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Date: 09/08/2021
To: Mayor Steele and City Council
From: Jimmy Liles, C.A.
Subject: Transfer of Municipal Court

During the last City Council meeting, an ordinance to transfer the Municipal Court to the Christian County Court was introduced and will be back before Council for a second reading at the next meeting.

During the last Municipal Court review, OSCA brought up several recommendations that, if followed, would cause some areas of concern. Some of these concerns included 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 where the court staff would be entering tickets, accepting payments, updating records, balancing the bank statement, and generating checks with little to no oversight. The court staff would not be subject to our internal control policies that currently provide a checks and balances for all financial transactions. Municipal Court personnel supervision is also an issue. Although not mentioned in the official review, OSCA had concerns about the Assistant City Administrator supervising the Court Division. They recommended the part-time Judge be the sole supervisor of the full-time personnel. This would place a judge that works two afternoons a month supervising two full-time employees. The City would have no authority to ensure the City of Nixa employees followed the City's policies and procedures. This could present multiple issues including employee accountability and liabilities for the City of Nixa.

During the last Council meeting, 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 Christian County 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 functions have to be covered by taking an officer off of the road.

The City of Ozark recently voted to move their Municipal Court to the County Court as well. With additional case load from Ozark and Nixa, Christian County Circuit Clerk Barb Stilling has requested each City contribute \$24,186.23 to hire an additional clerk. This would require an agreement between all parties and would be on a year-to-year basis. This will allow all parties the opportunity to evaluate the need to continue the agreement each year. The funds will be included in the 2022 budget.

If the ordinance is approved, the process of transferring the court will begin and will have a target completion date of January 2022.

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

Thanks,
Jimmy

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
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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.

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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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54 **ADOPTED BY THE CITY COUNCIL THIS 13TH DAY OF SEPTEMBER 2021.**

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56
57 ATTEST:
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59 _____
60 CITY CLERK PRESIDING OFFICER

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

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65
66 ATTEST:
67
68 _____
69 CITY CLERK MAYOR

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