## STAFF REPORT

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| **Agenda Item:** | 8 | **Name:** | Greg Doss |
| **Proposed No**.: | 2015-0404 | **Date:** | December 8, 2015 |

**SUBJECT**

Proposed Ordinance 2015-0404 would provide an increase in the per diem rate of compensation for members of the Board of Appeals and Equalization. It would also provide a clarification of the scheduled work associated with each level of compensation and update certain other minor provisions of King County Code 2.34.

**SUMMARY**

Proposed Ordinance 2015-0404 would increase Board member per diem from $250 to $300 for a full day (6 hours) and from $150 to $200 for a half day (3 hours) of scheduled hearings or administrative meetings. The proposed ordinance would also provide a clarification of member schedules and replace the language regarding assignment of parking stalls with language authorizing members to use the Goat Hill Garage at County employee rates.

The proposed ordinance has an implementation date of January 1, 2016. The annual cost of the per diem increase is estimated at $39,100 and would require an increase to the Board’s current appropriation levels.

**BACKGROUND**

The Board of Appeals and Equalization is an independent, quasi-judicial body organized to adjudicate appeals of various determinations made by certain King County agencies. It is comprised of seven citizen members appointed by the King County Executive and confirmed by the Metropolitan King County Council. When performing its duties, the Board’s goal is to provide an impartial hearing environment that protects each party’s due process rights and results in a fair decision. The term of appointment for Board members is four years.

Acting as the Board of Equalization, members hear and decide appeals of the assessed value of real and personal property and appeals of other actions by the County Assessor. State law authorizes each County to have a Board of Equalization to hear appeals on property tax valuations. Acting as the Board of Appeals, the same members hear and decide appeals of orders issued by King County Animal Control for violations of animal control laws, appeals of certain businesses license decisions, violations of minor zoning regulations and assessments funding of lake management districts. Some of these functions are addressed in Proposed Ordinance 2015-0505, which would move to the King County Hearing Examiner some types of appeals that the Board currently hears. These would include business licenses and fireworks under K.C.C. Title 6, animal control under K.C.C. chapter 11.04 and lake management district assessments.

King County’s Board hears approximately 5,000 appeals per year. For comparative purposes, Attachment 2 provides an overview of the number of cases heard by other County Boards of Equalization.

Excepting the per-diem, Board members receive no benefits or any other compensation for their services. Payment of Federal Income Tax is the responsibility of the individual Board member. Per Diem compensation is not deemed self-employment income under the IRS code and is therefore not subject to Social Security tax.

The per-diem was last adjusted by the Council in 2005 effective for 2006. Since that time, Board staff indicate that the annual cost-of-living-adjustments (cola adjustments) received by other County employees would have elevated the per-diem daily rate to the $300 level established in the proposed ordinance.

The per-diem for other County Boards of Equalization is less than King County and ranges between $50 per day and $150 per day. Although, the King County Board hears significantly more appeals than other counties and the Board’s staff has said that the appeals are more complicated. In 2014, the Board made a proposal to the County Council’s Budget Chair and used for comparative purposes the compensation provided to County and City Hearing Examiner positions. A copy of this proposal is found in Attachment 1.

**ANALYSIS**

***Per Diem Comparables***:

Identifying an exact comparable for the Board’s body of work is difficult because of the wide range of hearings it administers under the King County Code (K.C.C.). When hearing property valuation appeals, the cases may be somewhat similar to those heard in other Counties. However, the Board also hears appeals related to business licenses and fireworks under K.C.C. Title 6, animal control under K.C.C. chapter 11.04 and lake management district assessments.

The qualifications for a Hearing Examiner pro tem position in King County typically require a J.D. (preferred) or Master’s degree in urban planning or related discipline and five years of progressive experience interpreting land use laws, regulations, and codes, and conducting or assisting in conducting administrative hearings. King County Board of Appeals / Equalization positions typically require some knowledge of real estate appraisal methods, real estate law, or real estate financial analysis. The position descriptions indicate that knowledge and understanding of valuation using the income approach to value commercial property is highly desirable.

The table below compares King County's compensation rates for the Board of Equalization and Appeals with those of the City of Seattle, Pierce County and Snohomish County. If the Board’s per diem is compared solely with the compensation rates for pro tem hearing examiners in neighboring jurisdictions, the Board’s per-diem converts to an hourly rate that is on the lower end of the ranges. Assuming a six hour day, the Board’s current per diem rate ($250 per day) equates to $41.67 per hour. At the proposed $300 rate, the rate would be $50 per hour.[[1]](#footnote-1)

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| **Jurisdiction** | **Board of Equalization Member[[2]](#footnote-2)** | **Hearing Examiner[[3]](#footnote-3)** |
|  |  |  |
| King County | $42 per hour ($250 per day) | $75 - $125 |
| City of Seattle | N/A | $44 - $101 |
| Pierce County | $25 per hour ($150 per day) | No H.E. - Contracted Out |
| Snohomish County | $25 per hour ($150 per day) | $40 - $56 |

In contrast, if the Board’s per diem is compared with the compensation provided to citizens who serve on equalization boards in other counties, then the per-diem rate for King County's Board of Appeals and Equalization is significantly higher than what other members receive. Attachment 2 is a survey that was conducted last year by Board of Equalization members in Mason County. It shows the compensation rates for Board of Equalization members in other jurisdictions and also highlights some of the differences between the number of cases and potential complexity, which may be reflected in the number of minutes needed to resolve a case[[4]](#footnote-4).

Other paid boards in King County include the Boundary Review Board and the Personnel Board. These Boards require significantly fewer hours than the Board of Equalization; which meets more than 16 days per month. Conversely, the Boundary Review Board has infrequent meetings and compensates its members at $75 per day. The Personnel Board meets approximately 36 hours per year and compensates its members at $50 per meeting, which typically last four hours.

***Workforce Retention:***

Compensation plays an important role in employee retention. The compensation packages a business or organization offers to employees affects the company’s recruitment rate, retention rate and employee satisfaction.[[5]](#footnote-5) In the case of the King County Board of Appeals / Equalization, the membership does not appear to have suffered the negative effects that might be equated with inadequate compensation. The average length of service is at 6 years and most of the Board’s members have served at least one four-year term. The table below shows the appointment date of each Board member and the number of terms that he or she has served:

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| --- | --- | --- | --- |
| Board Member | Initial Appointment | Term Expires | Number of Terms |
|  |  |  |  |
| Ronald Bosi | July 2014 | June 2016 | 1 Partial |
| Joanne Cisneros | May 2012 | June 2015 | 1 Partial |
| Anthony Ogilvie | September 2013 | June 2017 | 1 Full |
| Kay S. Slonim | June 2013 | June 2016 | 1 Partial |
| Dolores Sibonga | May 2003 | June 2015 | 3 Full |
| Stephen Wehner | November 2003 | June 2018 | 1 Partial 3 Full |
| Charles Brydon | May 2005 | June 2017 | 3 Full |

While the Board’s Clerk recognizes that neither recruitment nor retention has been a problem, he has also indicated that an increase to the per-diem rate would serve as an incentive to retain existing members. The Clerk has said that the Board benefits from maintaining a body of knowledge through its existing members and that regular turnover created through inadequate compensation would affect the Board’s ability to deliver its services.

***Budget Issues:***

The Board has a 2015-16 Biennial Budget of approximately $1.5 million. The Board spends the vast majority of its budget on personnel services (Board member per-diem, salary and benefits of regular employees), which amount to approximately 85% of its operating appropriation.

Council staff has reviewed the Board’s 2013, 2014 and 2015 annual budgets and determined that, under existing spending levels, the increased per-diem expense cannot be absorbed within the Board’s current appropriation levels. Without a supplemental appropriation, it is unlikely that the Board would finish the 2015-16 biennium within its legal budget.

The spending history of the Board of Equalization shows that the margin of year-end savings has been decreasing over the last couple years as the budget has been adjusted and the Board has realized less savings in its larger salary and per-diem lines. In 2013, the Board’s budget showed approximately $29,000 in savings. Much of this can be attributed to a relatively large surplus in Board Member per-diem, which showed a positive balance of $28,000 at year-end.

In 2014, Board Member per-diem savings dropped to $17,000 and the Board’s overall budget savings dropped to zero because other areas of the budget were overspent. Since that time, the Board has received an $8,000 cut to its $208,000 annual per-diem line item. This cut will affect the Board’s ability to end the year with the level of savings it had seen in 2013 and prior years.

This year, the Board is spending within its budget and will likely not have a surplus that is sufficient to cover the $39,100 of additional expenses in 2016 that would result if the Proposed Ordinance were passed. Unless the Board’s spending patterns change in 2016, it remains unlikely that the cost of the per diem increase could be absorbed next year either.

**E-Appeals**

Board of Appeals / Equalization staff have suggested that the per-diem increase might in the future be addressed with savings that may occur when the Board reduces its space footprint as it moves from paper files to electronic files. Staff have suggested that this could free up as much as one-third of the space currently used by the Board.

The Board began accepting property tax appeals electronically via eAppeals in 2013. In its first year, eAppeals were 30% of all the appeals filed. In 2014, the percent of eAppeals grew to 55%. Development and implementation of eAppeals technology has resulted in many other process improvements to save time, space, and to improve customer service and access to the services the Board provides.

Council staff have investigated the possibility of using space savings from 2016 to cover the cost of the per-diem increase and find that it is unlikely that this can be achieved. The Office of Performance Strategy & Budget has indicated that Facilities / Space Rent savings in 2016 would not be realized until 90 days after the Board has provided notice that it will vacate the space.  At that point, the Facilities Management Division would also need to have a client to backfill the space and assume the charges. To-Date, the Board has not developed or submitted a plan for a revised / reduced space footprint.

Since the reallocation of space among existing County organizations does not create any actual savings for the General Fund in the short term, an increase to the Board’s appropriation authority may add to the budget deficit that the PSB Director identified in a hearing before the County’s Budget and Fiscal Management Committee[[6]](#footnote-6).

**NEXT STEPS**

If the Committee chooses to pass the Proposed Ordinance, the Executive may request $39,100 in new appropriation authority as part of a subsequent stand-alone ordinance or as part of the Mid-Biennial Budget update early next year, or the Council would likely need to amend a proposed budget appropriation ordinance to include the appropriation authority.

**ATTACHMENTS**

1. 2014 Board of Appeals and Equalization Budget Proposal
2. Mason County Board of Equalization Survey

**INVITED**

1. Neal Cook, Clerk, Board of Appeals & Equalization

1. This information is outlined in Attachment 2, the Board’s 2014 Proposal to increase its per diem rates. [↑](#footnote-ref-1)
2. Hourly rate based on 6 hour day. Data provided by 2014 Mason County Board of Equalization survey. [↑](#footnote-ref-2)
3. Hearing Examiner rates from a March 2014 Survey done by King County Human Resources and the Board of Appeals / Equalization Clerk. Except, the King County rate was provided by Hearing Examiner staff. [↑](#footnote-ref-3)
4. The attached survey shows that only three other jurisdictions have a hearing time in excess of 30 minutes, where King County’s hearing time is between 30 and 40 minutes. [↑](#footnote-ref-4)
5. Importance of Compensation in the Workplace; <http://smallbusiness.chron.com/importance-compensation-workplace-38470.html> [↑](#footnote-ref-5)
6. KC Budget Status for BFM, 10-14-2015 [↑](#footnote-ref-6)