



City of Farmington
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**SPECIAL CITY COUNCIL AGENDA
December 20, 2012**

A special meeting of the Farmington City Council will be held on
Thursday, December 20, 2012 at 5:30 p.m.
City Hall
354 W. Main Street, Farmington, Arkansas.

1. Call to Order – Mayor Ernie Penn
2. Roll Call – City Clerk Kelly Thomas
3. Pledge of Allegiance
4. Ordinance 2012-11 Setting Priority of Application for Time Payments on Fines and Costs in the Farmington Department of the Prairie Grove District Court

Melissa McCarville

From: Steven Tennant <sdtennant@cox-internet.com>
Sent: Tuesday, December 18, 2012 11:48 AM
To: 'Melissa McCarville'
Subject: RE: COURT FINES AND COSTS ORDINANCE DEC 18 2012.doc

Arkansas law provides for monthly installments or payments from defendants in district courts to be applied first to restitution, then court costs, with the remaining installments from defendants to be applied toward fines. The Arkansas District Judges Council Board met recently to discuss and put forth legislative proposals intended to secure the Administration of Justice Fund. What is being proposed is for installments to be applied first to court costs (which is a way to get money into the AJF sooner), then to restitution and the remaining installment payments being applied to fines.

District courts receive the fines. Farmington receives \$1,400 in court costs each month so the bulk of the court costs goes to the state to be divided in several directions. The statute they are proposing to change currently provides for the 50/50 split if cities and counties have local legislation providing for its enactment. The ordinance we are considering puts the 50/50 split in place.

George Butler is preparing one for the county. The cities of Johnson, Elkins and Greenland are passing one this month, along with any other town that has been made aware of the legislative proposal being considered by the board. Prairie Grove passed one last night. In essence, cities and counties will be "grandfathered" in if the ordinances are passed by the end of this month.

The ultimate purpose of the ordinance is for the city to gain revenue from fines from each and every installment paid by defendants (after the payment of restitution to victims) rather than waiting until all restitution and court costs are paid before the city begins to receive any money from the monthly installments.

Example: If a defendant is required to pay restitution in the amount of \$100, court costs for \$300 and fines of \$400, and the defendant makes monthly payments of \$50, a total of 16 payments will be made over a period of 16 months. With the ordinance that is being proposed, the first two installments will be paid to the victim, and the city will receive one-half of the remaining 14 installments. Without the ordinance in place, our city court would not receive any money until after the defendant has made 8 payments.

Worst case scenario: If a defendant makes monthly installments for 8 months and then drops off the face of the earth, the city will receive absolutely nothing during the 8 month period without the ordinance in place. If the ordinance is not enacted and the statute is modified as proposed by the board, our city court would not receive a penny if a defendant stops making payments after the 8th month.

Restitution does not come into play very often, so with the ordinance in place, we will be assured of receiving one-half of each monthly installment as long as a defendant is making payments.

Bottom Line: Without the ordinance in place, the payment of fines (our revenue) will be delayed for many, many months, and if a defendant does not complete the payment plan (which happens quite often), our court may not receive anything whatsoever. The ordinance must be passed before the

end of the month. It has an Emergency Clause to become effective immediately, so we must have 6 council members present at the special meeting.

Call or write if you have any questions.

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ORDINANCE NO. 2012-11

AN ORDINANCE SETTING PRIORITY OF APPLICATION
FOR TIME PAYMENTS ON FINES AND COSTS IN THE
FARMINGTON DEPARTMENT OF THE PRAIRIE GROVE
DISTRICT COURT, DECLARING AN EMERGENCY TO
EXIST AND FOR RELATED PURPOSES

WHEREAS, numerous defendants that are charged and convicted of misdemeanors, or accept a plea bargain to resolve their case in the Farmington Department of the Prairie Grove District Court, find it necessary to set up a payment plan to satisfy the payment of fines and court costs; and

WHEREAS, occasionally defendants are also required to pay restitution through the court as reimbursement for victim damages; and

WHEREAS, the court clerk requires guidance as to how to allocate such payments when and as made; and

WHEREAS, some haste is required to make provisions for such payments that are made after December 31, 2012.

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FARMINGTON, ARKANSAS:

Section 1: That installment payments on defendants' fines, costs and restitution, when received by the court clerk of the Farmington Department of the Prairie Grove District Court, shall henceforth be allocated first as restitution to victims pursuant to Ark. Code Ann. § 16-10-209(5) (F) (ii) (a).

Section 2: That if no restitution is due or after restitution has been fully collected, all installment payments thereafter shall be allocated fifty percent (50%) to court costs

and fifty percent (50%) to fines pursuant to Ark. Code Ann. §16-10-209(5) (F) (ii) (b) .

Section 3: That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

Section 4: Emergency Clause. With the start of a new year approaching and the necessity to have accounting systems in place at the Farmington Department of the Prairie Grove District Court; and in order to grant the court clerk time to adjust to the provisions of this ordinance, and any possible changes in the year 2013, an emergency is hereby declared in order to preserve the peace and safety of the citizens of the City of Farmington; therefore, this ordinance shall be effective immediately upon its passage and approval.

PASSED AND APPROVED this 20th day of December, 2012.

Ernie Penn, Mayor

ATTEST:

Kelly Penn, City Clerk