

MINUTES OF THE NEWBERG CITY COUNCIL CITY COUNCIL WORK SESSION

MAY 24, 1999

7:00 P.M.

**NEWBERG PUBLIC SAFETY BUILDING
TRAINING ROOM**

I. CALL MEETING TO ORDER

Mayor Cox called the meeting to order.

II. ROLL CALL

Lisa Helikson (LH)
Fred Howe (FH)

Donna McCain (DM)
F. Robert Weaver (RW)

Absent: Roger Currier (RC)

Brett Veatch (BV)

III. Staff Present:

Duane R. Cole, City Manager
Terrence D. Mahr, City Attorney
John Mercer, Municipal Court Judge
Steve Palmer, Municipal Court Judge
Colleen Kephart, Municipal Court Clerk
Peggy Nicholas, Recording Secretary

IV. MUNICIPAL JUDGES' PROFESSIONAL SERVICE CONTRACTS

- Resolution No. 99-2181.

V. DISCUSSION OF DUTIES OF MUNICIPAL JUDGES

- Educational presentation by the Municipal Judges.

Judge Mercer provided a background on various court operations including the federal, state, County (justice court) and local jurisdiction (Municipal Court) court systems. Discussion was held concerning appointments to courts. Federal Court judges are appointed and at the state court level, the judges are elected every six years. Most of the municipal court judges are appointed and not elected. Violations of traffic code laws outside the City limits, would go to County Justice Courts. Each County streamlines their own County Court for their own policies. The City of Beaverton Municipal Court handles a larger variety of issues including some criminal issues unlike other courts. Judge Mercer reviewed "legal authority":

1. US Constitution
2. State Constitution
3. State Statute (ORS)

4. City Charter
5. City Ordinance
6. Case law

Judge Mercer reviewed the differences between crimes and City Ordinance violations and the application of the Oregon Revised Statutes (ORS).

He then discussed the Municipal Court:

1. Crimes - penalty for behavior could include jail time (felony and misdemeanors and DUII charges)
2. Infraction - the maximum penalty is a fine which varies with the level of infraction (A, B, & C).
3. Violation - similar to infraction but the maximum penalty is a fine (the Defendant cannot go to jail). Sample violations would be MIP charges and charges of possession of less than an ounce of marijuana.
4. Ordinance - City ordinance violations (barking dogs, parking, junk accumulation, building code violations, etc.).

Judge Mercer said the City of Beaverton aggressively prosecutes theft, forged checks and other similar issues.

Judge Mercer reviewed the Court procedure for Municipal Court and added that a uniformed officer as a bailiff and the location of the Municipal Court in the Public Safety Building (hostility has reduced). Judge Mercer also provided a mock trial. Judge Mercer reviewed the defendant's driving record. TDM said that someone accessed the motor vehicle records and published them on the internet. The insurance companies can get a copy of a vehicle record. Discussion was held concerning calibration of radar units, photo radar and crime lab testing information. Judge Mercer said that photo radar citations are mailed. The legislature will expand photo radar to other cities other than Beaverton and Portland (designed to get past excuse of "going with the flow of traffic"). The "photo red light" synchronized with light turning red. The quality of the photograph will identify the person. The registered owner would receive a citation

Discussion was held concerning the 55 Alive program (driver education program for seniors) and how a program would be administered for persons under 18 years of age would be receiving a different fine/assessment, such as community service. Councilor RW inquired about the legislature passing a measure which requires a driver under 18 having to attend school. Judge Mercer said he would support anything that would allow the young driver to be more confident (build good driving habits).

Councilor FH said he participated in the diversion program. Discussion was held concerning alternative programs which circumvent the charge by performing community service, etc. Councilor DM asked if the persons riding along with officers during a shift may be an option. Judge Mercer said that it may be effective in some ways in participating in alternative programs.

Mayor Cox called for a break at 8:20 p.m. The meeting reconvened at 8:30 p.m.

Judge Pro Tem Steve Palmer reviewed the Court process and forms:

1. Incident
2. Arraignment
3. Plea (guilty/not guilty)
4. Trial (not guilty) or guilty (traffic and some criminal)
5. Sentence
6. Enforcement

Mr. Palmer discussed alternative programs such as 55 Alive and community service. Mr. Palmer noted there are a few local area attorneys accepting court appointed attorney status.

Mr. Palmer continued with the plea section (entering a guilty/not guilty) plea and the sentencing portion. The City has a violations bureau. The Judgment form provides for probation monitoring and payment of fees. Mr. Palmer discussed uniformity in sentencing for DUI cases.

Mr. Palmer reviewed the Court's enforcement procedure of the payment agreement. On crime cases, probation is revoked and community service/jail time is ordered. Mr. Palmer said that in County courts probation is revoked and the person is sentenced to 3-4 months in jail.

**VI. FUTURE GOALS AND OBJECTIVES OF MUNICIPAL COURT / MUNICIPAL JUDGES
IMPACT ON MUNICIPAL COURT STAFF AND CITY ATTORNEY'S OFFICE
(PROSECUTOR)**

City Attorney TDM inquired about the Resolution adopting the contracts. Term period commencing 5 years beginning 2004, should be April 1, 1999. Additional grammatical changes were noted by City Attorney TDM.

Discussion was held concerning making the agreement between Gray and Mercer versus just with John Mercer. TDM said due to legislative issues, no one could hold two lucrative high positions (part time judges for Beaverton and Newberg).

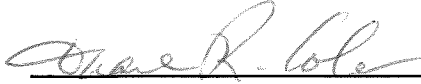
MOTION: LH/FH to approve the contracts. (4 Yes/2 Absent - BV/RC). Motion carried.

TDM said he would discuss the other items on the agenda

MOTION: FH/DM to adjourn. 9:08 p.m. (4 Yes/2 Absent) Motion carried.

II. **ADJOURN**

ADOPTED by the Newberg City Council this 14th day of October, 1999.



Duane R. Cole, City Recorder

ATTEST by the Mayor this 8 day of October, 1999.



Charles B. Cox, Mayor