

RESOLUTION NO. 08-488

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BLACK DIAMOND, KING COUNTY, WASHINGTON,
CONFIRMING THE MAYOR'S APPOINTMENT OF STEVE
ROSEN AS MUNICIPAL COURT JUDGE AND
AUTHORIZING THE MAYOR TO EXECUTE A
PROFESSIONAL SERVICES AGREEMENT.**

WHEREAS, municipal court judges are appointed by the Mayor, subject to City Council confirmation, for four-year terms commencing on January 1 of the year; and

WHEREAS, Anthony Platter was appointed as the City of Black Diamond's judge in January 2006 and resigned effective March 31, 2008; and

WHEREAS, any vacancy in the municipal court due to a death, disability, or resignation of a municipal court judge shall be filled by the Mayor for the remainder of the unexpired term; and

WHEREAS, the Mayor directed an open recruitment process to fill the judge's unexpired term ending January 1, 2010; and

WHEREAS, Steve Rosen applied for the position and was selected by the Mayor as the most-qualified candidate; and

WHEREAS, Mr. Rosen, a graduate of the University of Minnesota Law School and member of the Washington State Bar Association, has experience as a pro tem judge, prosecutor and criminal defense attorney; and

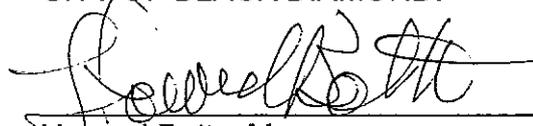
WHEREAS, the Council supports the Mayor's selection of Mr. Rosen and finds the proposed agreement to be fair and reasonable;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND,
WASHINGTON, DOES RESOLVE AS FOLLOWS:**

Section 1. The City Council of the City of Black Diamond, Washington, does hereby confirm the Mayor's appointment of Steve Rosen as Municipal Court Judge until January 1, 2010, and authorizes the Mayor, on behalf of the City, to execute a professional services agreement substantially in the form attached as Exhibit A.

**PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND,
WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 20th DAY OF
MARCH, 2008.**

CITY OF BLACK DIAMOND:

A handwritten signature in cursive script, appearing to read "Howard Botts", written over a horizontal line.

Howard Botts, Mayor

Attest:

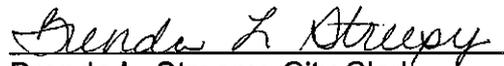
A handwritten signature in cursive script, appearing to read "Brenda L. Streepy", written over a horizontal line.
Brenda L. Streepy, City Clerk

Exhibit A

MUNICIPAL COURT JUDICIAL SERVICES AGREEMENT

This agreement is by and between the City of Black Diamond ("the City") and Steven Rosen ("Rosen"), and is dated into the 20th day of March, 2008.

RECITALS

- A. The City operates a Municipal Court.
- B. The City desires to appoint Rosen as the judge of its Municipal Court.
- C. Rosen is willing and able to serve as the City's Municipal Court Judge.

Now, therefore, in consideration of the mutual promises and covenants set forth below, the sufficiency of which is acknowledged by the parties, it is agreed as follows:

1. **Appointment** – Effective April 1, 2008, the City appoints Rosen to be the judge of its Municipal Court.
2. **Term** – The term of this agreement shall be from April 1, 2008 until midnight December 31, 2009.
3. **Duties** – Rosen shall perform the functions required by the City's ordinances, the constitutions and laws of the state of Washington and the United States, and all other applicable laws and treaties. Rosen shall abide by the Rules of Judicial Conduct as promulgated by the Washington Supreme Court. Rosen shall at all times maintain his status as a licensed attorney in the state of Washington in the status of either active or judicial. Rosen shall make himself available for trials, arraignments, and bail hearings as necessary, and shall also make himself available for telephonic and facsimile based probable cause determinations. Rosen shall have the responsibility to appoint Pro Tem Judges and assure their presence if he is absent. Rosen shall also use his best efforts to improve the City's Court by advancing the causes of justice, impartiality, fairness and efficiency in all of the Court's business.
4. **Compensation** – The City shall compensate Rosen at the rate of \$110.00 per hour for all his time, both judicial and administrative. Rosen shall not charge the City for up to two probable cause determinations per week. The City will compensate Rosen for a minimum of two hours for any court sessions. The rate of compensation may be adjusted annually by the agreement of the parties, in writing.



General Rule 29
PRESIDING JUDGE IN SUPERIOR COURT DISTRICT AND
LIMITED JURISDICTION COURT DISTRICT

(a) Election, Term, Vacancies, Removal and Selection Criteria--Multiple Judge Courts.

(1) Election. Each superior court district and each limited jurisdiction court district (including municipalities operating municipal courts) having more than one judge shall establish a procedure, by local court rule, for election, by the judges of the district, of a Presiding Judge, who shall supervise the judicial business of the district. In the same manner, the judges shall elect an Assistant Presiding Judge of the district who shall serve as Acting Presiding Judge during the absence or upon the request of the Presiding Judge and who shall perform such further duties as the Presiding Judge, the Executive Committee, if any, or the majority of the judges shall direct. If the judges of a district fail or refuse to elect a Presiding Judge, the Supreme Court shall appoint the Presiding Judge and Assistant Presiding Judge.

(2) Term. The Presiding Judge shall be elected for a term of not less than two years, subject to reelection. The term of the Presiding Judge shall commence on January 1 of the year in which the Presiding Judge's term begins.

(3) Vacancies. Interim vacancies of the office of Presiding Judge or Acting Presiding Judge shall be filled as provided in the local court rule in (a)(1).

(4) Removal. The Presiding Judge may be removed by a majority vote of the judges of the district unless otherwise provided by local court rule.

(5) Selection Criteria. Selection of a Presiding Judge should be based on the judge's 1) management and administrative ability, 2) interest in serving in the position, 3) experience and familiarity with a variety of trial court assignments, and 4) ability to motivate and educate other judicial officers and court personnel. A Presiding Judge must have at least four years of experience as a judge, unless this requirement is waived by a majority vote of the judges of the court.

Commentary

It is the view of the committee that the selection and duties of a presiding judge should be enumerated in a court rule rather than in a statute. It is also our view that one rule should apply to all levels of court

and include single judge courts. Therefore, the rule should be a GR (General Rule). The proposed rule addresses the process of selection/removal of a presiding judge and an executive committee. It was the intent of the committee to provide some flexibility to local courts wherein they could establish, by local rule, a removal process. Additionally, by delineating the selection criteria for the presiding judge, the committee intends that a rotational system of selecting a presiding judge is not advisable.

(b) Selection and Term - Single Judge Courts. In court districts or municipalities having only one judge, that judge shall serve as the Presiding Judge for the judge's term of office.

(c) Notification of Chief Justice. The Presiding Judge so elected shall send notice of the election of the Presiding Judge and Assistant Presiding Judge to the Chief Justice of the Supreme Court within 30 days of election.

(d) Caseload Adjustment. 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.

Commentary

Whether caseload adjustments need to be made depends on the size and workload of the court. A recognition of the additional duties of the Presiding Judge by some workload adjustment should be made by larger courts. For example, the Presiding Judge could be assigned a smaller share of civil cases or a block of time every week could be set aside with no cases scheduled so the Presiding Judge could attend to administrative matters.

(e) General Responsibilities. 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.

(f) Duties and Authority. The judicial and administrative duties set forth in this rule cannot be delegated to persons in either the legislative or executive branches of government.. A Presiding Judge may delegate the performance of ministerial duties to court employees; however, it is still the Presiding Judge's responsibility to ensure they are performed in accordance with this rule. In addition to exercising general administrative supervision over the court, except those duties assigned to clerks of the superior court pursuant to law, the Presiding Judge shall:

(1) Supervise the business of the judicial district and judicial officers in such manner as to ensure the expeditious and efficient processing of all cases and equitable distribution of the workload among judicial officers;

(2) Assign judicial officers to hear cases pursuant to

statute or rule. The court may establish general policies governing the assignment of judges.;

(3) Coordinate judicial officers' vacations, attendance at education programs, and similar matters;

(4) Develop and coordinate statistical and management information;

(5) Supervise the daily operation of the court including:

(a) All personnel assigned to perform court functions; and

(b) All personnel employed under the judicial branch of government including but not limited to working conditions, hiring, discipline, and termination decisions except wages, or benefits directly related to wages; and

(c) The court administrator, or equivalent employee, who shall report directly to the Presiding Judge.

Commentary

The trial courts must maintain control of the working conditions for their employees. For some courts this includes control over some wage-related benefits such as vacation time. While the executive branch maintains control of wage issues, the courts must assert their control in all other areas of employee relations.

With respect to the function of the court clerk, generally the courts of limited jurisdiction have direct responsibility for the administration of their clerk's office as well as the supervision of the court clerks who work in the courtroom. In the superior courts, the clerk's office may be under the direction of a separate elected official or someone appointed by the local judges or local legislative or executive authority. In those cases where the superior court is not responsible for the management of the clerk's office the presiding judge should communicate to the county clerk any concerns regarding the performance of statutory court duties by county clerk personnel.

A model job description, including qualification and experience criteria, for the court administrator position shall be established by the Board for Judicial Administration. A model job description that generally describes the knowledge, skills, and abilities of a court administrator would provide guidance to Presiding Judges in modifying current job duties/responsibilities or for courts initially hiring a court administrator or replacing a court administrator.

(6) Supervise the court's accounts and auditing the procurement and disbursement of appropriations and preparation of the judicial district's annual budget request;

(7) Appoint standing and special committees of judicial

officers necessary for the proper performance of the duties of the judicial district;

(8) Promulgate local rules as a majority of the judges may approve or as the Supreme Court shall direct;

(9) Supervise the preparation and filing of reports required by statute and court rule;

(10) Act as the official spokesperson for the court in all matters with the executive or legislative branches of state and local government and the community unless the Presiding Judge shall designate another judge to serve in this capacity;

Commentary

This provision recognizes the Presiding Judge as the official spokesperson for the court. It is not the intent of this provision to preclude other judges from speaking to community groups or executive or legislative branches of state or local government.

(11) Preside at meetings of the judicial officers of the district;

(12) Determine the qualifications of and establish a training program for pro tem judges and pro tem court commissioners; and

(13) Perform other duties as may be assigned by statute or court rule.

Commentary

The proposed rule also addresses the duties and general responsibilities of the presiding judge. The language in subsection (d), (e), (f) and (g) was intended to be broad in order that the presiding judge may carry out his/her responsibilities. There has been some comment that individual courts should have the ability to change the "duties and general responsibilities" subsections by local rule. While our committee has not had an opportunity to discuss this fully, this approach has a number of difficulties:

- It would create many "Presiding Judge Rules" all of which are different
- It could subject some municipal and district court judges to pressure from their executive and/or legislative authority to relinquish authority over areas such as budget and personnel
- It would impede the ability of the BJA through AOC to offer consistent training to incoming presiding judges

The Unified Family Court subgroup of the Domestic Relations Committee suggested the presiding judge is given specific authority to appoint judges to the family court for long periods of time. Again the committee has not addressed the proposal; however,

subsections (e) and (f) do give the presiding judge broad powers to manage the judicial resources of the court, including the assignment of judges to various departments.

(g) Executive Committee. The judges of a court may elect an executive committee consisting of other judicial officers in the court to advise the Presiding Judge. By local rule, the judges may provide that any or all of the responsibilities of the Presiding Judge be shared with the Executive Committee and may establish additional functions and responsibilities of the Executive Committee.

Commentary

Subsection (g) provides an option for an executive committee if the presiding judge and/or other members of the bench want an executive committee.

(h) Oversight of judicial officers. It shall be the duty of the Presiding Judge to supervise judicial officers to the extent necessary to ensure the timely and efficient processing of cases. The Presiding Judge shall have the authority to address a judicial officer's failure to perform judicial duties and to propose remedial action. If remedial action is not successful, the Presiding Judge shall notify the Commission on Judicial Conduct of a judge's substantial failure to perform judicial duties, which includes habitual neglect of duty or persistent refusal to carry out assignments or directives made by the Presiding Judge, as authorized by this rule.

(i) Multiple Court Districts. In counties that have multiple court districts, the judges may, by majority vote of each court, elect to conduct the judicial business collectively under the provisions of this rule.

(j) Multiple Court Level Agreement. The judges of the superior, district, and municipal courts or any combination thereof in a superior court judicial district may, by majority vote of each court, elect to conduct the judicial business collectively under the provisions of this rule.

(k) Judicial Services Contracts. A judicial officer may contract with a municipal or county authority to serve as a judicial officer. The personal service contract shall not contain provisions which conflict with this rule, the Code of Judicial Conduct or statutory judicial authority, or which would create an impropriety or the appearance of impropriety concerning the judge's activities. The employment contract should acknowledge the court is a part of an independent branch of government and that the judicial officer or court employees are bound to act in accordance with the provisions of the Code of Judicial Conduct and this rule.

Commentary

The Board for Judicial Administration should establish a model judicial services contract.

[Adopted effective April 30, 2002.]

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