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Date: 08/19/2021
To: Mayor Steele and City Council
From: Jimmy Liles, C.A.
Subject: Transfer of Municipal Court

During the City Council Workshop staff gave Council presentations on the Nixa Municipal Court and discussed the possibility of moving the Municipal Court to Christian County. These presentations included a review of Senate Bill 5, Sente Bill 572, and Missouri Supreme Court Rule 37. Staff also provided Council information on our most recent court review that was done by the Office of State Courts Administrators (OSCA.)

Although overall the review went very well, some areas of concern were brought up. One of the main concerns was the financial changes that would place the municipal court staff in charge of all financial matters for the division. This would mean that the Judge and the Court Administrator and/or Court Clerk would be the only ones on the bank account. This would set up a situation were the court staff would be entering tickets, accepting payments, updating records, balancing the bank statement, and generating checks. The court staff would not be subject to our internal control policies that currently provide a checks and balances for all financial transactions. There is also a concern about future supervision requirements. Although not mentioned in the official review, OSCA had concerns about the Assistant City Administrator/City Clerk supervising the Court Division. They recommended the part-time Judge be the sole supervisor of the full-time personnel. This could present multiple issues including employee accountability and liabilities for the City of Nixa.

During the workshop, we also discussed the Nixa Municipal Court revenues and expenses. In 2020, the fines and court costs totaled \$91,176.59 and the expenses totaled \$131,136.45, resulting in a loss of \$39,959.86. If the Municipal Court moves to the County, the court costs would be collected by the circuit clerk's office, but Nixa would continue to receive the fines. The Clerk fees, which are collected as part of the court fees will raise from \$12 to \$15. Eighty percent of these clerk fees will be distributed to the State of Missouri and the remaining twenty percent will be distributed to the County.

It is also important to mention that moving the Municipal Court would also eliminate the need for the police department to transport prisoners or provide a bailiff for court. At times, both of these functions have to be covered by taking an officer off of the road.

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At the end of the workshop discussions, Council directed staff to explore the option of moving the Municipal Court to the County. Staff is still in the process of researching all the steps to move the Court.

Cindy and I recently met with Judge Johnson and Christian County Circuit Clerk Barb Stillings to discuss the possible transfer of the court. They were both concerned about the case load that Barb's office would take on. It is important to note that the City of Ozark is also in the process of transferring their court as well. Judge Johnson and Barb asked that both cities consider splitting the costs of an additional clerk for Barb's office to handle the case load between the cities. They are finalizing the numbers, but the anticipated costs to the City of Nixa will be between \$20,000 to \$25,000 per year to provide this additional employee. This would require an agreement between all parties. This agreement would be on a year-to-year basis, to allow for all parties to evaluate the need to continue the agreement each year. We are continuing negotiations on the agreement and anticipate bringing it to Council in future.

It is important to note that there are two Municipal Court employees that are currently employed by the City of Nixa. These positions would terminate by the end of the year. As other positions come open within the City, we will work to provide them an opportunity to transfer to another department.

The process of transferring the Court would begin by the approval of the attached ordinance. If the ordinance is approved, staff will begin working with the County Court and OSCA to make the transfer. The complete transfer could possibly take up to 3 months once an ordinance is passed by City Council. If passed, the goal would be to have the Municipal Court fully transferred by January of 2022.

It is staff's recommendation that Council pass the ordinance approving the transfer of the Municipal Court to the County.

1 **AN ORDINANCE OF THE COUNCIL OF THE CITY OF NIXA TRANSFERRING**
2 **THE NIXA MUNICIPAL COURT TO THE ASSOCIATE DIVISION OF**
3 **THE CHRISTIAN COUNTY CIRCUIT COURT.**
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5

6 **WHEREAS** the City of Nixa presently operates a municipal court, with its own
7 municipal judge, to adjudicate violations of the City’s ordinances as a division of the 38th
8 Judicial Circuit of the State of Missouri; and
9

10 **WHEREAS** Article V, section 23 of the Missouri Constitution provides that
11 associate circuit judges shall hear and determine violations of municipal ordinances in
12 any municipality upon the request of the governing body of a city; and
13

14 **WHEREAS** Article V, section 27(16) of the Missouri Constitution provides that
15 cities shall have the right to enforce its ordinances and to conduct prosecutions before
16 an associate circuit judge and shall receive and retain any fines to which it may be
17 entitled; and
18

19 **WHEREAS** section 479.040 RSMo. provides that a city may elect to have
20 violations of its municipal ordinances heard and determined by an associate circuit
21 judge of the circuit in which the city is located and that once a city has made such
22 election the associate circuit judge shall commence hearing and determining such
23 violations six months after the municipality notifies the presiding judge of its election;
24 and
25

26 **WHEREAS** the City Council finds that it is in the best interest of the City to have
27 Nixa ordinance violations adjudicated by a circuit or associate circuit judge of the 38th
28 Judicial Circuit.
29

30 **NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF**
31 **NIXA, AS FOLLOWS, THAT:**
32

33 **SECTION 1:** Pursuant to Article V Sections 23 and 27 of the Missouri
34 Constitution and Section 479.040 RSMo, the City Council hereby elects to have
35 municipal ordinance violations heard and determined by an Associate Circuit Judge of
36 the Christian County Circuit Court, effectively transferring the municipal court to the
37 Christian County Circuit Court, also known as the 38th Judicial Circuit.
38

39 **SECTION 2:** The transfer of the municipal court to the 38th Judicial Circuit shall
40 be effective January 1, 2022.
41

42 **SECTION 3:** The City Administrator is hereby authorized and directed to take
43 additional actions as may be necessary to carry out the intent and purpose of this
44 Ordinance, including providing copies of this Ordinance to the Presiding Judge of the
45 Thirty-Eighth Judicial Circuit, and to the Office of State Court Administrator, and to work

46 with such officials to effectuate the transfer of court operations contemplated by this
47 Ordinance.

48
49 **SECTION 4:** This Ordinance shall be in full force and effect from and after its
50 final passage by the City Council and after its approval by the Mayor, subject to the
51 provisions of section 3.11(g) of the City Charter.

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53
54 **ADOPTED BY THE CITY COUNCIL THIS _____ DAY OF _____ 2021.**

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56
57 ATTEST:
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59 _____
60 CITY CLERK PRESIDING OFFICER

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62
63 **APPROVED BY THE MAYOR THIS _____ DAY OF _____ 2021.**

64
65
66 ATTEST:
67
68 _____
69 CITY CLERK MAYOR

70
71
72 APPROVED AS TO FORM:
73
74 _____
75 CITY ATTORNEY