

## MINUTES

Eugene City Council  
McNutt Room – City Hall  
777 Pearl Street—Eugene, Oregon

July 28, 2010  
Noon

COUNCILORS PRESENT: Chris Pryor, George Brown, Andrea Ortiz, Betty Taylor, George Poling  
(via telephone), Jennifer Solomon, Alan Zelenka.

COUNCILORS ABSENT: Mike Clark.

Her Honor Kitty Piercy called the work session meeting of the Eugene City Council to order and noted that Councilor Mike Clark would not be in attendance.

### A. WORK SESSION - Judicial Evaluation Committee Report

Assistant City Manager Sarah Medary introduced City Court Administrator Jeff Perry and Judge Kip Leonard to present the Judicial Evaluation Committee's report. She further noted that Municipal Judge Wayne Allen would join the conversation after the committee presentation.

Judge Leonard reported that the Judicial Evaluation committee had reviewed court statistics and customer surveys as part of its evaluation of Judge Allen. He further noted that the court had conducted two judicial surveys; one survey of defense attorneys, prosecutors, interpreters, court advocates, police traffic officers other judges and court staff, and one survey intended to collect information regarding human rights needs in the community. He reported that while the first judicial survey had enjoyed a 26 percent response rate, the second human rights community survey had had no responses.

Judge Leonard presented the survey results described in the committee's memorandum to Mayor Piercy and the City Council, which had been included as part of the agenda item summary materials. He commented that the questions in the survey had been developed in accordance with nationally recognized guidelines for court administration and judicial reviews.

Judge Leonard noted that the committee had spoken with Judge Allen at its most recent meeting to hear his observations on the past, present, and future of the Municipal Court.

Judge Leonard stated that the survey results had indicated very strong support among members of the community for the work of Judge Allen; 85 percent of respondents had agreed or strongly agreed that Judge Allen had performed his duties exceptionally.

Judge Leonard reported that Judge Allen had over the last four years retained the services of a number of associate judges to serve on the Municipal Court. He noted that Judge Allen would provide further information in that regard later in the work session.

Judge Leonard noted from the committee's recent conversation with Judge Allen that his primary areas of immediate concern for the Municipal Court included the need for additional jail beds and the effect of state and local budget reductions on the Municipal Court system.

Judge Leonard outlined Judge Allen's most recent accomplishments as Municipal Court Judge and noted that he had instituted an amnesty program for unpaid fines in collection that had resulted in approximately \$130,000.00 in additional revenue for the City of Eugene. He further noted that Judge Allen had also overseen the administration of the City's Downtown Public Safety Zone (DPSZ) as well as a concerted effort to increase the use of certain court administration information technologies with the ultimate goal of creating an entirely paperless process for the Municipal Court. Judge Leonard emphasized that the Municipal Court's efforts to increase the use of paperless technology strategies were light years ahead of similar State efforts.

Judge Leonard stated that after its four meetings to discuss relevant issues regarding Judge Allen's performance, the committee was unanimous in its determination that Judge Allen's performance had been excellent and that his contract with the City should be extended.

Mr. Perry referred to Judge Allen's concerns regarding State and local budget issues and recognized that it would be challenging to meet the future budget demands of the Municipal Court system.

Mr. Perry noted that Municipal Court staff had been in contact with representatives from Springfield to discuss the lease of a certain number of jail beds from the City of Springfield. Further discussions between Eugene and Springfield officials would be forthcoming.

Mayor Piercy appreciated Judge Leonard's efforts as a member of the Judicial Evaluation Committee and publicly thanked him and his colleagues for their time and efforts. She noted that she and the City Council were very pleased with the judicial survey results.

Mayor Piercy referred to the committee's judicial survey regarding the human rights needs of the community and asked if the committee had received any responses or input from local human rights advocates despite the lack of direct responses to the survey. Mr. Perry responded that the committee had wanted to expand the scope of the human right survey from previous efforts in 2002 and 2006. He said the committee had attempted to contact the City's Human Rights Commission (HRC) to request its feedback regarding the Municipal Court but had received no responses from any HRC members.

Mayor Piercy suggested that the current Human Rights Commission members might not have had any direct experience with the Municipal Court as the reason they had not responded to the committee's overtures. She suggested that the committee make additional attempts to directly contact the HRC.

Ms. Ortiz stated that the HRC had contributed to evaluations of certain Eugene Police Department areas in 2002 and 2006. She suggested that the HRC's Civilian Review Board might be a group that could provide feedback and input regarding Municipal Court areas. She also noted that Matt Beecher's had been attempting to resurrect the HRC's human rights advocates committee and suggested that such a group could also provide feedback on the Municipal Court processes.

Mr. Perry, responding to a question from Ms. Ortiz, noted that a number of the ordinance violations listed in the committee's evaluation memorandum were specific to the DPSZ.

Mr. Perry, responding to a question from Ms. Ortiz, stated that there would be significant cost savings to the City of Eugene from the lease of jail beds from the City of Springfield.

Mr. Perry stated that City staff had conducted an annual customer service satisfaction survey of approximately 2000 defendants regarding the Municipal Court. He further noted that staff planned to expand the scope of such efforts to provide survey and response information in Spanish.

Mr. Zelenka commended the thorough work of the committee.

Mr. Zelenka referred to Judge Allen's concerns regarding the number of jail beds available to the Municipal Court and asked what percentage of incarcerated individuals might be housed in Springfield's jail facilities. Mr. Perry responded that such information was currently unknown.

Mr. Poling thanked the committee for its work and asked how the associate judges to who Judge Leonard had referred to had been selected and appointed to their Municipal Court positions. Mr. Perry responded that Judge Allen had total discretion with regard to the selection of associate judges and would be able to provide more information later in the meeting.

Mr. Brown encouraged Judge Leonard and the committee to continue to attempt to contact members of the HRC for feedback and suggestions regarding Municipal Court processes.

Mr. Perry, responding to a question from Mr. Brown, stated that Eugene City staff was currently investigating the use of 25 additional jail beds from Springfield and Lane County facilities. He indicated that the costs of jail beds were \$27,000 annually in Springfield versus \$42,000 per year in Eugene.

Mr. Brown presumed that additional jail beds would be needed when additional Eugene police officers were deployed as part of the City's Downtown Safety Initiative. He was not happy that the urban renewal funds used for the initiative had not been used to provide additional jail beds. In response, Assistant City Manager Medary noted that the Downtown Safety Initiative adopted by the council included the use not only of additional police officers but also ten additional jail beds. She added that the Eugene Police Department (EPD) was repurposing some of its existing funds to accommodate both elements of the initiative.

Mr. Brown asked that the council be kept apprised of the account balances used by the EPD to provide for additional officers and jail beds.

Assistant City Manager Medary, responding to a comment from Mayor Piercy, briefly described how jail beds at Lane County jail facilities were funded.

Ms. Taylor suggested that City staff survey representatives from the American Civil Liberties Union and local advocates such as Carol Berg Caldwell for their feedback regarding the implementation and use of additional jail beds at City and County facilities. She also suggested that unused jail beds in City and County facilities be provided for use by homeless individuals in the community.

Mr. Pryor believed that the increased police presence provided by the Downtown Safety Initiative might lead to increased deterrence of criminal activity in the downtown area and might actually decrease the need for additional jail beds. He hoped that any public safety efforts that effectively deterred criminal activity could be extended outward from the downtown area.

Mr. Zelenka commented on the potential lease of jail beds from Springfield and Lane County and noted his preference for the continued use of Lane County facilities.

Mayor Piercy asked Judge Leonard if he had any suggestions for ways to improve the judicial evaluation process. Judge Leonard responded that the evaluation process appeared to be complete but recognized the importance of respecting the judicial branch of local government as an independent authority. He stated that a Municipal Court judge was not a City Councilor nor were they considered to be part of the executive branch of local government in any way.

Judge Leonard noted from his experience as a prosecutor and from his experiences with other Circuit Court judges that Judge Allen had performed exceptionally.

Mr. Zelenka thanked Judge Leonard for his presentation and his comments.

#### **B. WORK SESSION – Discussion with Judge Allen**

Judge Wayne Allen responded to comments. He said that while the Downtown Public Safety Zone had appeared to have been useful it was not his position to definitively make such a determination. He said that such a determination was ultimately the purview of the business owners and the community members who lived and worked in the downtown area.

Judge Allen said that the EPD had enforced the Downtown Public Safety Zone in a safe and responsible manner and had exercised careful discretion in the use of its authority.

Judge Allen briefly discussed the process by which the DPSZ had been implemented and then overviewed some Municipal Court cases involving the enforcement of the zone.

Judge Allen commented on the recent accomplishments previously referenced by Judge Leonard and noted that the amnesty program for overdue fines had been intended as a revenue-generating strategy and not an attempt to treat individuals with overdue fines disproportionately.

Judge Allen commended the efforts of the City Manager's office to address recent budget shortfalls and recognized that such a financial situation would continue to impact certain elements of the Municipal Court.

Judge Allen commented on recent staff losses in the Municipal Court and stated that it would be challenging to maintain the Court's effectiveness with fewer and less experienced employees.

Judge Allen commented on the need for improved Municipal Court facilities and stated that the size and condition of the current facilities were horrible and highly inadequate for the present and future needs of the Court.

Judge Allen responded to suggestions that Municipal Court fines be increased and advocated against such measures.

Judge Allen referred to Mr. Poling's earlier request for information regarding his selection of associate judges for the Municipal Court and stated that he chose the associate judges based on their experience, the court's availability, and advice from local prosecutors and defense attorneys. He briefly discussed the associate judges' contributions to the Municipal Court processes.

Judge Allen recognized a perception that one of the associate judges was prone to rule for the defense in Municipal Court cases and noted he could not speak to the veracity of such perceptions. He did note that the associate judge in question was diligent in providing all relevant parties their fair day in court.

Judge Allen believed that the judicial surveys of the committee had been somewhat unbalanced and that a disproportionate number of respondents had been EPD officers.

In response, Mayor Piercy expressed her hope that future surveys might have a more balanced respondent base. She noted that the survey results rated Judge Allen's performance quite highly. She thanked Judge Allen for the fines amnesty program he had initiated. She believed that it had been helpful to many members of the community. Judge Allen suggested that the amnesty program or a similar strategy might be re-established in the future.

Judge Allen, responding to a question from Ms. Ortiz, believed that the lower Municipal Court citation levels in Eugene made it more likely that people would pay their fines. He further maintained that the lower fines should be continued.

Judge Allen, responding to a question from Ms. Ortiz, briefly described the manner in which exclusions and variances to the DPSZ had been granted since the creation of the zone.

Ms. Ortiz believed that the cost savings from leasing jail beds from the City of Springfield might be a reasonable and productive financial strategy.

Mr. Zelenka believed that some of Judge Allen's comments regarding the associate Municipal Court judges were disconcerting and asked for further information as to how the associated judges were evaluated. Judge Allen replied that the Court did not perform full-scale evaluations of the two current associate judges but that he had considered implementing a self-evaluation in order to gauge the judges' own perceptions before implementing a more comprehensive evaluation process.

Judge Allen briefly discussed the perceptions of how the associate judges functioned within the current Municipal Court structure. He further discussed his plans for bringing in associate judges Don Dement and Don DeLoomis in the hopes that they would strengthen the current Court processes.

Mr. Zelenka commented on the staffing constraints within the City's current public safety system.

Judge Allen, responding to a request from Mr. Zelenka, listed information regarding requests for exclusions from the DPSZ. He reported that of the 66 requests for 90-day exclusions received by the Municipal Court, 42 had been granted and 24 had been denied. He noted that of the 16 hearings for exclusions before the court, 9 had been granted and 7 had been denied.

Mr. Zelenka asked Judge Allen if he believed that the DPSZ was an effective tool for improving the downtown area. Judge Allen repeated his earlier comment that it was not his position to definitively make such a determination and that such a determination was the purview of the business owners and the community members who lived and worked in the downtown area.

Judge Allen, responding to a question from Mr. Zelenka, briefly discussed the current and future facility needs for the Municipal Court. He stated that the current Court space in the Eugene City Hall was inadequate in that it had no dedicated space for attorneys to confer with their clients.

Mr. Zelenka commented that the customer and defendant survey results from the judicial surveys were excellent.

Mr. Perry briefly explained the financial revenue information that had been included in the Judicial Evaluation Committee's report.

Ms. Taylor agreed that the jury room for the Municipal Court was not suitable for the needs of the Court.

Judge Allen, responding to a question from Ms. Taylor, confirmed that he was highly invested in maintaining fairness and judicial objectivity with respect to Municipal Court defendants and prosecutors. He briefly discussed his perceptions of how such matters had been addressed during his tenure. He commented that he and the Court staff were very serious about maintaining the burden of proof in Municipal Court cases.

Ms. Taylor appreciated the overdue fine amnesty program that had been implemented. Judge Allen responded to Ms. Taylor's comment and noted that while Court fine increases were part of State laws, it was within his power to suspend a portion of the assessed fines on the condition that the fines were paid in a timely manner.

Judge Allen briefly discussed how he had encouraged the use of road crews and other community service hours as a manner in which people could satisfy their fines with the Municipal Court.

Judge Allen, responding to a question from Ms. Taylor, stated he often observed other judges in their courtrooms.

Judge Allen, responding to a question from Ms. Taylor, briefly discussed how Municipal Court cases involving animal control issues had been addressed.

Mr. Poling referred to earlier comments made regarding associate judges and appreciated that Judge Allen had vetted many of the applicants with members of the community.

Judge Allen, responding to a question from Mr. Poling, stated that the Municipal Court currently employed five associate judges, each with extensive education and legal experience in trial work and criminal law, who were compensated at a rate of \$100 per hour. He stated that the compensation for the associate judges came from the City's General Fund.

Mr. Pryor appreciated the work of Judge Allen and believed that it would be difficult to replace him once he chose to retire. He further appreciated that Judge Allen had chosen not to definitively state his beliefs regarding the effectiveness of the DPSZ. He stated that an examination of the statistical information regarding downtown public safety would be a much more reliable measurement than an opinion from Judge Allen.

Mr. Pryor and Judge Allen discussed how exclusion cases in the DPSZ had impacted the overall public safety of the community. Judge Allen commented that rather than being a "blank check" to sanitize the downtown area, the DPSZ had been an attempt on the part of the Courts and the Eugene Police Department to interpret the collective will of the Eugene city Council with regard to effective public safety in the community.

Judge Allen, responding to a question from Mr. Brown briefly discussed the manner in which hearings for exclusions and pre-hearing requests for exclusions from the DPSZ had been conducted.

Judge Allen, responding to a question from Mr. Brown, briefly discussed the Court's facility needs for the immediate future. He hoped that the Court might be able to expand into the City's Human Resources offices in order to better meeting the expanding needs of the Municipal Court.

Ms. Ortiz suggested that the Municipal Court might make use of the City Council's meeting rooms and office spaces as such areas often went unused.

Mayor Piercy commented that it was unlikely that the Municipal Court would be able to use any local federal building spaces as had previously been suggested.

Mayor Piercy stated she had received an email from a community member who had received a Municipal Summons but who also had noted that she had been treated very nicely by the Court staff.

Mayor Piercy noted that more involved conversations regarding the facility needs of both the Municipal Court and the rest of the offices in Eugene's City Hall building would begin soon.

Mayor Piercy adjourned the meeting at 1:29 p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Sandra J. Stubbs". The word "Deputy" is written in a smaller, less legible script directly beneath the main signature.

Beth Forrest  
City Recorder

*(Recorded by Wade Hicks)*