

**CITY OF EL PASO, TEXAS
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: Municipal Clerk
AGENDA DATE: Tuesday, February 3, 2009
CONTACT PERSON/PHONE: Richarda Duffy Momsen, (915) 541-4127
DISTRICT(S) AFFECTED: All

SUBJECT:

APPROVE a resolution / ordinance / lease to do what? OR AUTHORIZE the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.

The City Council will consider the appointment of two on-call, part-time Associate Municipal Court Judges from among the resumes received. These positions serve as substitutes for the elected municipal court trial judges at trial and court hearings; they preside over arraignments; they serve as magistrates on weekends and graveyard shifts.

BACKGROUND / DISCUSSION:

Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?

Council will appoint two candidates from the résumés received to serve as Associate Municipal Court Judges. Ordinance 016274 provides for the selection process. All resumes were forwarded to the City Council for consideration. In addition, the City Manager solicited the recommendation of Presiding Municipal Court Judge Robledo, forwarding the resumes to him for review. The ordinance does not require this inclusion of the Presiding Judge, but the City Manager reasons that since Presiding Judge is more familiar with the legal community and since he will supervise the associates selected, his input is valuable. At the request of the City Council on January 13th, the Presiding Judge Daniel Robledo, along with Municipal Court Judge David Bonilla and Municipal Court Judge Richard Olivo interviewed the candidates and made a recommendation as a committee. Two candidates withdrew from consideration prior to the interviews, leaving three applicants, listed on the agenda alphabetically: Michele Locke, Sheldon Myers and Roger Rodriguez. City Council is not bound by the judges' recommendation. The recommendation of the judges is to appoint applicants Michele Locke and Roger Rodriguez.

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one?

Yes, it is City Council who appoints part-time Associate Municipal Court Judges when a vacancy occurs, in accordance with Ordinance 016274 and the City Charter.

AMOUNT AND SOURCE OF FUNDING:

How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

On-call, part-time associate judges are paid only for the court or magistrate sessions they work. The City also pays for travel to and from the statutorily required 12 hour Texas Municipal Court Education Center training.

Fund: 01101 (General Fund)
Department: 11010332 (Municipal Clerk)
Account: 501000 (Salaries – Judiciary)

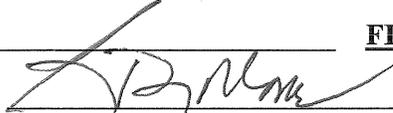
BOARD / COMMISSION ACTION:

Enter appropriate comments or N/A

*****REQUIRED AUTHORIZATION*****

LEGAL: (if required) _____ FINANCE: (if required) _____

DEPARTMENT HEAD:



(Example: if RCA is initiated by Purchasing, client department should sign also)
Information copy to appropriate Deputy City Manager

APPROVED FOR AGENDA:

CITY MANAGER: _____

DATE: _____

ORDINANCE NO. 16274

AN ORDINANCE AMENDING TITLE 2 (ADMINISTRATION AND PERSONNEL), CHAPTER 2.44 (COURTS); OF THE CITY CODE BY AMENDING SECTION 2.44.030 (JUDGES); RELATING TO THE TERMS OF OFFICE FOR THE SUBSTITUTE ASSOCIATE MUNICIPAL JUDGES AND THE SELECTION OF APPOINTED JUDGES; AND REPEALING ORDINANCE NO. 12403, WHICH PREVIOUSLY SET FORTH THE SELECTION PROCEDURE; THE PENALTY BEING AS PROVIDED IN SECTIONS 1.08.010 - 1.08.030 OF THE EL PASO CITY CODE.

WHEREAS, Section 30.00006, Texas Government Code, provides that a City shall establish the terms of office for its Municipal Judges; and

WHEREAS, the City Charter establishes the terms of office for the elected Judges; and

WHEREAS, it is necessary to designate the terms of office for the substitute associate judges that are appointed by the Council in accordance with Section 30.00008, Texas Government Code; and

WHEREAS, the Council last appointed substitute associate municipal judges in 2003 for two year terms ending June 2005; and

WHEREAS, since more than ninety days have passed since the expiration of the original term of these judges who have remained in office, by operation of law, they have automatically been reappointed for a term of the same length, which will expire in June 2007, which makes it unnecessary for the City Council to reappoint those judges at this time; and

WHEREAS, this ordinance replaces the procedure for the nomination and selection of appointed municipal judges contained in Ordinance no. 12403, thus making it appropriate for the Council to repeal that ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE
CITY OF EL PASO, TEXAS:

Section 1. That Section 2.44.030 (Judges) of the El Paso City Code is amended as follows:

Section 2.44.030 Judges.

A. In addition to the qualifications prescribed in the city Charter, the presiding municipal judge shall be a licensed attorney at law who has practiced law in Texas at least five years prior to his or her election by a majority of the municipal judges.

B. The term of office for the elected judges shall be as provided in the city Charter.

C. The city council may appoint one or more substitute associate municipal judges to sit for the regular judge of any municipal court when such regular judge is temporarily unable to act for any reason. Such substitute associate municipal judge shall possess the same qualifications required of the regular municipal judges and shall have all the powers and duties of the judge for whom such substitute associate municipal judge is sitting while so acting.

D. The term of office for the substitute associate municipal judges is four years. The term of office for any substitute associate municipal judge appointed by the Council for a term beginning in June 2003, and who was automatically reappointed in 2005 by operation of law, shall expire in June 2007. Thereafter, appointments to the positions with terms expiring in June 2007 shall be for four year terms. The term of office for substitute associate municipal judges appointed by the Council for a term beginning in June 2005 shall be for four years.

E. When a vacancy arises in a position of municipal court judge or substitute associate municipal court judge, or new appointments of judges are necessary, the following selection process will be utilized.

1. The Municipal Clerk will notify the City Manager of the vacancy or need for the Council to make appointments.
2. The City Manager will post a public notice in the same manner as City Council agendas are posted, announcing the acceptance of resumes of interested candidates requesting to be considered in the selection process and will set a deadline for candidates to submit those resumes to the members of the City Council.
3. Each member of the City Council may submit the names of one or more candidates to the City Manager for consideration in the selection process no later than ten days after the deadline set for the submission of resumes.
4. The City Manager will compile a list of the candidates and as soon as practicable, place an appropriate item on the City Council agenda to enable the City Council to make the appropriate appointments.

F. Any substitute associate municipal judge appointed pursuant to subsection C of this section may be assigned to serve as night magistrate under the supervision of the presiding municipal judge. The duties of the night magistrate shall be those prescribed by the laws of the state, particularly the Code of Criminal Procedure, at the discretion of the presiding judge.

G. A vacancy in the office of elected judge is filled by appointment by the city council and the person appointed serves until the next regular municipal election, at which time his successor shall be elected. An appointee may succeed himself or herself.

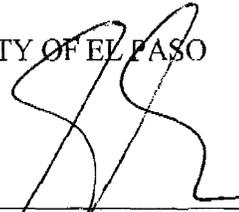
H. A vacancy in the office of substitute associate judge is filled by appointment by the city council and the person appointed serves the remainder of the expired term.

Section 2. That Ordinance no. 12403, An Ordinance Establishing a Procedure for the Appointment of Municipal Court Judges, is repealed.

Section 3. Except has herein amended, Title 2 (Administration and Personnel) shall remain in full force and effect.

ADOPTED this 7th day of February 2006.

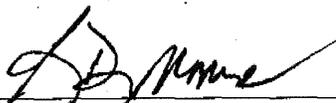
CITY OF EL PASO



BETO O'ROURKE
MAYOR PRO TEMPORE

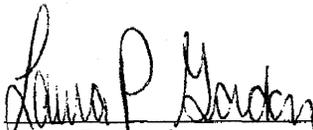
ATTEST:

for: John F. Cook, Mayor



Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Laura P. Gordon
Deputy City Attorney

MICHELE LOCKE

Dear Sir/Dear Madam:

As General Counsel in private practice, firm partnerships, and public and institutional settings, I am seeking the opportunity to bring sophisticated strategy to your organization. A comprehensive leader, I optimize legal outcomes while facilitating unforeseen levels of performance and profits. Highlights from my career include:

- Establishment of high-impact solo and partner practices.
- Oversight of life-sentence capital murder case in private practice.
- Appointment as Chief Financial Officer to Cancer Treatment Institute, in addition to key legal title.
- Prevention of apartment eviction of terminal cancer patient for Cancer Treatment Institute.
- Direction of complex 42 U.S.C. § 1983 litigation cases for El Paso City Attorney's Office.

With recognition as a Texas Super Lawyer Rising Star in 2006, I look forward to joining an organization seeking outstanding direction.

For a detailed presentation of my skills and background, please review the enclosed resume and feel free to contact me at your earliest convenience. Thank you for your consideration.

Respectfully yours,

Michele Locke

MICHELE LOCKE

GENERAL COUNSEL

Entrepreneurial law specialist named Texas Super Lawyer Rising Star in 2006, directing clients, institutions, and public agencies to optimal legal outcomes and outstanding profits and savings.

- Demonstrate expertise in case strategy and direction, document preparation, business development, operational establishment and leadership, fiscal oversight, and client acquisition and retention.
- Specialize in criminal law, family law, and general civil litigation.
- Surpass client expectations as Solo Practitioner, Law Firm Shareholder, General Counsel, and Associate in capacity of defender and prosecutor.
- Orchestrate critical legal cases, including those pertinent to terminal medical patients, charges filed against local police, and capital murder.
- Organize and drive complex initiatives with multi-tiered priorities and deadlines.
- Formulate expeditious and lasting solutions to extensive, unforeseen legal challenges.
- Maintain corporate profitability through continuous review of evolving circumstances and trends.
- Build, motivate, and inspire high-performing, cohesive teams.

Corporate Leadership • Strategic Planning • Partnership Development • Client Management • Legal Advocacy
 Capital Generation & Savings • Research & Analysis • Due Diligence • Negotiations • Mediation • Litigation
 Court Presentations • Case Dismissals • Risk & Change Management • Problem Solving

PROFESSIONAL EXPERIENCE

MICHELE LOCKE P.C., El Paso, Texas • 2006-Present

General law firm focused on family and criminal legal issues with annual revenue of \$100K.

Attorney

Maintain exceptional quality of client service in wide-ranging, complex civil and criminal litigation. Drafted business plan, established operations, and founded technical and case management systems. Direct support staff of 2 while securing profitability through strategic planning; attainment and maintenance of client base; provision of fiscal oversight; and leadership in marketing, accounting, procurement, and corporate relations.

Co-Counsel in life-sentence capital murder case.

CANCER TREATMENT INSTITUTE, El Paso, Texas • 2006-2007

Health facility providing radiation treatment for cancer patients with annual revenue of \$9M.

General Counsel

Provided comprehensive legal oversight to enterprise while excelling in appointment as Chief Financial Officer to 40 staff. Renegotiated radiation software agreements, as well as agreements for purchase of radiation machines for additional facility. Attained various forms of crucial relief for financially challenged patients, including payment reductions following insurance payments. Assisted patients through legal counsel and representation, blocking home evictions during terminal cancer treatments.

- Prevented apartment eviction of terminal cancer patient for 9 months, resulting in reduction of added stress to patient and facilitation of peaceful passing.

ELIZONDO, HAYES, & LOCKE P.C., El Paso, Texas • 2005-2006

Legal firm with concentration in family, employment, and criminal law, as well as civil litigation with 3 attorneys and 2 support staff.

Shareholder

Participated in start-up enterprise with 3 female shareholders in general practice. Performed litigation in civil and criminal cases through research, drafting of motions and other legal documents, provision of court appearances, and participation in leadership of corporate administration.

- Customized wide-ranging client solutions through attention to unique circumstances and objectives.

EL PASO CITY ATTORNEY'S OFFICE, El Paso, Texas • 2004-2005**Assistant City Attorney**

Oversaw 42 U.S.C. § 1983 litigation, including 8-plaintiff lawsuit against local police department for damages sustained during alleged riot; disciplinary actions of El Paso Police Department on local police officers, fire fighters, and city employees; and defense of City of El Paso in Texas Tort Claims Act litigation and land-annexation disputes. Acted as Municipal Prosecutor during absences at Municipal Court.

- Achieved dismissal of several lawsuits against City of El Paso from Federal Court based on summary judgment motions.
- Won cases resulting in discipline and suspension of several police officers.

KEMP SMITH L.L.P., El Paso, Texas • 2002-2004

General practice law firm managing issues of probate, employment law, and insurance defense with 40 attorneys.

Associate Attorney

Served with distinction as problem solver in Insurance Defense Department as sole Associate assigned to three partners. Performed assignments as requested by supervising attorney, ranging from preparation of summary judgment motions to discovery responses.

- Realized dismissal of breach of fiduciary duty case based on preparation of motion for summary judgment.

EDUCATION

J.D., Texas Tech University, Lubbock, Texas
B.B.A., Finance, University of Texas at Austin, Austin, Texas

LICENSURE

State of Texas
U.S. Western District of Texas
5th Circuit Court of Appeals

SHELDON A. MYERS

Work History

- Sept. '03-current
 - Running Law Office of Sheldon A. Myers, handling mostly criminal cases, Probate Bar President in 2007
- Feb. '99-Sept. '03
 - Assistant District Attorney for El Paso County Texas District Attorney's Office, prosecuted Misdemeanors and Felonies; Prosecutor in 243rd, 210th, and 120th District Courts
- Apr. '98-Feb. '99
 - Attorney for Law Firm of McLeod, Alexander, Powell, and Apfel in Galveston, TX; handling civil cases
- Oct. '94-Apr. '95
 - Stocker for Price Club (similar to Sam's and Costco) in Tucson, AZ
- June '85-May '92
 - various duties in grocery stores, including supervising shifts, checking, stocking, inventory, checking freight loads
- other
 - delivering construction supplies, refueling aircraft, various duties in pizza restaurant, including supervising shifts

Educational Background

- 1997
 - Passed State Bar Exam
- 1995-1997
 - Attended Baylor School of Law, Graduating in top 11 Percent of Class; Notes & Comment Editor for Baylor Law Review
- 1992-1994
 - Attended Portland State University, Graduated at top of class, named Outstanding Senior, 1994; B.A. in Criminal Justice
- 1990-1992
 - Attended Portland Community College, studied Criminal Justice; A.S. in Criminal Justice
- 1980-1982
 - Attended Portland Community College, studied Airframe & Powerplant Mechanic course; obtained Airframe & Powerplant License
- 1980
 - Graduated from Aloha High School, Aloha, Oregon

Personal Interests

Spending time with family, sports, motorcycle riding, traveling

References available upon request

FOR ASSOCIATE MUNICIPAL
JUDGE

RECEIVED

DEC 04 2008

Human Resources
Received by Initial _____

Roger Rodriguez
Attorney at Law
Cortez Building
310 N. Mesa St. Ste 420
El Paso, TX 79901

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- I. Licenses:** Fed. U.S. Fifth Circuit Court of Appeals
Fed. U.S. Tenth Circuit Court of Appeals
Fed. U.S. Western District of Texas
Fed. U.S. Southern District of Texas
Fed. U.S. Colorado District
Texas Supreme Court (All Courts in Texas)
All El Paso State District Courts
All Texas County and Municipal Courts
United States Tax Court
Ysleta Pueblo Del Sur Tigua Court
All Federal Immigration Courts
- II. Education:** Georgetown University Law Center-Washington, D.C.
With Honors
2000-LL.M. (Law)
- Texas Tech University School of Law-Lubbock, TX.
With Honors, Cum Laude
1999-Doctor of Jurisprudence
- Univ. Texas at El Paso-El Paso, TX
With Honors
1997-Bachelor of Arts in Political Science
- III. Experience:** Exxon Mobil-Corporation USA-Houston, TX.
Attorney at Law
2000-2003
- Roger Rodriguez Attorney at Law - El Paso, TX.
2003- **Current**
Criminal Defense, Municipal Law, Corporate and Employment Law
- University of Phoenix-Santa Teresa, NM
Professor in Masters Program
2008- **Current**
Business Law, Employment Law, Government Law
- IV. Languages:** Completely fluent in English and Spanish.

Momsen, Richarda D.

From: Daniel Robledo
Sent: Monday, January 26, 2009 2:27 PM
To: Momsen, Richarda D.
Subject: RE: Appointment of associate judges

Dear **Richarda**

Please forward this email over to **Joyce Wilson**.

On **January 23, 2009 at 2 pm**, I assembled a committee of three judges to review the applicants who are requesting the two positions for Associate Municipal Judge. **Judge Bonilla** and **Judge Olivo** and **I** sitting as chair had the privilege of meeting with the candidates. My reasons for having a **committee** is to assure that fairness was given to all the applicants; and the majority, **in the committee**, would decide on the candidates. It was unanimously decided on **Michelle Locke** and **Roger Rodriguez** for the two positions. If there are any other questions do not hesitate to contact me. **Thank You**

JUDGE ROBLEDO