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

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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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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 38<sup>th</sup>  
8           Judicial Circuit of the State of Missouri; and

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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

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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

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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 38<sup>th</sup>  
28          Judicial Circuit.

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

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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 38<sup>th</sup> Judicial Circuit.

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

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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 13<sup>TH</sup> DAY OF SEPTEMBER 2021.**  
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57 ATTEST:  
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60 CITY CLERK

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PRESIDING OFFICER

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63 **APPROVED BY THE MAYOR THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2021.**  
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65 ATTEST:  
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68 CITY CLERK

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MAYOR

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72 APPROVED AS TO FORM:  
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75 CITY ATTORNEY