



CITY OF KIRKLAND
City Manager's Office
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www.ci.kirkland.wa.us

MEMORANDUM

To: Dave Ramsay, City Manager
From: Marilynne Beard, Assistant City Manager
Date: August 18, 2006
Subject: RECOMMENDED INCREASE IN JUDICIAL HOURS

RECOMMENDATION:

City Council approve the attached ordinance adjusting the Kirkland Municipal Court Judge's salary effective immediately for the balance of 2006.

BACKGROUND DISCUSSION:

In May 2006, the Kirkland Municipal Court's presiding Judge, Michael Lambo, reported to the Public Safety Committee his concerns about managing the Court's caseload with his present, part-time position of .85 FTE. He noted that he consistently works a full-time schedule in order to attend to scheduled calendars and the administrative duties associated with his position. The Public Safety Committee requested that Judge Lambo detail his concerns and recommendations in a memo (see Attachment A).

On August 17th, the Public Safety Committee reviewed Judge Lambo's recommendation and voted unanimously to recommend to the City Council that the Kirkland Municipal Court Judge be increased to 1.0 FTE. The recommendation also includes increasing Court commissioner hours to provide additional calendars for hearings.

The cost for the balance of 2006 is estimated at \$8,253. Funding for the increase in 2006 will come from new court revenue received this year from the passage of E2SSB 5454 by the State legislature last year. The legislation increased various court filing fees and staff estimates that the City will receive \$8,205 from this source in 2006 (see attached fiscal note).

The legislation also dedicated additional funds from the fee increase to pay a portion of the salary of elected municipal court judges. By increasing Kirkland's judge to full-time status, it will automatically require an election. In order to be eligible for additional funding, the City must certify that the judge is serving in an elected position and that the judge is compensated at 95% of the district court judge salary. District court salaries are established by the State Salary Commission. The 2006 salary in effect for Kirkland's Municipal Court Judge is equivalent to 95% of the 2005/06 district court judge benchmark

established by the state. The State Salary Commission's 2006/07 salary schedule will be the basis for the coming year's salary for Kirkland's Judge and reflects a 2.9% salary increase which will be effective until September 2007. The ongoing request to increase the FTE will come to the Council as a service package request in the 2007-08 Budget. The annual ongoing marginal cost is \$24,760 (based on the 2006-07 salary established by the State). As discussed in the attached memo, the City is eligible for additional state funding of up to \$28,178 which will fully offset the additional costs.



CITY OF KIRKLAND

Kirkland Municipal Court

11515 NE 118th Street, P.O. Box 678 - Kirkland, WA. 98083-0678 425-587-3160

www.ci.kirkland.wa.us

MEMORANDUM

To: Dave Ramsay, City Manager

From: Honorable Michael J. Lambo, Municipal Court Judge
Tracy Jeffries, Court Administrator

Date: July 18, 2006

Subject: PROPOSED INCREASE IN JUDICIAL HOURS

BACKGROUND

At a recent Public Safety Committee meeting, The Municipal Court Judge and Court Administrator shared concerns about the ability of the current part-time judicial staff to address the growing caseload at the Kirkland Municipal Court. Specifically, Judge Lambo is recommending that the City make the presiding Judge position full time and increase the hours for our current part time Court Commissioner.

The Presiding Judge is responsible for leading the management and administration of the court's business, recommending policies and procedures that improve the court's effectiveness, and allocating resources in a way that maximizes the court's ability to resolve disputes fairly and expeditiously. This includes supervising the preparation of the court's annual budget, promulgating local rules, supervising the preparation and filing of reports required by statute and court rule, acting as the official spokesperson for the court in all matters with the executive or legislative branches of local government, and determining the qualifications of and establishing a training program for pro-temp judges and court commissioners.

Still, the primary function of the Presiding judge is to hear the daily court calendars, including "in-custody" matters. This includes hearing both Bench and Jury Trials, ordering and signing warrants of arrest, reviewing and ruling on complex legal motions, as well as "mail-in" contested and mitigation hearings.

To the extent possible, the judicial caseload should be adjusted to provide the Presiding Judge with sufficient time and resources to devote to the management and administrative duties of the office, as well as hear cases in open court with due diligence, study and contemplation in order to make lawful and well-reasoned decisions for each case presented. The presiding judge must accomplish this without violating a defendant's right to a Speedy trial and adequate due process of law, or causing court customers and attorneys to wait several hours to have their matters heard.

At the beginning of the year, the typical number of cases on a morning or afternoon calendar was between 70 and 90 cases. This number should not be higher than 40 to 50 cases to allow for proper attention to each case.

Large calendars create the potential for mistakes. If the judge is feeling the pressure to hurry, he or she may miss a legal issue or important fact. Mistakes endanger the community and result in appeals, both of which can cost the City time and money.

The Public Safety Committee asked staff to prepare a report providing caseload statistics, comparisons with other similar jurisdictions and a recommendation regarding additional judicial and support resources needed to address the current caseload.

CURRENT CASELOAD AND TRENDS

The Kirkland Municipal Court has seen a steady increase in caseload.

1999 – 24,147 (Kirkland filings)

2000 – 29,390 (Kirkland 26,876, Point Cities 2,514)

2001 – 29,765 (Kirkland 27,042, Point Cities 2,723)

2002 - 26,562 (Kirkland 23,940, Point Cities 2,622)

2003 – 28,253 (Kirkland 25,008, Point Cities 3,245)

2004 - 30,702 (Kirkland 28,207, Point Cities 2,495)

2005 - 26,386 (Kirkland 24,077, Point Cities 2,309)



(This number dropped due to the Supreme court case of *City of Redmond v. Moore*, **151 Wn.2d 664**, 668, 91 P.3d 875 (2004) that held the Driving while suspended (DWLS) statute facially unconstitutional and rendered the statute totally inoperative. As such, the police stopped arresting for this offense. Subsequently however, the authorities corrected the error. Now, police are increasingly citing and arresting defendants for Driving while suspended. It is reasonable to expect that this figure will meet or possibly surpass filings reached in 2004.)

Important to note, is that the court's responsibility does not end with the caseload filed in that calendar year. In most cases, the court has jurisdiction over criminal cases for two years. For DUI matters, jurisdiction continues for five years. The Court, ultimately the Judge, is responsible for managing all cases until the end of the jurisdictional period.

In breaking down the above-mentioned statistics, it is important to follow the trend of the more serious and time-consuming cases filed with the court. For instance, Criminal Traffic, Criminal Non-traffic, Domestic Violence (DV) and DUI offenses require mandatory court appearances and multiple hearings throughout the two or five year jurisdiction.

A conviction for the crime of DUI or Domestic Violence (DV) related offenses, carry harsh consequences. Consequently, these matters tend to be zealously defended and prosecuted, resulting in protracted hearings and motions that are labor intensive and time consuming for the court.

Below is the recent trend in DUI matters filed with the Kirkland court:

1999 – 149 (Kirkland filings)

2000 – 190 (Kirkland 150, Point Cities 40)

2001 – 345 (Kirkland 284, Point Cities 61)

2002 – 356 (Kirkland 276, Point Cities 80)

2003 – 462 (Kirkland 403, Point Cities 59)
 2004 – 599 (Kirkland 470, Point Cities 129)
 2005 – 609 (Kirkland 434, Point Cities 175)

By comparison, the chart below shows the recent trend in DUI matters filed in other Courts:

City	2004 DUI Caseload	2005 DUI Caseload
Auburn	193	197
Bellingham	260	258
Bremerton	144	107
Edmonds	107	84
Everett	331	536
Federal Way	411	376
Kent	294	321
Lakewood	135	202
Olympia	214	254
Pasco	268	295
Renton	211	216
Yakima	452	401
Kirkland	599	609

Additionally, other criminal traffic and criminal non-traffic matters such as Assault, Reckless driving, Negligent driving 1°, Hit and Run, Malicious Mischief, Theft, Trespass, Possession of marijuana, Possession of drug paraphernalia, Obstructing law enforcement, Resisting arrest and Driving while suspended offenses require multiple court hearings. The numbers below represent the filings at Kirkland Municipal Court for the above-mentioned offenses, including 194 Domestic Violence related charges filed in 2004 and 217 filed in 2005.

1999 – 1,648 (Kirkland filings)
 2000 – 2,285 (Kirkland 2,102, Point Cities 183)
 2001 – 2,199 (Kirkland 1,912, Point Cities 287)
 2002 – 2,518 (Kirkland 2,060, Point Cities 458)
 2003 – 2,366 (Kirkland 1,976, Point Cities 390)
 2004 – 1,898 (Kirkland 1,605, Point Cities 293)
 2005 – 1,370 (Kirkland 1,081, Point Cities 289)

↳ (Again, this number dropped due to the reduction in arrests and citations for the offense of DWLS 3°. This figure is rising: DWLS 3° charges filed for 2003...1124; for 2004...755; for 2005...239; for **2006 year-to-date...471**. Filings for 2006 year-to-date have already surpassed filings for 2005 and it is reasonable to expect that this number will soon surpass the filings of 2003.

Traffic infractions also steadily increase, as is the number of drivers asking for contested hearings on these matters. Each “contested” hearing requires Judge, court clerk, and in more and more cases, prosecutor time. For traffic and non-traffic infraction matters, as well as parking tickets, a defendant has three options once the police issue a ticket. One option is to pay the ticket. The second option is to ask

for a court hearing to explain the circumstances in an effort to persuade the judge or commissioner to reduce the fine. The third option is to contest the ticket. This option is similar to a trial where witnesses testify and the prosecutor and defense attorney argue their case before the Judge or Commissioner. If the defendant does not respond by requesting a court hearing or paying the fine, the account is referred to Collection. Approximately 40% request a court hearing.

Below is the trend in traffic infractions filed with the court:

1999 – 6,542	(Kirkland filings)
2000 – 9,066	(Kirkland 7,007, Point Cities 2,059)
2001 – 9,581	(Kirkland 7,502, Point Cities 2,079)
2002 – 9,432	(Kirkland 7,564, Point Cities 1,868)
2003 – 9,937	(Kirkland 7,380, Point Cities 2,557)
2004 – 10,934	(Kirkland 8,984, Point Cities 1,950)
2005 – 9,931	(Kirkland 8,172, Point Cities 1,759)

The Police Department issue and file thousands of parking tickets every year. For each ticket, the same options as above are available. Most pay the ticket or do not respond, resulting in the court referring the matter to Collection; approximately 35% request a court hearing.

MANAGEMENT OF CRIMINAL CASES

As indicated, 40 cases is a reasonable number of matters a judge should hear on a pre-trial calendar. A “Calendar” is ½ day; 9:00 AM to noon, or 1:30 PM to 4:30 PM. This gives the staff and the Judge time to hear argument of counsel, research the docket and file, hear changes of plea, and preside over other omnibus related matters that come up prior to the case proceeding to trial. Our court hears an average of 62 cases on a single pretrial calendar. (i.e., 76 on the morning of 2/8/06; 62 on the morning of 3/6/05; 69 on morning of 4/10/06; 58 on the morning of 4/26/06; 53 on the morning of 5/10/06; and 55 on the morning of 5/22/06.)

Caseloads this large require that the judge and staff work continuously in the courtroom, with out a break, from 8:30 AM to 1:00 or 2:00 PM. The Judge must forgo lunch on theses days and immediately begin hearing the afternoon calendar.

Motions and Bench Trials per Calendar should be limited to 10. The court hears on an average of 15. (i.e., 14 scheduled for the afternoon of 7/26/06; 18 scheduled for the morning of 7/27/06; 15 scheduled the morning of 8/3/06; and 14 scheduled for the morning of 8/17/06.) Recently, a Point City Police officer, prosecutor and private lawyer arrived at court for the 9:30 AM motions/bench trial calendar. Due to sheer caseload, the court was not able to begin testimony on that case until 4:00 PM. The officer, private counsel and his client sat in court all day waiting for their case to be heard. The judge and staff worked continuously through the entire day, without a break, in order to hear all of the cases.

JUDICIAL TIME COMPARSION

The Kirkland Municipal Court currently has a .85 FTE judge position and a court commissioner who works up to 23 hours per month. In addition to the Kirkland caseload, the Judge also manages the Point Cities caseload.

Concerning Judicial time, when compared to other courts, Kirkland Municipal Court is clearly understaffed. The Office of the Administrator of the Courts (AOC) produced a 2004 summary of independent Municipal Courts in Washington State. Below is a summary of courts similar to Kirkland relative to caseload and judicial services. As one can readily see, Kirkland has the highest caseload per

judicial FTE, even compared to courts that have two full time judges. (See Kent and Yakima Municipal Court)

City	2004 Population	2004 Caseload	Number of Judges	Number of Commissioners	Cases per Judicial FTE
Kirkland & Point Cities*	52,985	30,702	0.75	0.10	36,120
Pasco	40,840	10,738	0.75	0	14,317
Renton	55,360	13,482	1.00	0	13,482
Auburn	46,135	12,478	1.00	0	12,478
Lakewood	59,010	8,588	0.73	0	11,764
Edmonds	39,620	5,766	0.53	0	10,879
Kent	84,560	19,987	2.00	0	9,994
Federal Way **	83,590	15,166	0.80	0.75	9,785
Bremerton	37,520	7,515	1.00	0	7,515
Bellingham	71,080	14,855	1.00	1.00	7,428
Olympia	43,040	6,257	1.00	0	6,257
Everett	96,840	9,287	1.55	0	5,992
Yakima	79,480	16,042	2.00	0.93	5,475

*Kirkland increased their Judge to .85 in 2006.

**Federal Way increased their Judge to full time in 2005.

JUDICIAL TIME NEEDED:

Kirkland Municipal Court must add additional “Calendars” to keep the number of cases scheduled for each calendar at a workable level. The court must also provide the Presiding Judge enough office time to meet with staff, perform managerial duties, engage in legal research, review and rule on lengthy and complex written motions, review and rule on affidavits for probable cause, review and rule on motions for DV “No contact Orders,” review probation files, issue warrants for arrest and author written opinions. In order to do this, the court must increase the presiding judge’s hours to that of full time. Further, the court must increase the hours for the commissioner and/or Pro-temp judge to handle the additional “Calendars,” as well as give the Presiding Judge the option to operate two courtrooms simultaneously one to three times a month, as volumes require.

RECOMMENDATIONS

Based on the current workload, our recommendation is to increase the Presiding Judge from .85 FTE to 1.0 FTE and increase commissioner / pro temp hours from 23 hours per month to 30 hours per month. The annual cost of providing additional judicial hours as proposed is \$24,760 (\$21,400 for the Presiding Judge FTE and \$3,360 commissioner hours).

ESTIMATED E2SSB 5454 FUNDING

In 2005, the state legislature passed SHBB5454 providing State funding for municipal courts that have elected judges. Although Kirkland has historically appointed its judge, once the position is made full-time, it will necessarily become an elected position (beginning with the next term of office in 2010). In the interim, the City is still eligible to collect the State funding because the position is effectively an elected judicial position. Once the Judge is serving in an elected position the City will qualify for the state contribution under SHBB 5454. The State Administrator of the Courts has estimated that Kirkland's 2007 contribution will be \$28,198. The city will benefit from this contribution by funding improvements to the municipal court's staffing, programs, facilities, or services, as appropriated by the city or town legislative authority. In this case, the increase in judicial time will allow for improved court calendar management, reduce the time defendants have to wait for their case to be heard and provide additional time for the Judge to attend to administrative matters of the Court.

FISCAL NOTE

Source of Request							
Marilynne Beard, Assistant City Manager							
Description of Request							
Request for an increase in judicial hours for the Municipal Court for the remainder of 2006 at a cost of \$8,253. Due to increasing caseloads and insufficient available time for administrative duties, the judges' FTE needs to be increased to a full time FTE (1.0). Additional hours for pro-temp commissioners are also needed for additional hearing calendars. The additional cost for 2006 will be funded by new revenue created from the passage of SHBB 5454 by the State Legislature in 2005 that provided partial funding for full-time judges.							
The ongoing increase in additional cost for 2007-08 will be submitted as a service package with the State funding fully offsetting the additional cost.							
Legality/City Policy Basis							
Fiscal Impact							
One-time cost of \$8,253 to be funded by new State revenue.							
Recommended Funding Source(s)							
Reserve	Description	2006 Est End Balance	Prior Auth. 2005-06 Uses	Prior Auth. 2005-06 Additions	Amount This Request	Revised 2006 End Balance	2006 Target
Revenue/ Exp Savings	The one time cost for 2006 will be offset by new State funding passed by the legislature during 2005 that provides partial funding for full-time judges.						
Other Source							
Other Information							

Prepared By	Sandi Miller, Financial Planning Manager	Date	August 22, 2006
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ORDINANCE NO. 4056

AN ORDINANCE OF THE CITY OF KIRKLAND ESTABLISHING THE SALARY FOR THE MUNICIPAL COURT JUDGE AND REPEALING ORDINANCE NO. 4019.

WHEREAS, under state law the salary for municipal court judges must be established by ordinance; and

WHEREAS, the salary for the Kirkland Municipal Court Judge was last established by Ordinance No. 4019; and

WHEREAS, the City Council finds there is a need to increase the current part-time position of the Kirkland Municipal Court Judge to a full-time equivalent judicial position; and

WHEREAS, under state law full-time municipal court judge positions must be filled by election; and

WHEREAS, in order to be eligible for state contribution to the Municipal Court Judge's compensation, the City must make the Judge's position elective and compensate the Judge at a rate equivalent to at least ninety-five percent of a district court judge salary; and

WHEREAS, the salary of district court judges is set by the Washington Citizens' Commission on Salaries for Elected Officials and is currently set at \$125,672 a year; and

WHEREAS, the City Council desires that the Kirkland Municipal Court Judge's salary be adjusted automatically to reflect future adjustments made by the Washington Citizens' Commission on Salaries for Elected Officials.

NOW, THEREFORE, the City Council of the City of Kirkland do ordain as follows:

Section 1. Effective immediately, the salary for the Kirkland Municipal Court Judge position shall be 95% of a district court judge's annual salary or the sum of \$119,388 annually.

Section 2. Commencing September 1, 2006, and thereafter on the first day of September of each successive year, the salary paid the Kirkland Municipal Court Judge shall automatically be adjusted to an amount equal to 95% of the salary of district judges as set by the Washington Citizens' Commission on Salaries for Elected Officials for the succeeding year.

Section 3. Ordinance No. 4019 is repealed effective immediately.

Section 4. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication, as required by law.

Passed by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 2006.

Signed in authentication thereof this _____ day of _____, 2006.

MAYOR

Attest:

City Clerk

Approved as to Form:

City Attorney