from me you will be persuaded **to cause a "proper" investigation** into the subject City hiring practices and how those practices were in conflict with the City hiring policies at the time, that have since brought so much grief to employees in all departments of the City, not solely in Public Works. The women have been terrified to act or speak out for fear of their jobs security and future pensions. Even after retirement two are so burned out due to the fear and frustration they have experienced, they don't want to talk but I know upon being "deposed", many outside the public Works Department will tell the truth about the last four years including non-retirees one who has had to seek **therapy** and many who have **left the City** for more promising employment including Landy Manuel. Landy would not confess to me when approached because he had no way of knowing for sure what I might do with "the truth" but I firmly believe that he will do so when compelled to tell the truth under oath when "the world", so to speak, will know he had no other choice.

In the event the above is not sufficient to inspire your calling for a "closed Council workshop" to get the entire council **to authorize an expert investigation** by other than the City Attorney into this matter, I have written more below to help get your attention.

The Conspiracy:

- By ordinance, it has been policy within the city, for years, to "hire from within" whenever possible for newly created career job openings. As examples, Bill Beckman was hired without competition to become first, Director of Public Works and secondly as City Administrator. No other employee was consulted or was advised of the opening before Mayor Kuhnly appointed Beckman to the highest office in the City.
- Anderson was hired only after results were in after a **SECOND** advertising and interviews for the job opening. **The results of the first attempt have been 'covered-up'**. Mr. Beckman refused to allow office personnel to provide me the details of the first attempt, the job description; the names of applicants and results that I requested through a **REQUEST FOR DISCLOSURE OF PUBLIC RECORDS May 2005** claiming the failed results of the first attempt were "not available". If the details of the first application process have been destroyed that would have been contrary to law. In addition to two worthy Stanwood Public Works employees, other interested, likely qualified applicants trusted the process would be fair and honest. Had Anderson been nominated for the position after applications and interviews there would have been no valid reason for the **SECOND** advertisement and interviews. Anderson was not selected after the interviews. We know this because had he been selected, there would have been no need for a revision of the job description and qualifications crafted by Bill

Beckman and Mayor McCune to make it appear that a candidate for the position would need more “supervisory” experience than the two capable applicants “from within” possessed. Upon request, Beckman allowed office personnel to provide me the new job description and qualifications, however. It appears to me likely that in addition to the combining of the responsibilities of John McGill and Jerry Fure, at least the following one key phrase was incorporated in the second **“minimum qualifications”** to help prevent the city’s obligation to carry out the city policy of “hiring from within” i.e. the candidate must have **“...2-3 years supervisory experience. Any equivalent combination of education and experience.”** Had this phrase been in the first job description and minimum qualifications, the two applicants from within the city likely would have been discouraged from applying. The evidence lies in the verifiable fact that Bill Beckman asked the two employees from within who had applied the first time, not to apply the second time. Bill Beckman had **no valid right** to ask those two employees not to seek their highest potential. The two previous applicants from the City likely never saw the new qualifications that would “intentionally” rule them out to reduce the competition for Anderson. The investigation must uncover which applicant “got the nod” from the first application process and if the information remains unavailable, Mr. Beckman must be severely chastised.

- Instead of screening the two capable city employee applicants “from within” and selecting either one who certainly would, within a couple years acquire that very, newly required supervisory experience or be terminated, the decision was made to advertise the position to outsiders and those “*from within*” summarily rejected beforehand giving Anderson **an unfair advantage** to get the position. The investigation should disclose as well that everyone with current “supervisory experience” at one time prior took on such supervisory responsibilities with no previous supervisory experience. That’s how supervisors become supervisors for the first time. It happened to Bill Beckman at least three times. It happens all the time. Every supervisor today had “no prior experience supervising” at the time of their first supervisory experience.
- The position was advertised for a second time, applications were received and a committee (made up of friends of Mr. Beckman) was convened to help Mr. Beckman select the best choice. The selection of Mr. Anderson would ordinarily appear to be legitimate had the committee individuals selected by Beckman been the one and only committee members to interview him. The issue here is the “reckless disregarding of the results of the first application and interview process. The results of the interview were recklessly disregarded due to an undisclosed reason. The likely reason is the “stacking of the deck” to give Anderson an unfair advantage to get the job. It is speculated Mr. Anderson was not selected by the first committee. Had he been selected, there never would have been a second application process. Mr. Anderson and Mayor McCune were close friends. Any reasonable judge would clearly see conspiracy with this scenario.
- Had Mr. Anderson been selected from the first interview, why would there have been a second job description printed up; why a second public notice for applicants published and why were the two applicants “from within” asked personally by Bill Beckman not to re-apply? Testimony will show the two “from within” were not told why they were

asked “not to apply”. They were simultaneously promised verbally by Bill Beckman that Leslie Anderson “would not be appointed”.

The Cover-up:

- Only a few people know that two sets of interviews with two separate committees were required before Anderson was finally appointed to the position he now holds having replaced both the retired John Magill and Jerry Fure.
- When challenged about this fact, Bill Beckman cleverly manipulates the conversation to legitimize the results of **only the second job description, the second group of applicants and the second interviews and cleverly avoids discussing the first**. The second application process intentionally, willfully left out the two aspiring career employees already trained in Stanwood City Public Works.
- The second group of interviewers were acquaintances of Bill Beckman. Because of the fact the results of the first set of interviews were never disclosed, many city employees have come to suspect Mr. Beckman hinted to his hand picked interviewers who he hoped they would select. Regardless, through conspiracy to disregard the first application process and revise the qualifications for the second, the two city employees asked not to apply were denied their rights to a fair, equitable application process.
- Now, Mr. Beckman just may be telling “the truth, the whole truth so help him God” **about the results of the second interviews but that does not explain the outcome of the first application process which has been “covered-up”** and documents not revealed when requested for disclosure during my personal limited investigation in May 2005.
- I first heard about this state of affairs when casually speaking to one of the City’s employees soon after Anderson was appointed. The individual expressed deep disappointment about Anderson’s appointment for the two reasons, 1. his having been asked by Beckman not to re-apply and 2. the promise made to all Public Works Staff in the same room that Anderson would not be selected in language too fierce to mention at this time. A proper investigation will support this fact.
- I recall as well as if it was said yesterday, the Public Works employees got together and decided there would be little they could do about the disappointment so they would give Leslie Anderson the benefit of the doubt and give him a fair chance to demonstrate his managerial skills. In other words, they would “bury the hatchet”. Regardless, soon, Anderson’s hostile, sociopathic management skills led to internal strife and anger.
- Nobody would waste the energy to correct the management defect at the time because it was commonly believed that Mayor McCune would not alter the outcome because it was clear he was a party to the conspiracy and fear McCune would likely fire any employee who would question, let alone challenge the results of the application process.
- Mr. Beckman benefited twice from the City of Stanwood hiring policy when hired as Director of Public Works and later to City Administrator but for an unexplained reason Mr. Beckman refused to carry out the policy with regard to replacing John Magill and Jerry Fure. The answer lies in the twisted results of the application process to, in effect, get the job for Anderson.
- Any good judge would be hard pressed to believe the City would waste the time and expense to carry out the application process twice, especially when Anderson himself was an applicant the first time unless there was a conspiracy to overturn the results of the first process. Beckman could testify that there were no worthy candidates the first time as a justifiable reason but then, that won’t work because Anderson was one of the candidates who later was selected on the second attempt.
- Within weeks of Mayor McCune’s stepping down as Mayor, I was in Beckman’s office with the idea in mind that with just enough encouragement, Beckman might decide to put

his country and his city first, before himself, by taking the steps necessary to correct the wrong leading to the Anderson hiring. At that time he advised me that there was quite serious unhappiness among the rank and file as a result of Anderson's poor management style. I used as a ploy to encourage him to believe that he would be forgiven for such an indiscretion under duress or undue influence from Mayor McCune as long as he would take advantage of this new opportunity to set the record straight. Bill, was not about to admit to me he had made such a costly error but I told him that had hoped to "plant the seed" of thought to bring him over the edge to do so should his conscience be bothering him. I waited several months for him to act on his own but to no avail.

- Erik made a second appointment with Bill for the same purpose. Then a third attempt including Mayor Kuhnly, hoping that my discussion with Bill before the Mayor would lead the Mayor to succeed where I failed to get Bill to admit to and correct the major defect creating disillusionment within all city departments and believe there might be something to Abrahamson's contention and therefore instigate an **effective** in-house investigation. Again Beckman earnestly vouched for the legitimacy of the second application process refusing to discuss the first. Before the mayor he very convincingly swore as though on a stack of Bibles that he would not allow any such chicanery even under the influence of the previous mayor – the mayor who appointed him to his job as Director.
- Erik left the matter in the hands of Mayor Kuhnly with deep hopes the Mayor would get to the bottom of this crisis that was poisoning the atmosphere in all city departments.
- One day Abrahamson got the drift about the expensive "needs assessment" by a department of the Association of Washington Cities to determine the basis for the disaffection within the ranks of City employees. He followed the progress of the sessions for quite some time. It appeared Beckman wanted to prove the disaffection was caused by an undisciplined employees of the rank and file and that maybe some people should lose their jobs. Certain employees were intimidated from telling the truth, not allowed to speak candidly during the so-called "conflict resolution" sessions. The notion of "conflict resolution" rules out "correct identification of the problem" and works to encourage employees to "Just get along" and the problem will correct itself. Nonsense! It is management's job to "identify the problem" then "correct it" because it will not "correct itself". Then, "eliminate the problem" = termination. There are those who would say such management practice is outmoded. The needs assessment turned out to be nothing more than an attempt to get people who know better to learn to like and live with the problem without complaining. In this case modifying the problem will not correct the conflict because the manager trying to modify himself at taxpayers' expense should never have been in the management position in the first place. Secondly, the higher management, Beckman, did not want to admit that he had committed a gross error in management years before when Anderson was appointed.
- The consequence of management misconduct, for which Bill Beckman turns out to exhibit equally weak management style as Anderson, after all these years, is that the City of Stanwood has lost many otherwise good, already trained employees who have quit in disgust. Young men who had hopes of a career with the City have been compelled to look elsewhere. The City has had to train many new people, a costly expense. Each ex-employee over the last five years should be "deposed" as to why they quit or why they were fired. Then, the employees who know the truth, who know what to compare working relations today with when comparing working relations of the past. New employees don't know much, they have nothing to compare the past with the present, therefore, their opinions are less valid than those who remain and less valid than those who have left at Stanwood's loss.

- Of course, the losing of skilled, experienced employees to be replaced by new, unsuspecting entry level recruits is a relatively often undetected method used by poor management to sustain their survival that can occur only in city, county, state and the federal government with the exception of governmentally financed companies like Boeing and other corporate welfare recipients.

In Summary:

- Mr. Beckman has chosen to overlook Anderson's managerial misconduct and also chosen to overlook the dishonesty of at least two employees who should have been terminated for "theft" of taxpayer revenue to the city. Is this what they call "political correctness in government" gone awry? There was no attempt to discover how often and for how long these employees were cheating as they misread their own water meters -- old friends of Bill Beckman from the old Water Department days. All this also will come out in the open only with an investigation. Is Bill Beckman deciding to keep a controversial manager because the guy might end up embarrassed before his family? Since when is government supposed to charge the taxpayers for second-rate government service because of fear of hurting someone's feelings or fear of a lawsuit from the perpetrator? Keeping dishonest employees, poor employees, wrongfully hired employees because they are personal friends of management has added to the anger and disappointment of disgruntled employees.
- If the members of both interviewing committees are deposed, they will admit what is true if promises are made to keep such information confidential to secure their jobs with their own cities and if they are given immunity from prosecution. The second committee probably did select Anderson as Beckman claims. However, it is the first interview committee's work that was thrown out to give Anderson another chance.
- I am witness to Les Anderson's verbal misconduct as a councilman, as he, along Mayor McCune conspired, using their political power to abuse certain citizens including one who was one of their key Public Works managers, Jerry Fure. When asked I will give details of those observations.
- Not only will a proper investigation reveal the wrongful hiring of Mr. Anderson but it should reveal as well the verbal and psychological abuse Mr. Anderson has imposed on otherwise worthy citizens and city employees, not only within the Public Works department.
- A proper, formal investigation **designed to seek the truth** would likely provide all the information needed to ascertain which candidate in fact was selected on the first attempt and thus correct this management indiscretion by setting aside Anderson's appointment, reprimanding Bill Beckman, demoting Bill Beckman and replace Anderson with the individual who was, in fact, selected legitimately without chicanery.
- The longer this defect in city management exists the more difficulty to correct it. It is never too late, however, to take charge of what ails our city management although some will agree the contrary to be true. Be wary of "random" rather than "valid" opinions in such matters. Of course, there is always the option of not doing anything because doing something takes more effort when council members are already overworked. Doing nothing will be less expensive. Is this a legitimate reason for allowing dissatisfaction among and abuse of the rank and file to continue? Is it OK that someone should be earning a handsome salary at taxpayers' expense who not only was wrongfully hired but has exhibited anti-social behavior before and after getting the job and go unchecked?

Dear Andy and Shelley,

When I began I had visions of saying on one page all that needed to be said to get the Council's attention. I just could not do it. I am always concerned about leaving out something essential that may cause this effort to fail. I cannot wait any longer to get the "perfect" document for you to work with by more, repeated revisions. This information is intended to **"get the attention"** of Council members and hopefully inspire a **formal investigation**. It is clear that there is no longer hope that Beckman will do what he should have done on his own after the departure of Matt McCune. Herb Kuhnly wiped out any chance this Mayor will do anything on her own. She will need pressure from you. Only an outside "force" backed by the power of the courts can be in a position now to put the necessary fear into individual parties to be truthful, to instill fear for one's own reputation as greater than their weak-minded fear of "hurting someone else's feelings"; fearful of being charged with perjury if they fail this time to answer with the truth and end the lies. The wrong must be righted at whatever cost it takes so that Truth, America's greatest asset can live in perpetuity. Imagine how difficult and costly it was to bring "Tammany Hall" to its knees. This, then would appear to be trivial while essential. Evil only prevails when those who know right from wrong refuse to take up arms against it. The evidence that we are dealing with evil is the resultant "poison in the air", pervasive discontent, dissatisfaction among city employees.

I tried to get Bill Beckman to take charge of this problem the inexpensive way. He chose to take his chances. Only you will determine if Beckman made the right decision to favor himself.

I tried to get Herb Kuhnly's attention after Matt left. I left him with enough information that should have caused him to investigate the allegations, not to rely upon Beckman's word. He does know that but his reluctance was a mistake.

I tried to get the Mayor Elect and the new Council to WONDER if there might be something to these allegations that Abrahamson presented them. I truly thought their wonder might result into seriously checking things out. Obviously, Herb put everyone's mind at ease January 5th. Not good for the City of Stanwood in spite of everyone's earnest desires to "make a difference", as they say.

Outside of this incident, the City is being operated rather well. That does not mean that the subject incident is insignificant. You will not be able to rely upon the City Attorney to do the investigation. His position naturally makes him an impartial third party who may be drawn easily into the cover-up under the guise of "saving money". While it is essential that we always take seriously every penny of taxpayers' money, the costs to the city of this incident have been great due to the turnover rate of employees over the past five years, especially in Public Works and to be included Anderson's negligence of his duties that led to the sewer catastrophe a couple years ago still pending -- another cover-up as the City has legally tried to make it appear only the contractors were responsible. The resultant unnecessary costs to the city due to the hiring of Anderson will not stop.

One thing I left out of the following that could be critical is the real reason Anderson left his supervisory job at Chris Craft in Bellingham and Anderson's abuse of singled out citizens of the City while on the Council he perceived himself as

Stanwood's personal "goon squad". People do not quit supervisory jobs to drive truck. I have a \$100 bill that says he was fired due to his inability to relate to **any individual he perceives to be under his authority** and that any recommendation from Chris Craft was a "quid pro quo" to get him to leave quietly. It is called "political correctness" gone awry. Only under the threat of perjury would his boss at Chris Craft reveal the real reason Anderson's employment was terminated.

This is why it is now time to take the bull by the horns and take charge of those ills that pervade the otherwise smooth running of Stanwood City government. I have been witness to his verbal assaults on and harassment of his neighbors, his garbage man and other citizens he personally viewed as out of compliance with his idea of how the City should look under the "Design Standards Ordinance" crafted by he and Matt McCune "to get" certain, targeted citizens = using "police power" to attack and abuse honest, hard working, working stiffs who didn't measure up to his personal standards while his own back yard along the alley was a disgrace. He is a neighborhood bully and you have no idea now of how many others were astonished when Anderson was given actual authority by the city by his appointment as Superintendent of Public Works.

I did not include in the following document the garage he built after getting the Public Works position which, although **somehow** it was approved by the building department, **is out of compliance with that very Design Standards Ordinance** he was equally responsible for crafting. Abuse of the public trust in the performance of an employee of the City.

To: Shelley Klasse and Andy Chappel

FROM: Erik

SUBJECT: Revision of September 1 cover-letter to September 1 MEMO

DATE: September 7, 2006

While glancing at to cover letter yesterday I noticed that I made an error that could be confusing . The third sentence of the 5th paragraph should read,

His position naturally makes him a partial, not an impartial third party who may be drawn easily into the cover-up under the guise of “saving money”.

27119 102ND Dr. NW
Stanwood, WA 98292
December 1, 2006

TO: Councilwoman Mrs. Shelley Klasse
Councilman Mr. Andy Chappel
SUBJECT: Memo to you of September 1, 2006

Three months have passed since you received the subject memo which, I was happy to learn, promptly found it's way to Mayor White, the rest of the Council Members and Stanwood's newly appointed Human Resources Director. However, I have no evidence that there is any serious effort of this Council to cause a thorough investigation of the allegations listed in the subject memo. Any hesitation may be related to some misunderstanding of just what authority a majority Council may have.

I am obligated to remind all Council members that the wonderful design for City Government by our Forefathers under State Law and carried out by the City of Stanwood now for many years is designed, as is our federal government, for a wonderful system of "checks and balances" or "balance of powers"

If the Mayor's Office, the Administrative body of the City Government fails to carry out a most serious task such as the one I have identified and proposed, it is incumbent upon the Council, beginning with the "Personnel Committee", to take any of those steps available to Council to assure any serious administrative matter is thoroughly dealt with regardless of mayoral recalcitrance or evident opposition. An outside attorney will likely have to be consulted, and promptly because it is our City Attorney's responsibility to save the city from possible, legal expense or embarrassment.

"Time is of the essence" due to inaction by Mr. Beckman and Mayor Kuhnly. The Association of Washington Cities may offer valid help in such matters but, since they were responsible for the failed, needless, expensive, so-called, "Needs Assessment" to resolve Stanwood's growing employee discontent and dissatisfaction due to faulty administrative guidance, it seems likely they might try to "cover-up" their own failure that ended up actually exacerbating the employee discontent due to flawed management. There are several key witnesses who have by now retired, left City employment due to dissatisfaction along with the wrongly terminated who, when deposed will be eager to clear up the many unanswered questions, essential to resolving the hidden, deep seated dissatisfaction and discontent among employees from hourly to salaried. .

If there should be any further administrative attempts to "obstruct justice" by not only Mr. Beckman but the Mayor, or City Attorney, the Council has authority to take matters into their own hands one way or another to assure justice for the Stanwood City employees and taxpayers. The allegation of administrative malfeasance and obstruction of justice leading to my September 1 MEMO must be thoroughly investigated, verified and done so promptly so charges can be filed in the best interest of the taxpayers who are at the mercy of government which has the responsibility to operate with integrity.

My last step after these overly patient four years is to take this issue to the best investigative reporter in the media I can find to expose the City of Stanwood corruption.

cc: Mayor White, other Council Members and Director of Human Resources.

27119 102nd Dr. NW
Stanwood, WA 98292
February 21, 2007

City of Stanwood
City Council Personnel Committee
Mrs. Shelley Klasse
Mr. Andy Chappel
10220 270th St. NW
Stanwood, WA 98292

Dear Mrs. Klasse:
Dear Mr. Chappel:

Please read the enclosed copy of Mr. Weed's letter first.

What began as a visit to a friend, March or April 2004, to encourage him to do what I was sure he was wanting to do anyway but doing so would take courage and maybe just needed a little encouragement to pull him over the edge to correct a serious "wrong" imposed upon Stanwood City employees, has, with Mr. Weed's letter turned out to be a classic "Tammany Hall" styled cover-up, a continued abuse of the taxpayers' trust in local government as has happened so many times in American history as one or another individual around the country tried to achieve his American dream at the expense of others in public service, deluding himself to believe he is above the law. This is a case where two individuals, not one, continue to prove the great experiment in "self-government" will not survive because self-government depends upon "trust", "trustworthiness" and the code of "personal responsibility" to do what is right when everyone's back is turned without the need for lawyers.

Mr. Weed has wrongly perceived the overriding issue of my efforts to be **"the process by which the Public Works Supervisor was hired"**. While that process is the origin of this unending "matter", **the overriding issue has been a tragic, five years of a "hostile work environment"**, a consequence of that "process". Abuse of power by management has created deep-seated dissatisfaction, deep discontent, as well as "fear for their careers" among both, the career Public Works employees, as well as many career personnel in City Hall due to attempts by management to use the weapons of fear, threats, verbal abuse, lies, misrepresentation, even wrongful terminations to create the illusion that five years of internal strife is the fault of employee, not management misconduct. Some City employees experienced a hostile work environment even prior to the hiring of the Public Works Supervisor during the days when he was still on the City Council. Mr. Anderson was frequently known to exercise an imaginary authority over City employees, verbally abusive as he would boss them around, and verbally abusive of citizens outside City Hall as he exercised his personal, hostile, sociopathic demeanor over anyone he views as "beneath his authority" -- city employees, innocent citizens around town and employees of other businesses. The "proper investigation" proposed by me for some four **Mr. Weed mentions three correspondences from me.** There were more efforts than those three correspondences dating as far back as two months after the departure of Mayor McCune. years now would uncover evidence of these allegations as well.

There were two meetings and a written correspondence to first encourage Mr. Beckman himself to correct the error, then a meetings with Beckman and Mayor Kuhnly and since that time, correspondences asking Mayor Kuhnly, later Mayor White and Council to initiate a proper investigation into the allegations put forth. Believing over the months that Mayor Kuhnly was doing an inside investigation, I was taken by surprise, as were many key personnel in City Hall “in shock” even at the management level in City Hall when Mayor Kuhnly, without prior notice and without opening the position publicly for others to apply, promoted Mr. Beckman to City Administrator. Not good.

In place of my suggested “investigation”, Mr. Kuhnly did authorize what became known as a ‘City Needs Assessment’, a conflict resolution attempt, contracted with the Association of Washington Cities, evidence that Mr. Kuhnly did wonder about discontent, dissatisfaction among the ranks, a possible “hostile work environment” related to the hiring and keeping of the subject Public Works Supervisor on the City payroll.

To my knowledge, not one Council person has yet been invited to read the results of that expensive undertaking. The continued non-disclosure of the cost and the results of that undertaking appear as possible, additional cover-up for many wrongdoings by management leading to the overriding issue, a hostile workplace for dedicated, conscientious City employees at all levels.

Mr. Weed claims that my past correspondences (allegations) **do “not appear to present any evidence of unlawful activity”** as though that would justify five years of citywide management dysfunction. Such evidence, however, can only appear after a proper investigation is able to substantiate the basis for the allegations made. Council must demand a thorough investigation to avoid potential, costly lawsuits. Evidence found through an effective investigation will reveal the **following unlawful activities...**

1. conspiracy to circumvent Stanwood City Ordinance governing the City Hiring Policy four years ago by ordering certain employees from within not to reapply;
2. conspiracy to rig the hiring process by disqualifying the legitimate qualifying candidate in the first application process and then creating a “no lose” environment for Anderson to get appointed in the second application process.
3. Washington State Law governing City Council member conduct disallows a City Council member to take any unfair advantage to compete with and deny advancement of existing employees “within” the City;
4. the City is in conflict with Federal E.E.O.C Law by permitting and attempting to cover-up a four year ± “hostile work environment”; by engaging in “age discrimination”, to wrongfully terminate and to cause the early retirement of dedicated, career employees, some who had to seek counseling due to emotional stress from the experience; compelling younger, trained, career city employees to quit and seek a career elsewhere.
5. State Law, Federal Law or both have been broken when requests for disclosure of public documents about the first application process were denied during my simple investigation, under the excuse the records did not exist. If it is true the requested documents do not exist destruction of public documents would be against the law. “Obstruction of justice” would have occurred had the documents been destroyed as a result of my request. A proper investigation would easily reveal the truth about those incriminating documents.

This Council and Mayor White have a chance to “stop the buck here”. It should have been stopped four years ago by Beckman himself after the departure of Mayor McCune. I had hoped Mayor Kuhnly would naturally be inspired to do so. A thorough investigation must not only include depositions from both past and present employees regarding their personal experience with management but should include an inquiry into the validity of Mr. Anderson’s letter of recommendation as a so-called manager at Cris Craft. One or two of those who worked under Mr. Anderson must be deposed. Because 21st Century liberal law makes it legally dangerous for a previous employer to give a truthful, other than good recommendation about a previous employee.

Recommendations of previous employers can no longer be relied upon. By observing Mr. Anderson’s personal conduct over the last fifteen or so years, I would guess, but verify, that he was asked to leave Cris Craft. Therefore, his recommendation from Cris Craft would be invalid management credentials when applying for the subject position if, in fact, a favorable letter was part of a deal provided he leave Cris Craft quietly. Mr. Anderson suffers from what will be evidenced as deep, sociopathic character flaws that are not conducive to positive leadership as a public servant, let alone manager over others. Along with Mr. Beckman’s refusal to admit an error in hiring, the decision has been made to just cover up the error.

So now, where do we go from here? Where do the taxpayers go for relief when their trust in their public servants has been abridged and the City Attorney “hears no evil” nor “sees no evil, misleading you to believe it is best to “let sleeping dogs lie”?” “Tammany Hall”, Chicago Mayor Daley, Huey Long and other cases of city corruption also hired the best lawyers in town to legally cover up governmental misconduct.

During the years of delays in response to my attempts to persuade management to correct it’s own errors, City management strategy has been to “create attrition”. By making life uncomfortable current management has compelled career employees in Public Works to abandon their careers; wrongfully terminating employees who simply tried to represent themselves when in conflict with management; compelling early retirement of faithful employees in City Hall recklessly disregarding the desires of dutiful, reliable employees to continue working for the City, then replacing them with younger employees who know nothing about the past, believing they can further cover-up the hostility in the workplace by doing so. Such is the self-serving management style today in Stanwood. Abusing the lives of innocent, conscientious employees just to perpetuate the cover-up of a hostile workplace cannot be allowed to continue.

Equally annoying to the taxpayer has been the additional cost to the city to train new employees when the City was already staffed with good, well-trained employees both in Public Works as well as City Hall services. Current mismanagement thinks they have successfully destroyed the evidence by getting rid of those employees who know the truth, but management does not realize those same individuals will make great witnesses even in their absence when the Council demands a “proper”, thorough investigation of managerial misconduct at taxpayers’ expense. Stanwood is desperate for the kind of leadership that made this country great. Council should know that over the years every time another of my letters has been received by the Mayor or Council, management behaves with humility, if not contrite in the eyes of staff as if in fear that this time the truth might become exposed. Then, as soon as the danger appears to be over again, as

with this letter from Mr. Weed, their overbearing, self-serving, dishonest “management by intimidation” style reappears. Is Council willing to take the lead? You cannot depend on your managers to do so. They are both busy serving themselves, not the taxpayers of Stanwood. You are the last chance of Stanwood City Employees and taxpayers. You should decide whether the “matter is closed”.

Sincerely yours,

Erik R. Abrahamson, Taxpayer

cc: Councilman Conrad Ryer
Councilman Arne Wennerberg
Councilman Bill Carlton
Mr. Grant Weed, City Attorney
Mayor Dianne White
Stanwood HR Director, Mathew Pruitt

27119 102nd Dr. NW
Stanwood, WA 98292
~~February 21-~~ March 9, 2007

City of Stanwood
City Council Personnel Committee
Mrs. Shelley Klasse
Mr. Andy Chappel
10220 270th St. NW
Stanwood, WA 98292

Dear Mrs. Klasse:
Dear Mr. Chappel:

Please read the enclosed copy of Mr. Weed's letter first.

This is a "matter" where two individuals, not one, continue to prove the great experiment in "self-government" will not survive because self-government depends upon "trust", "trustworthiness" and the code of "personal responsibility" to do what is right when everyone's back is turned without the need for lawyers.

Mr. Weed has wrongly perceived the overriding issue of my efforts to be "**the process by which the Public Works Supervisor was hired**". While that process is the origin of this seemingly unending "matter", **the overriding issue has been a tragic, five years of a "hostile work environment"**, a consequence of that hiring "process".

Mr. Weed mentions three correspondences from me. There were more efforts than those three correspondences dating as far back as two months after the departure of Mayor McCune in 2003.

In place of my suggested "investigation", Mayor Kuhnly did authorize what became known as a 'City Needs Assessment', a conflict resolution attempt, contracted with the Association of Washington Cities, evidence that Mr. Kuhnly did wonder about discontent, dissatisfaction among the ranks, a possible "hostile work environment" related to the hiring and keeping of the subject Public Works Supervisor on the City payroll.

Management tried to rig the outcome of the Needs Assessment by denying the participation of certain employees. The woman presenting the program could more easily describe those attempts by management to affect the outcome of that study.

To my knowledge, not one Council person has yet read the results of that undertaking. The continued non-disclosure of the cost and the results of that undertaking appear as possible, additional cover-up for many wrongdoings by management leading to the overriding issue, a hostile workplace for dedicated, conscientious City employees at all levels.

Mr. Weed claims that my past correspondences (allegations) **do "not appear to present any evidence of unlawful activity"** as though that would justify five years of citywide management dysfunction. Such evidence as Mr. Weed appears to need before he

recognizes a problem, however, can only appear after a proper investigation is able to substantiate the facts as the basis for the allegations made. Council must demand a thorough investigation to avoid potential, costly lawsuits. Evidence found through an effective investigation will reveal the **following unlawful activities...**

1. conspiracy to circumvent Stanwood City Ordinance governing the City Hiring Policy by ordering certain employees from within not to reapply for the position of Public Works Superintendent;
2. conspiracy to rig the hiring process by disqualifying the legitimate qualifying candidate in the first application process and then creating a “no lose” environment for Anderson to get appointed in the second application process.
3. Washington State Law governing City Council member conduct disallows a City Council member to take any unfair advantage to compete with and deny advancement of existing employees “within” the City;
4. the City is in conflict with Federal E.E.O.C Law by permitting and attempting to cover-up a four year ± “hostile work environment”; by engaging in “age discrimination”, to wrongfully terminate and to cause the early retirement of dedicated, career employees, some who had to seek counseling due to emotional stress from the experience; compelling younger, trained, career city employees to quit and seek a career elsewhere.
5. State Law, Federal Law or both have been broken when requests for disclosure of public documents about the first application process were denied during my simple investigation, May 2005, under the excuse the records did not exist. If it is true the requested documents do not exist, destruction of public documents would be against the law. “Obstruction of justice” would have occurred had the documents been destroyed as a result of my request. A proper investigation would easily reveal the truth about those incriminating documents.

This Council and Mayor have a chance to “stop the buck here”. It should have stopped four years ago and it should have been stopped by Beckman himself after the departure of Mayor McCune in 2003. I simply, wrongly believed Mayor Kuhnly would have been naturally inspired to help Beckman follow through but it soon became clear Mayor Kuhnly was going to allow Mr. Beckman to take his secret to retirement.

During the years of delays in response to my attempts to persuade management to correct it’s own errors, City management strategy for survival has been to “create attrition”. By making life uncomfortable for certain employees management has compelled otherwise career employees in Public Works to abandon their careers; wrongfully terminating employees who simply tried to represent themselves when in conflict with management; compelling early retirement of faithful employees in City Hall recklessly disregarding the desires of dutiful, reliable employees to continue working for the City, then replacing them with younger employees who know nothing about the past, believing they can further cover-up the hostility in the workplace by doing so. Such is the self-serving management style today in Stanwood. Abusing the lives of innocent, conscientious employees just to perpetuate the cover-up of a hostile workplace cannot be allowed to continue

Not yet mentioned in any of my correspondence was the absolute, reckless disregard Mr. Beckman exhibited after a “no-confidence in management” vote was taken among the rank and file in Public Works to get Mr. Beckman’s attention. As I recall, it did make the Stanwood News. The employees were desperate for Beckman’s help to correct the hiring error. Many of the women in City Hall applauded the idea but refused to participate due to fear for their careers. There are many tales that Council needs to know about that are too numerous for me list in this letter.

Equally annoying to the taxpayer has been the additional cost to the city to train new employees to replace those caught up in the “attrition” scam. Current mismanagement thinks they have successfully destroyed the evidence by getting rid of those employees who know the truth, but management does not realize those same individuals will make great witnesses even in their absence when the Council demands a “proper”, thorough investigation of managerial misconduct.

Council should know also that over the years every time another of my letters has been received by the Mayor or Council, management behaves with humility, if not contrite in the eyes of staff as if in fear that this time the truth might become exposed. Then, as soon as the danger disappears again, as with this letter from Mr. Weed, their overbearing, self-serving, dishonest “management by intimidation” style reappears.

Stanwood is desperate for the kind of leadership that made this country great. Is Council willing to take the lead to correct the mismanagement of Stanwood’s Public Works and Office Staff? You cannot depend on your current managers to be the positive leaders you expect. They are both busy serving themselves, not the taxpayers of Stanwood. You are the last chance for the remaining career City Employees. It is up to you to decide whether the “matter is closed”.

Sincerely yours,

Erik R. Abrahamson, Taxpayer

cc: Councilman Conrad Ryer
Councilman Arne Wennerberg
Councilman Bill Carlton
Mr. Grant Weed, City Attorney
Mayor Dianne White
Stanwood HR Director, Mathew Pruitt

TO: All individuals listed below

FROM: Erik Abrahamson

DATE: March 10, 2007

SUBJECT: Letter from me dated February 21

I noticed that after weeks of trying to get that letter off to you I failed to change the date on the letter to conform to the time you received it although my efforts did begin February 21.

Please substitute the attached updated first page of that letter indicating it to have been finished the same day it was mailed, March 9, 2007.

Councilman Andy Chappel
Councilwoman Shelley Klasse
Councilman Conrad Ryer
Councilman Arne Wennerberg
Councilman Bill Carlton
Mr. Grant Weed, City Attorney
Mayor Dianne White
Stanwood HR Director, Mathew Pruitt

27119 102nd Dr. NW
Stanwood, WA 98292
~~May 18; June 15, September 6, 8, 10 2007~~

Mr. Herbert Kuhnly
27230 Manor Pl. NW
Stanwood, WA 98292

Eight Pages
FOR DISCUSSION ONLY, NOT THE FINAL DRAFT
This is a copy

Hi, Herb,

I hope you are rested up and enjoying your life. Thank you for being willing to continue reading.

Herb, the other Taxpayers of the City of Stanwood don't know it but they need a few more minutes of your time. I believe you will agree with me after you have read what I have to tell you today.

Before proceeding, I would like to take the liberty to refresh the concept of a friend vs. an acquaintance. An acquaintance is viewed merely as someone you have met and may even know to one degree or another. A friend, on the other hand, is an individual that you have not only met but you have come to believe to be trustworthy, someone you have come to trust, someone you can turn your back on with confidence they will not deceive nor harm you. Herb, you may be Bill Beckman's friend but he is no friend of yours. Please read on.

While the principle of Trust is one of those principle ingredients of "personal responsibility", an essential characteristic to raise in our children who wish to be citizens in a free country, there is the "necessity to trust" that others are as trustworthy as they are. The less assurance the other guy is trustworthy the less free we will be because there will be a need for authority outside the individual to govern us for every individual who is untrustworthy. Is it any wonder we have such "big government" today? The nature of Trust has been known to be an Achilles heel more for republican forms of government than monarchies or dictatorships because one untrustworthy individual can cause so much damage when he abuses that Trust that others have that he is as trustworthy as they to do the right thing when nobody is looking. Thus lies the explanation for 9/11 in the American experience. For the most part we, in our rapidly decreasing free country, have been able to go about our daily business without fear of who is walking behind us, flying with us on an airplane, until we discover there are those among us who cannot be trusted when our back is turned, an extremely disconcerting experience.

This letter is intended to inform you that Bill Beckman, a man you have come to know and have trusted in your decision-making as Mayor of Stanwood, was not honest with you. My trust in you as a worthy Christian has led me to believe you don't know that you have been deceived and want to know the Truth and that you would want to do your level best "to correct" any defects you can in the management of the City of Stanwood's affairs due to your having been deceived by having placed your trust in the wrong person. After all, one of the principle definitions of "effective management" is 'to be able to identify defects in the organization and find solutions to effectively correct

them.' While having trust in others is essential, management is all about **"verification"**.

I shall be anti-climactic. The purpose of this letter is to beseech you to do all you can to persuade Mayor White to demote the man you have perceived to be your "friend", Bill Beckman, immediately back to the position he held prior to your having promoted him to City Administrator the last months you were in office. We now have a new Public Works Director but that's OK, Beckman can be the Public Works Director about to be replaced.

Mayor White could never be expected to do so without your encouragement out of deference to the fact it was you, not she who promoted Mr. Beckman to the office and salary for which both you and she have trusted that he was worthy. We owe Mr. Beckman no favors nor courtesies for the deceptions he has engaged in to deceptively feather his own nest preparing for a handsome retirement. This has been a classic case of a subject I have been writing about lately, "government service" these days, under liberalized management influence, being the Klondike and Sutter's Mill of the 21st Century for "striking it rich", government employees seemingly just too often need not compete in the free market of candidates where as in private enterprise one has no choice but to do so.

You may recall that before you made the final decision public about Beckman's tentative promotion I slipped you a note beseeching that you consult first a list of City employees, very worthy, knowledgeable people about what has really been going on in City government, to chat with them casually about your intent to promote Beckman to that highest position to determine if doing so would be a good idea for morale within City Hall and fair to the taxpayers who would pay his salary and we can't forget those also who would view themselves as potential candidates to be considered. There are those that were deeply shocked that you did not open the job up for applications and allow Mr. Beckman to go through the process Anderson faced and failed two times. Somehow I don't believe you accepted my invitation to talk to those I suggested because I am convinced that if you had done so, you would unlikely have gone through with Beckman's promotion. If, on the other hand, you did speak to them, I take it all back. Just for an example, had you opened the position up for applications, Tim Nordtvedt would have likely been a far superior candidate for City Administrator than Bill Beckman, maybe even Stephani Cleveland. What follows here in this letter will be evidence of that very possibility. Others on the list were seasoned employees who have lived through Beckman's blunders for years before you even got on the Council. I won't talk about individuals but please be assured, I have never discussed Beckman with anybody on that list but I simply am aware of thoughts they have shared with others. It is sad that most on that list have since been forced into early retirement, a waste of trained, experienced valuable personnel. I have wondered if Bill Beckman ever got hold of that list?

To refresh your memory, the outset of my attempts to help the taxpayers of Stanwood see correction of a major management flaw or defect in the City's operations occurred around two months after the departure of Mayor McCune. To review, in a personal meeting, I appealed to Beckman to take advantage of the opportunity afforded by McCune's absence and possible previous "undue influence" as in the hiring of Anderson. The purpose for my meeting with Bill was to encourage him to take the risk to

do what he knew he should do anyway. I appealed to Beckman's highest sense of honor and integrity, "now that the cat is away", to correct McCune's abuse of the public trust in "the conspiracy" to appoint Les Anderson to replace John Magill.

I waited many months after that to give Beckman time to get himself together, to be his "best self", to do on his own what he knew he should do even at the cost of embarrassment to himself for engaging in the conspiracy at the expense of all the "trusting applicants" invited to apply through the newspapers and the "trust" those on the interviewing committees had that the results of all their time spent and efforts would be handled professionally and above-board. I tried to convince Bill to rely upon his conscience, that such honesty would be the right managerial decision to correct the discontent in all City wide public services and encourage any forgiveness necessary for his participation in the cover-up as he could restore rank and file confidence in City management.

As the months passed, it was becoming clear Bill had no intention of correcting the error. In the meantime, employee/management relations were deteriorating ever more rapidly. It did appear to observers that Bill and Les were becoming pretty good friends. You recall I asked for another meeting with Beckman but this second or maybe even third time was in your presence, hoping that after my departure from that meeting, regardless of the outcome, your curiosity and wonder about the truth would put the pressure on Bill to come clean because that error in management was the fundamental basis for employee psychological abuse under Anderson and lowered morale both within City Hall as well as in Public Works. Worse, Beckman's refusal to take "corrective action", the very job of management for which he collected even back then a fairly handsome salary, gave Anderson more self confidence to tyrannize employees both in City Hall as well as Public Works with his thoughtless haughtiness and arrogance.

Evidence collected will easily demonstrate that Anderson exhibits few, if any, redeeming character traits that will justify his having lasted six months with any authority over others in a management position. Worse, collected evidence will demonstrate that Mr. Beckman has been an ineffective manager since before this incident. A list of witnesses with years of history within City Hall are available to set aside any doubt about every word I have written. When an individual like Mr. Beckman manages his own private company, he can do pretty well whatever he wants so he and John Case could drink all day long and get away with it for there were few, if any, shareholders to hold him to account. It is not yet clear if anyone has been holding Mr. Beckman to account as a public servant. Bill Beckman is a fast talker, as most alcoholics develop the skill to cover-up their failures. Mr. Beckman's lack of management skill using trickery, lies, innuendo over the years is not effective management although he did succeed in looking like a manager from the outside as both he and Anderson would simply tell the rank and file with valid concerns, 'if you don't like it look for another job'. People in private business can get away with poor management practices like that. Not in public service. Mr. Beckman lost the confidence of the rank and file both in City Hall as well as Public works over four years ago due to such underhanded tactics as lying to subordinates as a strategy instead of actually problem-solve. We have a number of witnesses willing to testify about Beckman's dishonest practices to "cover" his failures for which he has

gotten the credit, but then again, maybe that could be a new style of management under liberal philosophy? If so, do we need to pay these charlatans these “strike it rich” salaries and benefits at the hard working taxpayers’ expense? We have the evidence as high as your previous City Clerk who was repeatedly discouraged about the dishonest practices she observed in Stanwood City Government. She probably often witnessed what I often witnessed, Anderson’s tendency to “show off” with tough talk about this person and that person, in particular Jerry Fure, like a “Mafioso” who wants to snuff out his opposition,

Certainly you recall how firm Bill was when he answered to my appeal that he take charge of Matt McCune’s wrongful appointment and straighten things out. He said, to paraphrase, ‘**as an employee of the taxpayers I would never participate in a dishonest hiring even at the request of any Mayor**’. He said, something to the effect ‘**I would risk being fired for refusal to obey such an order**’.

Now, Herb, you heard that remark. I heard that remark. I had confidence in your previous management experience to be sure there was enough element of doubt about my allegations that would have led you to accept my invitation to **investigate and “verify”** Beckman’s participation in the hiring of Les Anderson especially when he repeatedly avoided answering questions about the results of the first application process. Again I patiently waited months as I was sure, having been president of a company in my own time, enough suspicion had been raised to inspire an investigation of the issues I raised to you in follow-up correspondence which apparently and sadly went no further.

Since neither you nor Mayor White ever called to ask me to come in to discuss these matters I have been obligated to assume you believed and trusted Bill Beckman to the letter. Well, Herb, the circumstances have changed and therefore I know you want to know about these changed circumstances.

You deserve to know that about the first week in May of this year, Matt McCune, back in town, while having lunch with Mr. Pruitt, confessed that **he, in fact, is responsible for giving orders to Beckman to disregard the outcome of both the first and the second hiring processes and ordered Beckman to give Les Anderson the job of Public Works Manager. Matt admitted to Pruitt in so many words that from the beginning he had intended to give the job to Anderson regardless.**

This is the evidence that Bill Beckman lied to both you and me that day in City Hall and thereafter to Mayor White when certainly in January both you and he convinced the new Council that Abrahamson’s allegations are to be disregarded.

While Anderson’s appointment was a managerial travesty for both the worthy applicants and the citizens of Stanwood, Matt McCune or Bill Beckman had the authority to appoint Anderson to that position without having gone through the advertising, application and interview process, i.e. without the City of Stanwood Hiring policy just as you did in promoting Beckman to City Administrator with almost nobody else knowing about it. But, the fact that the Hiring Policy was applied, and two deceptive hiring processes were undertaken by advertising the available position twice in the papers, two sets of applications to be read and two interview committees all without the slightest intention of accepting the results in the first place is **fraudulent** to all applicants who depended upon the notice to the world in the papers that there was an opportunity. The now admitted fact that McCune was going to appoint Anderson to the position regardless,

to appoint a man who failed to impress two sets of interviewers is, in fact, not only a bad decision but conspiratorial. The question here is not the legality of the poor management practice. The point here is the misleading nature of Beckman's repeated lies, especially to you, and your trust in him prevented you from taking "corrective action". Certainly Beckman knew from the beginning of the process that McCune was going to give the job to Anderson. Therefore, Beckman and likely Anderson as well were all participants in the conspiracy. State law governing Council members getting special favoritism in applying for City jobs is another issue not yet dealt with. State Law is more to guide behavior than it is to punish. Effective management has respect for the law as a guide more than the fear of useless lawsuits.

Herb, how eager are you that this information should get into the hands of all those innocent applicants and interviewers that gave up their time in good faith to help Bill Beckman pull off a conspiracy? How eager are you to see what the applicants for the job have to say about their efforts, hopes and waste of time having been recklessly disregarded because of a pre-meditated conspiracy? What do you think the members of the two interview committees are going to think when the word gets out that their time and expertise were equally recklessly disregarded and their time wasted? How about all that extra cost to the City for advertising, copy work, redrafting the job description, inconveniencing two sets of applicants, giving them false hopes and wasting their time along with the two interview committees, misleading everyone concerned about the outcome of the appointment. As I understand it, McCune went so far as to admit to Pruitt that he **"...gave Les the job to get him off the Council and out of his hair"**. Not good! There are too many witnesses besides Matt Pruitt that won't allow Mat McCune to take back those words. What is that going to sound like when it hits the press?

The A.W.C. "Needs Assessment" was eventually called for, because the discontent in both City Hall and Public Works was apparent not caused by Anderson's having been hired but the dishonesty from the top and Anderson's virtually "evil" methods of dealing with subordinates. The only problem is that the findings by Janet Corbin will be turned on it's head by the truth, that the true reasons for the discontent was Beckman and Anderson's poor management style, not just a bunch of cranky, ungrateful Public Works trouble-makers. The trouble-makers were management itself. We will show that all those wonderful, dutiful career, City Hall employees who due to age discrimination were forced into early retirement, and good, career, Public Works employees who also will be effective witnesses to disclose both Beckman and Anderson's underhanded tactics to attack all employees previously under Jerry Fure would be made to feel unworthy compelling many to quit upsetting their life-plans, marriages etc. The question will be raised whether all this bad management practice had an even more sinister purpose i.e., to produce extra money to justify the excessive salary increases of both Bill Beckman and Leslie Anderson.

I have been waiting now since May to hear that the axe is soon to fall or has fallen on Beckman, the origin of likely to be one of the worst case studies of bad civil service management around. I find myself once again to be "tired of waiting" for somebody with authority to take "corrective action". The time has come for management to finally manage, actually a lost art in many cases of both private and public service over the last

thirty years especially.

Beckman, as a so-called manager, had the chance to be a hero to City Hall and Public Works employees back in 2003 by correcting this most heinous defect in civil service management after the departure of Matt McCune. Again, as I reported to you years ago, while it was the dishonest hiring of Anderson that upset the rank and file at first, they had decided to just let it go and forget it. It was Anderson's evil manner in the handling of his subordinates, appearing as though he viewed them as some kind of threat that caused fear and grief from Public Works to City Hall. Beckman rejected the opportunity opened to him to correct the management catastrophe. Instead one travesty has led to another until most of our senior, dependable employees have had their lives shattered. Nancy Fullerton is the only one left of the older but trustworthy "guard" in City Hall but only because she came into the City with Bill Beckman's Water Department remaining "protected" along with the two men who have been caught more than once malingering or stealing City revenue by presenting falsified water meter reports in their personal favor, and never mistreated like the honest employees by management. Meanwhile, otherwise good employees have had their careers uprooted, torn apart by both Beckman and Anderson's ruthless selfishness in covering up the truth leading you to believe the discontent among City staff was due to a handful of trouble-makers under Anderson.

After Beckman's refusal to take the bait I offered him to do what I was sure he would want to do anyway but maybe just needed a prodding, I opened the door for you to be the hero of Stanwood. It appears Beckman was able to talk you out of an "internal investigation" I proposed later on. We have lost four years straightening out this mess but Matt McCune has spared us a lot of trouble. You know it is never too late to do the right thing. You still have that chance to be Stanwood's hero by convincing Mayor White to demote Bill Beckman for his last months in office. He is not your friend. I feel badly being obligated to say that.

Verify what I have just said to you by contacting McCune himself or Matt Pruitt. Pruitt had a chance to be a hero but maybe Mayor White told him to "let sleeping dogs lie". Not a good idea. Instead he decided to lie low with the lower level thinkers like the City Attorney and such who I warned years ago was the wrong man to depend upon to solve this crisis. He gets paid for covering things up. That's what lawyers do when defending a client. The City of Stanwood is now no higher a level thinker than our local drug lords.

Because time is now more of the essence than ever before, I no longer can wait months to see if any of my correspondences inspire worthy action. Beckman can be demoted by Tuesday for lying. Lying is against the rules and sufficient for termination let alone demotion. Lying to employees as well as his superiors has become Mr. Beckman's standard of excellence. Too much time has been lost over the last four years waiting for the "right" decisions to be made. You will notice I have sent a copy of this to Mayor White so she will have time to develop an opinion preferably with but if necessary without your participation.

If I don't hear the word by Wednesday, September 12, that Beckman has been demoted forthwith, not waiting until October 1st for all the grief he has caused this City

and it's employees, I will give the go-ahead to a selected investigative reporter, not employed by the too politically correct Stanwood/Camano News (for fear of hurting someone's feelings) and we will see if enough pressure from the public can persuade Dianne White to put an end to the Beckman "saga" of mismanagement. The EEOC moves just too slowly. Beckman is a "fast talker", though. I'll give him credit for that. Have you ever met an alcoholic that wasn't a fast talker?

I suggest that

1. in exchange for accepting demotion for his remaining tenure as opposed to termination on the spot, Beckman be compelled to acknowledge which individual "got the nod" on both the first and second interview process and mail to each of them a written apology from him, with his deepest of personal regrets for the City's shameful conduct in wasting their time. It is about time Beckman earned some of that "strike it rich salary". He rarely does anything. We need to know who got the nod on the first process especially because two of the first applicants were asked by Bill Beckman not to apply the second time and in exchange Bill made promises of promotion "from within" to both for which he has refused over the last five years to keep his word. Not good for morale and creating allegiance.
2. Beckman be expected to send apologies to Landy Manuel, Joyce George, Sandy Horn and any other faithful employees who have been abused, forced out, even if paid off, forced to retire early, having their lives dashed by Beckman's grab for more of City revenues to justify his higher salary and benefits. Just think of all the time wasted in exchange for that salary and benefits as he has spent months traveling around to learn about how to be a City Administrator, leaving all the real work that he should have been doing to others as he always did anyway. Beckman has been receiving a higher salary for probably doing less work than he ever did before. As for the Water Department operations, Beckman deserves high marks, I think.
3. Beckman must be expected to keep his promises, in writing, to those two employees he has let down when he asked them not to re-apply for the position of Public Works Manager later changed to Supervisor. If one of those two "got the nod" in the first application process, the city will pay reasonable reparations from the revenue saved by cutting Beckman's undeserved salary.
4. he will spend his remaining hours correcting all the personnel files where he and Anderson colluded or conspired to "write up false allegations against specific, targeted employees in an attempt to force out career Public Works employees, in addition to others who have already been forced out and quit, employees who Anderson did not like because they probably had a hard time showing respect to such a buffoon suffering from a dearth of ability to create at least normal, let alone, high morale and "esprit de corps".
5. he and Anderson wipe clean the personnel files of especially Public Works employees who have been so-called "written up" on bogus charges to cover up desire in management to eliminate competition by forcing employees to quit to replace them with new personnel who know nothing of the treachery running Public Works and Waste Water.

6. both he and Anderson surrender any high performance ratings in their personnel files to be downgraded due to continued terror they created together and telling falsehoods about citizens and subordinate employees in the workplace. The undeserved records indicated by high marks could be misleading to employers elsewhere in the future.
7. That Janet Corbin's bogus findings of the City Needs Assessment be re-written to exhibit the truth about employee/management relations in Stanwood. That it be disclosed that certain employees were denied the right to participate and speak their minds so the issues causing disruption and discontent among the ranks have not been dealt with properly. Management conspired with Janet Corbin to make employee/management conditions in Stanwood appear superior than they, in fact, were. The findings are bogus with the hope the findings can be used as evidence to protect the City from rightful lawsuits that may or may not ever come.

Regardless of the fact, management can normally do whatever it wants anyway, we now know from Mayor McCune's own lips that Anderson's appointment was more a dishonest defect in management than a simple, unusual, random, bad management decision, the very reason State Law, in so many words, prohibits Council members to take unfair advantage of "cronyism" and "favoritism" when competing for jobs within the City or County. Anderson got the job due to "favoritism" and worse, "managerial deceptive, dishonest practices", one of the worst cases of "cronyism" in City of Stanwood history at the expense of honest, hard-working, dedicated citizens who have no choice but to depend upon their City Fathers to be honest. This is a case of applicants for a legitimate position with interview committees made up of our citizenry all having had their valuable time, their hopes, their emotions, doing their civic duty recklessly wasted, recklessly disregarded as they participated in the advertised hiring process for the City. This unspeakable incident is Tammany Hall type cronyism, Tammany Hall being only one of the worst black eyes for freedom and republican type of government in this country since 1776. Even so, Anderson's hiring was not the underlying cause of the continued discontent throughout the City. It was Anderson's evil nature in the way he handled subordinates both in Public Works and City Hall and then Beckman's refusal to admit management accountability by trying to cover up his own indiscretions through dishonest strategies. It has been the dishonest, willful cover-up by management, not just a random mistake that merits demotion. Something like Nixon's downfall. Nixon was not involved in planning or carrying out of the Watergate break-in but he did participate in the cover-up. Where does this buck stop, Herb?

I regret I did not have the time to write a shorter letter. How about a cup or two of coffee on me sometime soon in some other city?

Warmest personal regards,

Erik Abrahamson, your fellow Taxpayer

cc: -Mayor White and others after Tuesday, September 11

27119 102nd Dr. NW
Stanwood, WA 98292
Sept. 10, 2007

Mr. Herbert Kuhnly 360 435-4501
25030 Jim Creek Rd.
Arlington, WA 98223-6875

Hello Herb,

Because of our long friendship and my deep trust in your sense of right and wrong, I bring up (again) an issue of extreme importance to me and to the integrity of Stanwood's city government.

I must tell you that City Administrator Bill Beckman, a man you have trusted in your decision-making, lied to you regarding the hiring of Les Anderson. I know you to be an honest man who would want to know the truth and I believe that you would want to do your level best to correct any defects you can in the management of the City of Stanwood's affairs due to your having been deceived by your trusted public employee. After all, one of the principle definitions of effective management is 'to be able to identify defects in the organization and find solutions to effectively correct them.' While having trust in others is essential, management is all about verification.

The issue at hand is that City Councilman Anderson was appointed as Public Works Manager even though the city had conducted, at city expense, two application/interview procedures and found candidates who were more acceptable. Furthermore, Anderson had at that time a history of alienating co-workers and citizens. Not only was his appointment blatant cronyism, it was Anderson's poor management of personnel and Beckman's poor supervision of Anderson that created the high level of discontent in Public Works and City Hall leading to the 2006 AWC Needs Assessment.

Certainly you recall how, two months after McCune left his post as mayor, I appealed to Beckman to correct McCune's mistake of appointing Anderson to head Public Works. Bill replied, to paraphrase: **As an employee of the taxpayers I would never participate in a dishonest hiring even at the request of any Mayor. I would risk being fired for refusal to obey such an order.**

Now, Herb, we both heard that remark. This is the lie I am now bringing to your attention. I had confidence in your management experience to investigate Beckman's participation in the hiring of Anderson especially since he repeatedly avoided answering questions about the results of the first application process. Having been president of a small corporation in the '70s and owner of a product development, sales and management services company in the '70s and '80s, my experience enabled me to see enough suspicious activity to inspire an investigation. In follow-up correspondence to you then, I raised issues that needed verification that only a conscientious in-house investigation would disclose. Considering the outcome of my efforts, you must have trusted Beckman

without verification. I believe that you relied on Beckman for information and his lies deprived you of making a valid management decision.

Well, Herb, early in May 2007, Matt McCune confessed to Matt Pruitt that he ordered Beckman to disregard the outcome of **both the first and the second** hiring procedures and give Les Anderson the job of Public Works Manager. McCune also admitted that he had intended to give the job to Anderson from the beginning regardless of qualified applicants. As I understand it, McCune went so far as to admit to Pruitt that he 'gave Les the job to get him off the Council and out of his hair.'

Consider this: McCune or Bill Beckman had the authority to promote Anderson without going through the advertising, application and interview process. Instead, they applied the Hiring Policy twice at the city's expense (and paid for by our citizens). The position was advertised in the papers twice, and went through two interview committees all without the slightest intention of accepting the results.

The first interview panel chose someone other than Anderson. So McCune ordered another process hoping that Anderson would pass with a different interview panel. In fact, Beckman promised promotions of some sort to both Randy Richard of Public Works and Kevin Hushagen of Wastewater if they would not apply for the public works manager position on the second application procedure. This certainly was a curious request at the time but we now know that this request by Beckman was because by that he knew McCune wanted Anderson to get the position. Worse yet was his personal promise to the entire Public Works crew plus Mr. Bohan that, in so many words, 'There is no way I will allow that ____ to be hired.' The crew depended upon that promise. Instead another qualified individual was selected on the second attempt, someone who had entered the competition in good faith, as did the first applicants but the selection process was not in good faith either time. Even though Anderson did not measure up, Anderson was appointed to the position of Public Works Manager through a conspiracy between Bill Beckman and Mayor McCune and ostensibly, Les Anderson, who had let it be known before the retirement of John Magill that he wanted that job.

Not only is this unfair to taxpayers, hard-working city workers and hopeful applicants, this is fraudulent! Appointing Anderson to this management position even though he failed to impress two sets of interviewers is not only poor management but also cronyism, which is against State Law RCW ###s (trying to find again) that disallow members of Council and mayors from using the undue influence of their offices as unfair advantage over other citizens to compete for city or county job openings.

Although you are no longer mayor, Stanwood taxpayers need you to help end the corruption that began during your watch. We owe Beckman no favors or courtesies for his deceptions. We can only wonder how many other lies has he told? Since you promoted Beckman to City Administrator the last months you were in office, I beseech you to do all you can to persuade Mayor Dianne White to demote him to Public Works Director. Time is of the essence as the Public Works Director has already been replaced and the new Director is currently being considered to replace Bill Beckman as City Administrator, leaving Public Works Director open again for which Anderson could be appointed. Mayor White could never be expected to demote Beckman for lying to you without your encouragement since it was you who promoted Beckman to City Administrator, and I might add, without going through the application process.

You may recall that before you made the final decision public about Beckman's promotion I offered you a list of knowledgeable city employees to consult about what has really been going on in city government, to chat with them casually about your intent to promote Beckman to that highest position to determine if doing so would be best considering his ability to do the job, his past performance, and morale within City Hall. Some were shocked that you did not open the job up for applications to consider people who may be better qualified to serve the public interest.

The City is not well served by the team of Beckman and Anderson. Workers under their supervision have been verbally abused, denied previously promised increases in authority and pay. Workers have been written up without due cause out of anger and impatience and retaliation. Careers have been ruined, as city workers have been compelled to leave because of the unjust, unprincipled management of both Beckman and Anderson.

When city employees bring up valid concerns, he and Anderson would simply tell them 'if you don't like it look for another job'. Beckman lost the confidence of the rank and file both in City Hall as well as Public Works by lying to subordinates, making false promises to quiet their discontent instead of effectively solving problems. He is known to drink on the job, often with John Case. We have witnesses willing to testify about Beckman's dishonest practices to cover his failures to keep promises.

You can still do the right thing and be Stanwood's hero. Persuade Mayor White to put an end to this saga of mismanagement and demote Beckman for his last months in office. Verify what I have just said to you by contacting McCune himself or Pruitt. Timing is critical. Beckman can be demoted by this coming Friday for lying to you when you wanted to get to the bottom of all the dissension. Lying is sufficient for termination let alone demotion. The lie prevented you from taking appropriate action.

I have sent a copy of this to Mayor White so she can develop a strategy preferably with but if necessary without your participation. I feel so strongly about this issue that if the city doesn't take corrective action immediately, by Friday September 14, I will pass this information to an investigative reporter, all Council members and every citizen from Everett to Mt. Vernon will find out the truth, including those who applied in good faith for the two 2002± application processes.

This is clearly a case of cronyism which State Law prohibits. If you'd like to discuss this with me further, how about a cup or two of coffee on me soon in some other city?

Warmest personal regards,

Erik Abrahamson, your fellow Taxpayer

cc: -Mayor Dianne White
-Members of City Council and others after Friday September 14.
-See page four for proposed suggestions

I suggest that:

1. Beckman should be demoted for his remaining tenure and compelled to send written apologies to the applicants chosen in both hiring rounds. He should also send apologies to Landy Manuel, Joyce George, Sandy Horn, Warren Bohan, Leon Adams and other faithful employees in Public Works who have been abused, forced out, or forced to retire early out of retaliation activity on the part of the Anderson and Beckman team.
2. Anderson will deserve no special treatment for being wrongfully hired; his abuse of public trust in his mismanagement of Public Works and unwarranted abuse of fellow citizens and City Hall office staff dating back as far as when he was on the City Council.
3. Beckman must promote Kevin Hushagen and Randy Richard, the two employees he promised promotions before the second hiring procedure when he asked them not to re-apply for the position of Public Works Manager -- promotions which were to fill his own shoes when promoted to Director of Public Works and the shoes of Jerry Fure, one of Stanwood's most reliable compelled to retire early due to harassment and retaliatory conduct of Les Anderson.
4. Personnel files of good, reliable, faithful city employees should be corrected and all false allegations by Anderson and Beckman due to retaliatory mentality and forced early retirement be removed.
5. Beckman and Anderson's annual reviews should be corrected to reflect what really happened under their management the last five years.
6. The city should call for a new, accurate, re-writing of the findings of the 2006 WAC City Needs Assessment (that will indicate information left out to show the true employee/management relations in Stanwood of 2006. A 2007 assessment would not reflect the truth about discontent over Anderson/Beckman mismanagement of 2002 to 2006, the purpose for which the needs assessment was called for. All employees encouraged to retire early, age discrimination and former employees compelled to quit should be allowed to speak their minds regarding the issues.
7. When a new Public Works Director is to be selected, the otherwise fair and honest hiring procedure established by City ordinance should be used.

Sunday, September 16, 2007

Dear Bob,

Please take this and keep it ready to read should I call you. Should Dianne White and the City Attorney want to talk to me about this letter I will tell them sure, but you will pay for Bob Cole's time to sit in as a witness. After first-hand observation of the way Bill Beckman, Dianne White and the city attorney terminated Warren Bohon, city code enforcer, on unwarranted, trumped-up, retaliatory charges, I trust city government under Beckman and White as much as I'd trust Al Capone.

Take the time to read this whenever you want but I want it to be handy for you to be ready in the last minute in case I or Dianne White calls you.

By the way, I just discovered Saturday that the pictures of those salmon you caught were taken on Jerry Fure's boat. It's a small world.

Before this is over I plan another internal investigation for the purpose of getting Jerry Fure about \$4,000 + 12± years interest unpaid compensation by the City when Anderson and McCune, then on the Council Personnel Committee, thought they were running Stanwood and had Jerry Fure, who had a valid contract with the city to live on Church Creek grounds to help suppress unlawful conduct in the park after hours and by weak parental and high-school leadership of unsupervised teenagers. I was witness to the evil nature of the way Anderson thinks as he was showing off to anybody who was in earshot of how he had the lowest regard for Jerry Fure, probably caused by something no deeper than jealousy that Jerry was lead man for Public Works while he had to drive a dump truck for a living, who knows? Anderson has a mentality like a woman's "hell hath no fury like a woman's scorn". When I would over-hear the way Anderson would demean, belittle other citizens like Ed Bryant as well as city employees behind their backs. It was almost as though he somehow just "had it in for anybody" he now had power over. I remember like it was yesterday how absolutely astonished I was that such a dangerous individual to others should have any authority at all over city employees, let alone the public. He actually didn't have any authority but he took it upon himself to abuse his position on the council as a means to "get people" for this or that.

Outside of attempts "to get" Ed Bryant, the transaction to evict Jerry and his home from city property was handled as an inside job between Anderson, McCune and somehow, Don Moe, did not interfere. Jerry can tell you the details. I believe Barbara Gstol (spelling) was on the same committee, but she was nothing more than an ignorant observer who knows little or nothing about anything. Jerry has thought all this time it was Barbara Gstol who was behind it. I think Don Moe just let McCune and Anderson work it out with then City Attorney, Coughlin. In any case, they did agree to reimburse Jerry for the cost of installation and construction of his outside garage, about \$4,000 but as I understand it, **they gave him nothing in consideration for unilaterally breaking his contract with the City, the cost and inconvenience for having to remove his dwelling. Back then, about 1997, the going rate for such an act was around \$4,000**

Now, although the City will try to prove that in the final analysis it just forced Jerry to do something that was eventually in his best interest i.e., to buy a piece of land that would appreciate in time. Jerry was compelled to rent a room for some extended period of time while he desperately tried to set up a new household and stabilize his life, I believe, with no compensation at all. I can't recall right now what it is called but I know there is a **state statute or case law** that demands that when eminent domain is exercised or a municipality demands that an individual surrender his domicile for any reason within the power of the city, the tenant must receive an award for his inconvenience – even if the individual is simply a tenant of the city, like renting a house. I hope there is no statute of limitations. Even if a statute of limitations would be expired there should be some way to include this incident along with Anderson's indiscretions to both private citizens like Ed Bryant and others for which there is no going back, but Jerry Fure was not only a citizen but an employee of the city who deserved to be protected by the City Attorney, not railroaded by abuse of trust. The City Attorney, McCune and Anderson used "undue influence" to brow-beat Jerry Fure into a **not mutually beneficial agreement**. I may be wrong but doesn't the City Attorney work for all, not just council members especially council members with a vendetta? I think Anderson is just a jealous type guy who has no business having any authority over anyone else anywhere except his own family and I even question that authority.

Regards, Erik

27119 102nd Dr. NW
Stanwood, WA 98292
November 17, 2007

Mr. Herbert Kuhnly 360 435-4501
25030 Jim Creek Rd.
Arlington, WA 98223-6875

SUBJECT: Letter of May 7, 2007

Dear Herb,

Since May 8, 2007 your inaction to effectively investigate and take effective steps to correct the defects in City of Stanwood management personnel and practices prior to the hiring of all these new officers, has made it increasingly clear that you as well, like Bill Beckman, were not the management material worthy of the Stanwood taxpayers' trust. Worse, your flawed influence has unduly influenced continued inaction by Mayor Dianne White. Under your management, even when given tips to follow up on defective management practices and out of control abuse of employees you likely investigated no further than to query only the actual "Fox" (himself), Bill Beckman, guarding the henhouse". Beckman escaped appropriate scrutiny under due to your personal ineptness.

Naturally, when queried, a flawed manager will exhibit lack of courage: He will tell all tales necessary to cover up the truth to escape responsibility for his own misconduct. The kind of leader the taxpayers expect is one who can be trusted to "face the music" in order to do his best by those who pay his salary and benefits which I invited Beckman to do within 60 days after the departure of Mayor McCune. He passed up an opportunity to be a true hero before both Public Works and City Hall office staff. A flawed manager will excuse his misconduct with fabricated tales such as 'Abrahamson simply has a personal grudge against Anderson' as though that is all that this five year endeavor has been about. Nothing could be further from the truth. You, the new Mayor, also given a chance to be a hero from the start fails to exhibit that manager instinct to investigate but instead decides to go along with the flawed lower manager's cover-up. Then, even worse, after it does appear to you there are morale problems both in Public Works and City Hall, the City's insurer, AWC, conspires with your and Beckman to provide at no cost to the city, an assessment of employee / employer morale conditions to cover up the defects, by giving a favorable, report to deceive the EEOC and the courts should any of this totally tragic management misconduct ever be brought to justice.

And Herb, in the final analysis you exhibited poor judgment as Manager of this City by your unwillingness to effectively investigate the allegations when alerted by me in person and subsequent correspondence, therefore, failing to do your duty. An effective manager would have ordered an appropriately thorough investigation which could have led to cleaning up this entire mess of employee abuse. The abuse was begun by Mayor McCune's wrongful decision to use the taxpayer's government to provide a job for a

friend who being on the Council and a close friend of the mayor would have inside, privileged information that no other contestant, regardless of the superior talent they had to pick from during the two dishonest, phony, deceptive hiring practices fabricated to, only in appearance, follow City of Stanwood Hiring practices by ordinance. What Mayor McCune did not know was that he could have gone ahead and appointed who he wanted without going through all those expensive, time consuming gymnastics that only in exterior appearance followed City Ordinance. Since he did what he did, he broke at least the laws attached.

But you see, Herb, this whole issue has not been about Anderson being unfairly and wrongly appointed to the position of Public Works Manager although that wrongful event led to what I came to point out to Beckman first and then you when Beckman failed to perform as a leader, maybe a Soviet styled Commissar but not the traditional American styled leader.

You likely fail to recall that in earliest correspondence I advised you that all those who knew Anderson's personality, his "vile", "hateful" styled personal character as an individual, and those employees who were disappointed about management abuse of the public trust and the Hiring Ordinance as some good employees had been blindsided, subsequently denied their rights to the job they were very capable of filling from within the establishment, they had long since, as I stated before, "let by gons be by gons"

likely equally unworthy of the City Light rate payers of Seattle as well.

After all, that is where you got your training, during the explosion of political correct government service where today the average American has learned to in the sense the taxpayers expect from those they trust to be stewards of our great experiment in self-government; stewards of the fees and tax revenue they hand over so willingly with "trust".

It is more common than ever for "pretend" managers to be in positions of authority even in private industry over the last thirty years, managers receiving management pay for not managing. A worse epidemic of weak leadership, weak management has occurred, however, in the public sector – everywhere from WSDOT as we see more dramatically with the defects in the ferry system; our public schools with teachers who don't teach and principals with three years in the classroom experience buying their credentials with credit cards and now the evidence is in that defective, political correctness has taken its management bite out of Seattle City Light. After all, isn't it true now, that anybody can be manager. You don't have to be even honest anymore because of course, those of the old establishment were probably dishonest too. Right? Wrong. It has become commonplace, even epidemic, for the taxpayers, obligated to Trust in their civic employees, to pay for non-performance as never before.

We knew before but blatantly reminded by our City Attorney that being a poor manager is not a crime. What turns out to be more rare is to find no "real" managers between the lowest level of management, Public Works Manager and the highest, Mayor. Not one individual drawing management pay in the entire City of Stanwood chain of

command under your administration took steps to identify possible defects in the organization; took steps to investigate the details of those defects and finally did not take necessary steps to correct those defects.

ell, Herb, your “in-action speaks a lot louder than words”. It was disappointing to discover that once the information was placed in your hands, without your having to carry out a valid investigation which I proposed back in 2003, you saw fit to overlook correction of the management defects as they affected Stanwood City Hall. I have to remind you though, that it was not the dishonest conduct of the McCune / Beckman deception to the public and the other, eager, worthy applicants for the Public Works Manager opening. As stated before, in spite of the dishonest on Beckman’s part, the Public Works personnel had decided as a group to give Anderson a fair chance to show his metal. It was Anderson’s selfish, evil character abusing and mistreating employees verbally that poisoned the atmosphere and job satisfaction in both public works and inside city hall that led me to take the step to first speak to Beckman. Of course, the evidence then was only circumstantial but I invited the one who knew the truth to step forward as a leader to take charge of the mess he allowed McCune to make.

ou see, I had given you the benefit of the doubt having known of your experience at Seattle City Light. I allowed myself to imagine that as a top manager for City Light you had necessary understanding and skill to correct the terrible legacy left behind by Matt McCune, a defect that poisoned the spirit of employees from Public Works to every office in City Hall. The saddest part is that it took this much time and effort for me to discover that my confidence in you was misplaced just as I had to first discover my confidence in Bill Beckman was wrongly placed. Worse, I failed to judge your character accurately as I observed you fail to take appropriate action to effectively investigate when first apprised of the possible wrongdoing, especially when Beckman admitted it was wrong when he said to me, in your presence, that he would risk being fired rather than allow a Mayor to persuade him to wrongly appoint someone to a management position as he did in the hiring of Les Anderson – an individual who failed two hiring procedures and interviews, denying twice, the rightful appointment of two other more worthy individuals..

Intrigue, conspiracy, cronyism and tyranny are not worthy management styles. Managing a private company, as Beckman was before being purchased by the City, a manager is able to do as he pleases. In public service such conduct is contrary to state law. See below. What’s even worse here is the Beckman admitted he knows right from wrong but continued to refuse to correct the error of the past. Then he showed his true colors as he disrespectfully compelled his oldest City Hall employees to feel unwelcome to reduce costs to fund his own unworthy promotion to City Administrator, abusing the public trust by selfishly setting up his ducts with the selfish intention of retiring at taxpayers’ expense.

I allowed myself to be unduly influenced by your retirement title at City Light. After this experience I am left with the likely belief that being a manager at City Light was a cake-walk. After all, you retired when affirmative action, the false belief that anyone can do the job as we learned from Boris Pasternak

was in full swing. you are not half the manager I thought you to possibly be. Having worked in management for City Light I was sure you were well trained to be an effective manager.

. Then again, your inaction to attacking a management defect still first in due to time to prevent the piles of sadness and despair

In summary,

What we have here is an example of one of the most dangerous things that can happen in our great, famous experiment in self-government where it is essential that those chosen or selected to serve the people have an obligation to be diligent, conscientious, humble and honest or self-government does not work right, in fact, under such conditions, it can be dangerous not only to innocent parties but to "freedom" itself. There has been dishonesty in the city government of Stanwood and there have been efforts to cover up that dishonesty by trusted, guilty public servants who have decided to lie, cheat and even go so far as to lay the blame on others who are innocent to the point the innocent have their reputations soiled while the dishonest hope to go undetected'

What we have had here is a case of "managerial abuses of the public trust through reckless disregard" for the welfare of innocent city employees carrying out the duties of Public Works and in City Hall absolutely dependent upon the honesty and integrity of those in management, trusted to follow the rules who, in the final analysis have willingly and knowingly harmed those that depend upon them the most in their quest for selfish, self-preservation and longevity by simultaneously soaking the taxpayer for a higher retirement income.

27119 102ND Dr. NW
Stanwood, WA 98292
December 30, 2007

Mrs. Dianne White, Mayor
City of Stanwood
Stanwood, WA 98292

SUBJECT: Letter to Herb Kuhnly May 7, 2007

Dear Mayor White:

Since May 8, 2007 your inaction to effectively investigate and take effective steps to correct by making right those specific defects in City of Stanwood management personnel and practices by Bill Beckman and Lesli Anderson has made it increasingly clear that you, like Herb Kuhnly and Bill Beckman, have not been the management material worthy of the Stanwood taxpayers' trust. Under your management, even when given tips to follow up on defective management practices and out of control abuse of employees it appears from the outside you investigated no further than to query only the actual "Fox (himself) guarding the henhouse", Bill Beckman.

Naturally, when queried, a flawed manager will exhibit lack of courage, he will tell all tales necessary to cover up the truth to escape responsibility for his own misconduct. The kind of leader the taxpayers expect is one who has no problem facing the music in order to do his best by those who pay his salary and benefits which I invited Beckman to do over five years ago within 60 days after the departure of Mayor McCune. He passed up an opportunity to be a hero before both Public Works and City Hall office staff. A flawed manager will excuse his misconduct with fabricated tales such as 'Abrahamson simply has a personal grudge against Anderson' as though that is all that this five year endeavor has been about. Nothing could be further from the truth. The Mayor, also give a chance to be a hero does not have that manager instinct to investigate and decides to go along with the flawed lower manager's cover-up. Then, even worse, The City's insurer, AWC, conspires with this flawed management to provide at no cost to the city, an assessment of employee / employer conditions to cover up the defects, by giving a favorable, report to deceive themselves along with the EEOC and the courts should any of this totally tragic management misconduct ever be brought to justice.

And Herb, in the final analysis you exhibited poor judgment as Manager of this City by your unwillingness to check things out when alerted, therefore failing to do your duty which could have led to cleaning up this entire mess of employee abuse begun by Mayor McCune's wrongful decision to use the taxpayer's government to provide a job for a friend, and worse, that friend being on the City Council with inside, privileged information that no other contestant, regardless of the superior talent they had to pick from during the two dishonest, phony, deceptive hiring practices fabricated to, only in appearance, follow City of Stanwood Hiring practices by ordinance. What Mayor McCune did not know was that he could have gone ahead and appointed who he wanted

without going through all those expensive, time consuming gymnastics that only in exterior appearance followed City Ordinance. Since he did what he did, he broke at least the laws attached.

But you see, Herb, this whole issue has not been about Anderson being unfairly and wrongly appointed to the position of Public Works Manager although that wrongful event led to what I came to point out to Beckman first and then you when Beckman failed to perform as a leader, maybe a Soviet styled Commissar but not the traditional American styled leader.

You likely fail to recall that in earliest correspondence I advised you that all those who knew Anderson's personality, his "vile", "hateful" styled personal character as an individual, and those employees who were disappointed about management abuse of the public trust and the Hiring Ordinance as some good employees had been blindsided, subsequently denied their rights to the job they were very capable of filling from within the establishment, they had long since, as I stated before, "let by gons be by gons"

The Public Works Department has always gotten along with each other and has been a great crew to work with on the Safety Program. The only strife has been working with management.

I have done what has been required as Safety Officer for six and one-half years despite great resistance from management.

I resigned my post as Safety Officer as of June 5, 2006 due to retaliation of my everyday job and resistance to programs.

I have been passed over in raises and promotions and have had fictitious evaluations presented to me. As of this day there is no appointed safety officer for the Public Works. I believe the liabilities and litigations will continue through poor management.

CPR and Industrial First Aid certifications, Vehicle Equipment Maintenance; Public Safety training have lapsed and I have been unable to register necessary personnel for training.

Randy Richard