

CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS
Study Session Worksheet

Presentation Date: December 14, 2010 Time: 7:30 am Length: 1 hour

Presentation Title: Justice Court Update

Departments: Justice Court, Finance, County Administration

Presenters: Marc Gonzales, Judge Karen Brisbin, Nancy Newton

POLICY QUESTION

This study session presents two policy issues to the Board of County Commissioners:

- 1.) The location and work flow issues regarding the Justice Court and how they could be addressed through a modification of original projections.

- 2.) The funding source and potential distribution of Justice Court fines and fees.

ISSUE & BACKGROUND

Background

In 2006, the Board of County Commissioners (Board) conducted a study session with the Clackamas County Sheriff's Office (CCSO) proposing the formation of a Justice Court. The intent behind the CCSO request was for fines and fees generated by the Court to offset costs for the traffic unit and other related programs such as Safe Communities. In 2009, the Board approved the establishment of the Justice Court. The CCSO expended a significant amount of time and effort researching the Justice Court concept and submitted an initial proposal that outlined the potential functions of the Court, including the allocation of revenues from fines and fees. After the Board approved establishing the Justice Court, the County Administrator directed staff to hire a Court Administrator to begin the process of setting up court operations; the Court Administrator was hired in 2009. The Justice of the Peace was appointed in 2009 and was subsequently elected in the November, 2010 general election.

Justice Court Functions and Facility Needs

In February of 2010 the Justice Court began operations to process and adjudicate traffic citations and other related violations at its present temporary location on SE McLoughlin Blvd. in Oak Grove. Prior to the Court's opening, the County was engaged in a planning process for the remodel of the Sunnybrook Service Center (Sunnybrook) incorporating the CCSO headquarters, Community Court and Justice Court at the same location.

A collaborative process involving CCSO, Finance, County Administration, Purchasing, Facilities Management, and Justice Court staff was undertaken with the assistance of SERA Architects for space programming and design for the departments slated for occupancy in the building, taking into consideration current and projected space requirements. When the process began, the Justice Court was in the formative stage and had yet to commence operations. Conservative space estimates were made taking into consideration that the Justice Court program was new and its operations would

change over time. This required a certain amount of assumptions without benefit of actual Court administrative and operational data.

Concurrent with the Sunnybrook remodel, Judge Brisbin and the Court Administrator refined and began the operations of the Justice Court. Through the utilization of advanced technology and Court scheduling to facilitate the reduction of Sheriff's deputy overtime for court appearances, the Court created a business model that has been exceeding all original estimates. For instance, the Court disposes of additional matters that could not have been anticipated in the initial proposal. These matters increase case volume and revenues to the Justice Court including:

- partnership with Oregon State Police to cite into the Justice Court for violations in Clackamas County,
- enforcement of parking permits at Government Camp,
- increased citations for Marine violations (such as life jacket requirements),
- enforcement of fish and wildlife violations,
- enforcement of Federal Weighmaster violations,
- enforcement of juvenile violations, and
- enforcement of drug and alcohol related violations.

Currently, there are a number of factors that have created an impact on plans for the Sunnybrook project and the Justice Court's location there:

1. Remodeling existing buildings creates unique issues. The Sunnybrook building and required parking are constrained by the site, making expansion difficult. Additionally, moving functions to a building initially constructed for different uses is challenging.
2. Project conceptual planning was largely completed prior to the opening of the Court; current space planned for Sunnybrook is not expected to meet future Court requirements:
 - a. The Sunnybrook lobby will be inadequate for accommodating citizens attempting to access the Court and CCSO functions.
 - b. Parking will be a significant issue for citizens and employees.
 - c. The courtroom is situated on the first floor with the majority of Court staff located on the third floor. The Court has noted the need for many citizens to arrange payment plans, which would be administered on the third floor. Court officials fear that there may be a number of individuals leaving without setting up payment plans, requiring additional follow up time for staff.
 - d. Should the Justice Court locate to Sunnybrook in its current configuration, administrative and Court space will be completely filled without means for expansion or modification to meet future Court needs.
 - e. Relocating the Court more than once from its temporary site would not be an efficient use of resources. Justice Court needs a permanent, established location that will maximize efficient operations of the Court.
3. Court operations began in a phased approach starting with traffic citations. The Court has not yet begun its statutory mandate for the disposition of small claims

and forcible evictions; this function will begin within the next few months. This added responsibility will result in greater activity for the Court both in the number of citizens seen and duties for Court staff.

Justice Court Fee and Fine Disbursement

Fines and fees to the Justice Court are mandated by ORS 137.290 – 137.309 and ORS 153.630. The State of Oregon receives their portion of all Justice Court fines and fees prior to any additional disbursements. Once initial disbursements are made according to the ORS citations listed above, it is the discretion of the Board as the governing body of Clackamas County to determine the manner in which fines and fees are distributed according to the resources and requirements of the County.

On February 24, 2009, Sheriff Craig Roberts sent a letter to the Board of County Commissioners and the County Administrator requesting a formalized policy addressing Justice Court revenues and the manner in which revenues can be utilized for traffic programs. The Sheriff's proposal was as follows:

1. Court operational expenses will be paid by Court revenues.
2. The County General Fund will continue to receive \$660,000 annually.
3. Revenues in excess of Court operations and the County's share will be reinvested by the Clackamas County Sheriff's Office for public safety.

As the Sheriff noted in his letter of February 24, 2009 there is no formal policy regarding Justice Court fines and fees. This is primarily due to the fact the Justice Court has been functioning for 10 months without all mandated functions, actual operational costs have not been determined.

When the Justice Court was initially created, fines and fees were discussed with the Sheriff's Office. Using the information available in the CCSO Justice Court proposal, County Administrator Jonathan Mantay proposed fines and fees be disbursed as follows:

1. After mandated disbursements, Court operations costs will be funded to ensure the continued operation of the Justice Court.
2. Once Court operations are funded, start up cost for creating the Justice Court will be repaid to the County General Fund.
3. Concurrent to start up costs being repaid, the County will receive an annual payment of \$660,000 to the General Fund.
4. Remaining revenues will be used to offset costs for traffic safety programs.

Since the initial proposal for the Justice Court based on the work of the CCSO and the formation and opening of the Justice Court in February 2010, there have been substantive changes in the operation of the Court and political climate in the State; namely:

1. The Justice Court has created a business model that, although different from the original proposal, does enforce additional violations resulting in increased fines and fees.

2. Oregon State Police Troopers are citing violations to the Justice Court that were not contemplated in initial Justice Court planning.
3. A bill created by Legislative Counsel (LC 364) could have significant impacts on the amount of revenues collected by Justice and Municipal Courts. Judge Brisbin briefed the Board on this issue during their 11/23/10 study session on legislative issues. In addition, LC 364 eliminates county assessment revenue from the ten Municipal Courts, Justice Court and Circuit Court in Clackamas County.

Given the current issues described above, careful consideration regarding fines and fees should be made until such time that more information – most importantly regarding LC 364 – be available.

QUESTION(S) PRESENTED FOR CONSIDERATION

1. Should the Board reconsider the current Sunnybrook project elements based on the information provided by staff?
2. Should the Board adopt a formal direction/policy with regard to Justice Court fee and fine distribution?

OPTIONS AVAILABLE

1. The Board could direct staff to separate Justice Court and CCSO facilities projects based on the following:
 - a. That the Sunnybrook project remain on schedule for CCSO administrative functions.
 - b. That the areas previously allocated for Justice Court use “as is,” unfinished but able to be reconfigured at a future date.
 - c. That staff propose a more suitable space configuration within Sunnybrook or an alternate location for the Justice Court.
 - d. That the Justice Court remain at its present location until such time as a facility proposal be made to the Board.
2. The Board could distribute fines and fees accordingly:
 - a. The County will receive an annual payment of \$660,000 to the General Fund.
 - b. After court operations costs and mandated disbursements, hold all fines and fees generated outside of the CCSO into a reserve account that will be addressed during the budget process. This would allow time for the State and legislature to make budgetary and policy decisions and not use a potentially unstable revenue source for essential CCSO programs.
 - c. All fines and fees generated by CCSO activity will be distributed in the following manner:

- i. After mandated disbursements, Court operations will be paid to ensure the continued operation of the Justice Court.
 - ii. Remaining revenues will be used to offset costs for traffic safety programs.
3. The Board could propose an alternate scenario.
4. The Board could take no action at this time.

It is important to note that start up costs for the Justice Court are projected to be reimbursed to the General Fund within FY 2010-11, which exceeds original projections. The start up costs will be met collectively through CCSO and OSP fines and fees after mandated disbursements are made.

RECOMMENDATIONS

Staff respectfully requests approval of options one and two. The decision points for this recommendation are:

- That the Sunnybrook facility as configured is not the most efficient and best use for CCSO and Justice Court operations.
- Separating the two functions will not cause excessive costs to the Sunnybrook project.
- The CCSO only pay allocated costs for space used for their operations.
- Approval of options one and two allows staff to research and propose alternative Justice Court facilities to the Board as well as time for the Legislature to make key decisions on the State budget and LC 364.

SCHEDULE FOR STUDY SESSION

Division Director/Head Approval *Marc Gonzales*
 Department Director/Head Approval _____
 County Administrator Approval _____

For information on this issue or copies of attachments, please contact
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