



City Council Report

Date: August 31, 2009
To: City Council
Through: Christopher J. Brady, City Manager
From: J. Matias Tafoya, Presiding Magistrate
Subject: Court Commissioner Position

Purpose and Recommendation

The purpose of this report is to provide background, information, and justification for amending Section 1-12-8 of the Mesa City Code to authorize the Presiding City Magistrate to appoint a Court Commissioner.

Background

The Municipal Court Presiding Magistrate, under City Code Section 1-12-8, may appoint a full-time Civil Traffic Hearing Officer. A Civil Traffic Hearing Officer's authority is limited both by statute and the City's Ordinance to hearing and resolving civil traffic offenses or vicious dog petitions. The Civil Traffic Hearing Officer maintains a full docket, or court calendar, with hearings scheduled every 15 minutes throughout the day; however, there are times when hearings are completed early, occasions when the calendar has gaps or ends earlier in the day. These are open times when, if empowered to do so, a hearing officer would be able to handle other court matters such as petitions for orders of protection, injunctions against harassment, or defendant situations such as cancellation of an active arrest warrant.

Discussion

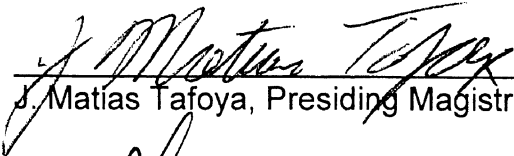
The statutory limitations, city ordinance, and job description effectively prohibit expansion of the hearing officer's authority to act in other court matters. The best solution would be establishing the position of Court Commissioner. A commissioner position is essentially open as to authority or assignment. A commissioner position would remain primarily dedicated to resolving civil traffic matters but would be authorized to act in other court matters as assigned by the Presiding Judge. A Court Commissioner would be appointed in the same fashion as the Civil Traffic Hearing Officer and subject to the same budget availability as the hearing officer. This proposal does not suggest the commissioner position to be in addition to the hearing officer, but essentially a replacement of the hearing officer with a commissioner.

Alternatives

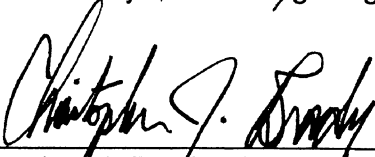
Take no action –no action would leave the current circumstances unresolved in which many court matters are delayed and available judicial time of the hearing officer remains limited by restrictions on authority to act.

Fiscal Impact

The current Civil Traffic Hearing Officer position is vacant and will be filled with a Court Commissioner at the same salary as the hearing officer.



J. Matias Tafoya, Presiding Magistrate



Christopher J. Brady, City Manager

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AMENDING SECTION 1-12-8 OF THE MESA CITY CODE AUTHORIZING THE PRESIDING CITY MAGISTRATE TO APPOINT COURT COMMISSIONERS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

Section 1: That Section 1-12-8 of the Mesa City Code is amended by inserting provisions authorizing the Presiding City Magistrate to appoint court commissioners:

1-12-8: **APPOINTMENT OF CIVIL TRAFFIC HEARING OFFICERS AND COURT COMMISSIONERS: (4027)**

- (A) The presiding City Magistrate may appoint one (1) or more Civil Traffic Hearing Officers **AND/OR ONE (1) OR MORE COURT COMMISSIONERS** when in the presiding City Magistrate's opinion, the appointment of such Civil Traffic Hearing Officers **AND/OR COURT COMMISSIONERS** is necessary to assure prompt disposition of cases. Civil Traffic Hearing Officers **AND COURT COMMISSIONERS** shall serve for terms of two (2) years from the date of appointment and can be reappointed by the presiding City Magistrate. Civil Traffic Hearing Officers **AND COURT COMMISSIONERS** may be removed for good cause during their term by the presiding City Magistrate. (4027)
- (B) Civil Traffic Hearing Officers may hear and dispose of Civil Traffic violation cases, vicious dog cases, and Mesa Civil Code violation cases filed in the Mesa Municipal Court. **COURT COMMISSIONERS MAY HEAR AND DISPOSE OF CIVIL OFFENSES AS WELL AS CRIMINAL OFFENSES.** The judgment of the Civil Traffic Hearing Officers **AND COURT COMMISSIONERS** constitutes the judgment of the Court, which is appealable to the Superior Court as prescribed by State statute and rules promulgated by the Arizona Supreme Court. (4027)

PASSED AND ADOPTED by the City Council of the City of Mesa,
Maricopa County, Arizona, this _____ day of _____, 2009.

APPROVED:

Mayor

ATTEST:

City Clerk