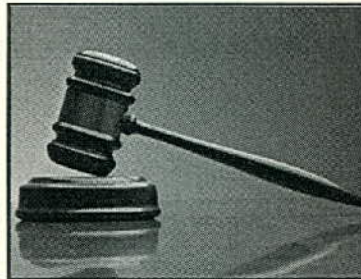


Ruston Municipal Court "A Community Asset"



Judge David Larson

Why are we here?

- Set forth the issues that you need to consider as a council regarding the proposed interlocal agreement ("ILA") with Fircrest
 - Inform your judgment, not undermine your judgment

Courts as Community Assets

- What do municipal courts do for a community?
 - Your court has assisted in maintaining the health and welfare of Ruston for 57 years (25 years with Judge Allen)
 - Entire community benefits from the work of a committed and accountable judge
 - You need a judge committed to making your community the best it can be
 - Reform individual behavior and choices to prevent crimes or infractions from re-occurring
 - The closer justice is to your citizens the more effective it becomes
 - Direct accountability to the people of Ruston is key

Currently

- You set the operating budget of the court
 - Increase or decrease budget based upon Ruston's actual needs
- You control confirmation of the Mayor's nomination for judge every four years
- You control the facility costs of the court/city hall
 - Including decisions to incur expenses for improvements to the court/city hall

Under Interlocal Agreement

- Fircrest, not Ruston, determines:
 - Prosecutor and public defender contract costs
 - Note Paragraph B6: Fircrest decides compliance with public defense caseloads. Their decision may require additional compensation to be passed on to Ruston.
 - Compensation of judge, court staff, and police
 - Facility costs
- You can choose to appoint your own judge, but it will cost you more money if you disagree with the Fircrest City Council's choice of judge
 - Is this really a valid choice? Does it recognize your legal and moral obligations to Judge Allen?

Unknowns

- You do not know:
 - Contract price under D1
 - Additional cost of choosing your own judge under D1
 - Cost of security under D2
 - Cost for handling pending cases
 - ILA only includes new cases after September 1, 2018
 - How future costs will be determined or controlled
 - Paragraph D1 provides that *"The fee will be reviewed and adjusted on an annual basis."*

What we do know

- Contract price under D1
 - Fircrest originally wanted \$155,000 to handle 2,000 cases/year and \$80 for each case filing above 2,000 cases
 - Existing law dictates that Judge Allen be paid her \$27,000 salary through December 31, 2021
- There will be cases pending on September 1st
- Security under D3
 - Ruston currently pays \$4,650 per year with benefits for security
 - You need security 8 hours per day for 24 court days (192 hours)
 - Fircrest will charge by the hour for security and pays police officers between \$25.00 and \$35.50 per hour without benefits or incentives

Increased Security Costs



Increased Security Costs

- Projected security costs
 - Without benefits
 - \$25.00-\$35.50
 - With benefits (Assume 30% benefits)
 - $192 \text{ hours} \times \$32.50 - \$46.00 = \$6,240 - \$8,832/\text{year}$

Range over \$4,650 current cost
\$1,590-\$4,182

Cost of Pending Cases



Cases Included in ILA

- ILA only includes filings after September 1, 2018
 - Paragraph B1 of the ILA provides that the contract price is based upon the Fircrest court handing, “...***all City cases filed on September 1, 2018 or any date thereafter for the duration of this agreement...***”
 - Current ILA assumes 2,500 new filings per year
 - You are on track for 2,474 total filings for 2018

Cases Not Included in ILA

- There will likely be over 6,000 pending cases at the time of transfer
 - RCW 3.50.805 requires that you to terminate your court so there will be no way to adjudicate pending cases
 - No judge
 - No staff
 - No prosecutor
 - No public defender
 - No computer system

Net Effect

- Ruston's only choice would be to pay Fircrest to adjudicate pending cases
 - How is the cost going to be determined?
 - Pending cases represent the equivalent of 3 years of service under the original proposal of 2,000 cases per year at \$155,000/year
 - Cost likely not be \$465,000, but what will the cost be with the above perspective in mind?

Resolving Cost Disputes



Who decides Ruston's cost?

- Any unresolved disagreement on the ongoing cost to Ruston for court services will be decided by an arbitrator, not by you.
 - RCW 3.50.805(1)
 - RCW 39.34.180(3)

Ruston Budget vs. ILA



Current Ruston Budget

Court Support	\$121,873.00
Judge's Salary	27,000.00
Court Security	4,650.00
Prosecutor	34,000.00
Public Defense	<u>17,758.00</u>
TOTAL	\$205,281.00

Break Even Charge

- For Ruston to break even on existing budget
 - Fircrest would need to limit its charge to \$178,221.00

Ruston current budget	\$205,281.00
Minus Judge Allen's salary	<u>-27,000.00</u>
Net difference	\$178,281.00

Cost Requirements

Net cost without Judge Allen salary	\$178,281.00
First original bid with 2,000 filings	<u>155,000.00</u>
Net difference	\$ 23,281.00

- Fircrest originally wanted \$80.00 for every case filed over 2,000 filing threshold, so for an additional \$23,281 Fircrest would need to:
 - Handle up to 500 additional filings per year
 - Absorb up to \$4,185 in increased security costs
 - Transition and then handle 6,000+ pending cases

Cost of 2,500 filings

- Fircrest's original bid for 2,000 case filings per year was \$155,000.00
 - This is an implied rate of \$77.50 per case
 - At that same rate Fircrest would need to charge **\$193,750** for 2,500 cases
 - Fircrest originally assumed an \$80.00 per case rate for cases above 2,000 so the \$77.50 is not unreasonable

Projected Ruston Budget

Projected ILA Cost	\$193,750.00
Judge Allen's Salary	27,000.00
Court Security	\$6,240.00-\$8,832.00
Handle pending cases	<u>Unknown</u>
TOTAL	\$226,990.00-\$229,582.00

Increased cost without pending cases

\$21,709.00 to \$24,301.00+

Filing Trends

Month	Filings for Month 2018/2017	Cumulative Filings 2018	Projected with Monthly Filings	Projected Cumulative Filings
January	146/90	146	1,752	1,752
February	161/60	307	1,932	1,842
March	194/180	501	2,328	2,004
April	269/204	770	3,228	2,310
May	261/229	1,031	3,132	2,474
March- May	724	X	X	2,896

Revenue Considerations



Caveats

- Courts and judges are not in the revenue business
 - Judges adjudicate cases filed by the city based upon their own sound judgment and discretion without regard to revenue
 - Revenue collections are complicated and multifaceted

Revenue Under the ILA

- Paragraph D4 of the ILA provides that the Fircrest court collects revenue for Ruston
 - Many finance departments “balance the budget” by viewing court revenue as an offset to court expenses
 - Under this model, less court revenue equals greater net expense for court services
 - Judges hate this model because it implies that we need to make a “profit”

However...

Rates of Collection

- Based up total revenue reports to AOC between 2013 and 2017
 - Fircrest averaged \$150.39/case in total revenue
 - Ruston averaged \$181.13/case in total revenue
 - \$30.74/case difference in total revenue reported to AOC
 - This does not represent the actual net revenue to the cities

2,000 cases x \$30.74/case = \$61,480

2,500 cases x \$30.74/case = \$76,850

Staffing Issues



Staffing Needs

- Fircrest's caseload will essentially double in size
 - Judge, staff, prosecutor, defense counsel staffing needs will increase
 - Costs will increase (passed on to Ruston?)
 - Ruston and Fircrest citizens will ultimately suffer

City	Judicial FTE Need	Actual FTE
Ruston	.48	.20
Fircrest	.53	.13
Combined	1.01	.33

Pro Tem Judges

- Paragraph B2 of the ILA provides that Ruston will appoint Fircrest's pro tem judges
- RCW 3.50.090 provides that only the presiding judge for the host court appoints pro tem judges (Judge Miller for Fircrest and Judge Allen for Ruston)
 - You will have no legal say on pro tem judges
 - BTW, Ruston code 1.03.040 is not valid under state law

Legal Considerations



I would be remiss if...

- I would be remiss if I did not bring forward the possible legal consequences of the ILA
 - The intent is to enlighten, not to threaten

Term of Office

- Judge Allen's term of office ends on December 31, 2021 and no sooner
 - The contract provision attempting to modify that term is invalid; you can't rewrite RCW 3.50.040 with a contract
 - At a minimum, current law supports the fact that Judge Allen is entitled to receive her \$27,000 salary through December 31, 2021
 - Her staff may be third party beneficiaries to the agreement and may also be entitled to compensation

Has there been a breach?

Paragraph 8 of the agreement between Ruston and Judge Allen provides:

"If the City converts from a Ruston Municipal Court to a contract for Court Services by another jurisdiction during the term, then the parties agree to negotiate in good faith for termination provisions and the procedure for transitioning to use of another Court system."

Breach of Agreement?

- Was Judge Allen included in discussions or given the opportunity to "negotiate in good faith"?
 - No alternatives to termination have been discussed with Judge Allen. Judge Allen has had no input on any "termination provisions" or "the procedure for transitioning to use of another Court system."
 - Judge Allen initially found out about the probability of imminent termination from one of her staff members
 - A key staff member took another job due to the certainty of commitment by the city to terminate the court unilaterally
 - Judge Allen had a hard time finding new staff for a court guaranteed to be terminated. She was forced to work extra hours to find part-time staff from other courts and retirees to keep the court open. By the way, Fircrest would not assist.

Tort Liability

- It is a tort for a third party to interfere with an existing contractual relationship between two parties
 - This tort also applies to government officials. Potential defendants include anyone who participated in perfecting the breach, including mayors, city managers, and councilmembers
 - Paragraph D1 of the ILA may be evidence of intent by Fircrest and anyone who ratifies the agreement to induce Ruston to breach its contract with Judge Allen

“In the event that Ruston does not appoint Fircrest’s judge, this fee shall be renegotiated with the expectation that this amount will be greater.”

City Council Vote Required

- See RCW 3.50.060 (Repeal 1.03.010)
 - *“A city or town electing to establish a municipal court pursuant to this chapter may terminate such court by adoption of an appropriate ordinance.”*
- Signing the ILA and/or adopting the ordinance repealing 1.03.010 could trigger potential litigation
 - \$90,000+ loss to Judge Allen

Successful Litigation

Is there such a thing?

- Cost of attorneys fees and the loss of community goodwill are very tangible costs to consider

Let's work together
to best serve the people of Ruston
by avoiding litigation!

Other Options



Other Options

- Keep your existing court
 - Address issues in another way
- Space sharing with another court
 - Tacoma Municipal
 - Pierce County District
 - Fircrest
- Space and staff sharing with another court
 - Same as above, but see...
 - Puyallup/Milton
 - Bonney Lake/Sumner
 - Kent/Maple Valley

Thank You