



CITY OF COOS BAY SPECIAL CITY COUNCIL MEETING

July 25, 2022 - 5:30 PM

Council Chambers - 500 Central Avenue, Coos Bay, Oregon

Meeting Live Link/Video

1. Welcome and Introductions by Mayor Joe Benetti
2. Aspects of Homelessness
 - a. Discussion on the Various Aspects of Homelessness
3. Case Law and Enacted Laws
 - a. Presentation of Recent Ninth Circuit Court of Appeals Case Law and Enacted State Laws by City Attorney Nate McClintock
4. Contributing Factors and Challenges
 - a. Presentation of Various Contributing Factors and Challenges Surrounding Homelessness by Police Chief Chris Chapanar
5. Efforts Made to Date
 - a. Discussion Regarding Various Efforts Made to Date
6. Public Comments
 - a. Public Comment Form
7. What Can You Do
 - a. Presentation of Opportunities Community Members Can Do to Make a Difference by Mayor Joe Benetti
8. Adjourn

CITY OF COOS BAY CITY COUNCIL

Agenda Staff Report

MEETING DATE	AGENDA ITEM NUMBER
July 25, 2022	2.a.

TO: Mayor Benetti and City Councilors

FROM: Nichole Rutherford, Assistant City Manager

THROUGH: Rodger Craddock, City Manager

ISSUE: Discussion on the Various Aspects of Homelessness

SUMMARY:

Councilor Stephanie Kilmer, Councilor Drew Farmer, and Captain Tom Lindahl will cover an overview of several aspects of homelessness, including housing challenges, mental health concerns, and addiction issues. A summary of Ballot Measure 110 (decriminalization of possession of certain drugs), passed by Oregon voters in November 2020 and effective in 2021, will also be shared.

ACTION REQUESTED:

BACKGROUND:

BUDGET IMPLICATIONS:

ATTACHMENT(S):

- ▣ Homeless Work Group Membership
- ▣ Ballot Measure 110

HOMELESS WORK GROUP

Current Membership Comprised of Representatives from*:

City of Coos Bay

City of North Bend

Coos County

Office of Congressman Peter DeFazio

Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians

Coquille Indian Tribe

Alternative Youth Activities

Community Coalition of Empire

Coos Health & Wellness

Oregon Coast Community Action

Retired Professionals (Attorney, Nurse, etc)

Faith Community (Church Leaders)

Neighborhood Watch Groups

Homeless Community Members

* There have been several organizations with representatives on this Work Group over the years; the list above does not include an exhaustive list of those organizations who have contributed to the overall efforts of the Work Group, rather only denotes those currently serving on the Work Group.

DRUG ADDICTION TREATMENT AND RECOVERY ACT

Whereas, Oregonians need adequate access to drug addiction treatment. Oregon ranks nearly last out of the 50 states in access to treatment, and the waiting lists to get treatment are too long. Every day, one or two Oregonians die because of drug overdoses. Drug treatment and recovery ought to be available to any Oregon resident who requests it.

Whereas, Oregonians suffering from substance use disorder also need adequate access to recovery services, peer support and stable housing. One in every 11 Oregonians is addicted to drugs. Drug addiction exacerbates many of our state's most pressing problems, such as homelessness and poverty.

Whereas, Oregon needs to shift its focus to addressing drugs through a humane, cost-effective, health approach. People suffering from addiction are more effectively treated with health care services than with criminal punishments. A health care approach includes a health assessment to figure out the needs of people who are suffering from addiction, and it includes connecting them to the services they need.

Whereas, Oregon still treats addiction as a criminal problem. Law enforcement should spend more time on community safety, but Oregon law enforcement officers in 2017 arrested more than 8,000 people in cases where simple drug possession was the most serious offense. In many instances, the same people were arrested for drug possession, again and again, because they are unable to get treatment.

Whereas, punishing people who are suffering from addiction ruins lives. Criminalizing drugs saddles people with criminal records. Those records prevent them from getting housing, going to school, getting loans, getting professional licenses, getting jobs and keeping jobs. Criminalizing drugs disproportionately harms poor people and people of color.

Whereas, punishing people who are suffering from addiction is expensive. It costs an average of \$15,000 per case where a misdemeanor drug conviction is the most serious offense. That is more than the typical cost to provide treatment.

Whereas, marijuana tax revenue has grown significantly. Oregon now receives more than \$100 million in marijuana tax revenue a year. The amount of marijuana revenue is expected to grow by more than \$20 million per year.

The People of Oregon therefore propose this Drug Addiction Treatment and Recovery Act of 2020 to expand access to drug treatment and recovery services and pay for it with marijuana tax revenue.



Be It Enacted by the People of the State of Oregon:

FINDINGS AND POLICY

Section 1. (1)(a) The people of Oregon find that drug addiction and overdoses are a serious problem in Oregon and that Oregon needs to expand access to drug treatment.

(b) The people of Oregon further find that a health-based approach to addiction and overdose is more effective, humane and cost-effective than criminal punishments. Making people criminals because they suffer from addiction is expensive, ruins lives and can make access to treatment and recovery more difficult.

(2)(a) The purpose of this Drug Addiction Treatment and Recovery Act of 2020 is to make health assessment, treatment and recovery services for drug addiction available to all those who need and want access to those services and to adopt a health approach to drug addiction by removing criminal penalties for low-level drug possession.

(b) It is the policy of the State of Oregon that health assessment, treatment and recovery services for drug addiction are available to all those who need and want access to those services.

(3) The provisions of this Act shall be interpreted consistently with the findings, purposes and policy objectives stated in this section and shall not be limited by any policy set forth in Oregon law that could conflict with or be interpreted to conflict with the purposes and policy objectives stated in this section.

EXPANDING TREATMENT AND SERVICES

Section 2. Grants Program. (1) The Oversight and Accountability Council shall oversee and approve grants to implement Addiction Recovery Centers and increase access to community care, as set forth below.

(2) **Addiction Recovery Centers.** The Oversight and Accountability Council shall provide grants to existing agencies or organizations, whether government or community-based, to create Addiction Recovery Centers for the purposes of immediately triaging the acute needs of people who use drugs and assessing and addressing any on-going needs through intensive case management and linkage to care and services.

(a) Grants must be disbursed such that at least one Center shall be established within each existing coordinated care organization service area. Centers within each existing coordinated care organization service area shall be established and operational by October 1, 2021.

(b) Grantees must be able to provide or display an ability to provide the following services to any Oregon resident who requests it, in order to receive funding as an Addiction Recovery Center:

(i) 24/7 Triage: Centers shall assess a client's need for immediate medical or other treatment shortly upon the client's arrival to determine what acute care is needed and where it can be best provided. Centers shall provide this service twenty-four hours a day, seven days a week, 365 days a year.

(ii) Health Assessment: Centers shall conduct a comprehensive behavioral health needs assessment for each client, including a substance use disorder screening by a Certified Alcohol

and Drug Counselor or other credentialed addiction treatment professional. The assessment shall prioritize the self-identified needs of the client.

(iii) Individual Intervention Plan, Intensive Case Management and Connection to Services: If, after the completion of the assessment, the client indicates a desire to address some or all of the identified needs, a case manager shall work with the client to design an Individual Intervention Plan. The plan must address the client's need for substance use disorder treatment, coexisting health problems, housing, employment and training, childcare and other services. Intensive Case Management requires, in the least, that case managers have a sufficiently low staff-to-client ratio to provide daily support as needed to connect clients to services and care needed to fulfill the Individual Intervention Plan and have the capacity to follow-up to ensure clients are accessing care and, if not, to reconnect clients to care as necessary and as desired by clients.

(iv) Peer Support: Each Center shall offer ongoing peer counseling and support from triage and assessment through implementation of Individual Intervention Plans as well as provide peer outreach workers to engage directly with marginalized community members who could potentially benefit from the Center's services.

(v) Outreach: Each Center shall assess the need for, and provide, mobile or virtual outreach services to reach clients who are unable to access the Center.

(A) Notwithstanding subsection (2)(a) of this section, only one Center within each coordinated care organization service area is required to provide the triage assessments set forth in subsection (2)(b)(i) of this section.

(c) All services provided at the Centers must be evidence-informed, trauma-informed, culturally responsive, patient-centered, non-judgmental, and centered on principles of harm reduction. The goal of the Individual Intervention Plan and Intensive Case Management shall be to address effectively the client's substance use disorder and any other factors driving problematic behaviors without employing coercion or shame or mandating abstinence.

(d) The Centers shall be adequately staffed to address the needs of people with substance use disorder within their regions as determined by the Oversight and Accountability Council, but must include, at a minimum, at least one person qualified in each of the following categories: Certified Alcohol and Drug Counselor or other credentialed addiction treatment professional; intensive case manager; and, peer support specialist.

(e) Each Center shall provide timely verification on behalf of any client who has completed a health assessment, as set forth in subsection (2)(b)(ii) of this section, if the client requests such verification to comply with section 22 or section 23(2) of this Act.

(3) Increasing Community Access to Care. The Oversight and Accountability Council shall provide grants to existing agencies or organizations, whether government or community based, to increase access to one or more of the following:

(a) Low barrier substance use disorder treatment that is evidence-informed, trauma-informed, culturally responsive, patient-centered, and non-judgmental;

(b) Peer support and recovery services;

(c) Transitional, supportive, and permanent housing for persons with substance use disorder;

(d) Harm reduction interventions including, but not limited to, overdose prevention education, access to naloxone hydrochloride and sterile syringes, and stimulant-specific drug education and outreach.

(4) The Council shall prioritize providing grants to community-based nonprofit organizations within each coordinated care organization service area. However, if within any such service area a community-based nonprofit organization does not apply for a grant or grants are not sought within that service area for which services are needed, then the Council may request and fund grants to any community care organization or county within that service area.

(5) Services provided by grantees, including services provided by Addiction Recovery Centers, shall be free of charge to the persons receiving the services. To the extent consistent with applicable law, grantees and service providers may seek and obtain reimbursement for services provided to any person from any insurer or entity providing insurance to that person.

Section 3. Oversight and Accountability Council. The Director of the Oregon Health Authority shall establish an Oversight and Accountability Council for the purpose of determining how funds will be distributed to grant applicants and to oversee the implementation of the Centers pursuant to section 2. The Council shall be formed on or before February 1, 2021.

(a) The Council shall be comprised of qualified individuals with experience in substance use disorder treatment and other addiction services. The Council shall consist of at least one member from each of the following categories only:

(i) A representative of the Oregon Health Authority, Health Systems Division Behavioral Health Services;

(ii) Three members of communities that have been disproportionately impacted by arrests, prosecution or sentencing for conduct that has been classified or reclassified as a Class E violation pursuant to section 11 to section 19.

(iii) A physician specializing in addiction medicine;

(iv) A licensed clinical social worker;

(v) An evidence-based substance use disorder provider;

(vi) A harm reduction services provider;

(vii) A person specializing in housing services for people with substance use disorder or a diagnosed mental health condition;

(viii) An academic researcher specializing in drug use or drug policy;

(ix) At least two people who suffered or suffer from substance use disorder;

(x) At least two recovery peers;

(xi) A mental or behavioral health provider;

(xii) A representative of a coordinated care organization; and,

(xiii) A person who works for a non-profit organization that advocates for persons who experience or have experienced substance use disorder.

(2) A quorum consists of nine members.

(3) The term of office for a member of the Council shall be four years. Vacancies shall be appointed for the unexpired term.

(4)(a) To the extent permissible by law, a member of the Council performing services for the Council may receive compensation from his or her employer for time spent performing services as a Council member.

(b) If a member of the Council is not compensated by their employer as set forth in subsection (4)(a) of this section, that member shall be entitled to compensation and expenses as provided in ORS 292.495.

(c) Nothing in this subsection (4) of this section excuses or exempts a member of the Council from complying with any applicable provision of Oregon's ethics laws and regulations, including the provisions of ORS Chapter 244.

Section 4. Administration. (1)(a) On or before June 30, 2021 the Oversight and Accountability Council shall adopt rules that establish general criteria and requirements for the Addiction Recovery Centers and the grants required by section 2.

(b) The Council shall from time to time adopt such rules, and amend and revise rules it has adopted, as it deems proper and necessary for the administration of this Act and the performance of its work.

(2) The Council shall have and retain the authority to implement and oversee the Addiction Recovery Centers created by section 2 and the grants program created and required by section 2.

(3) The Oregon Health Authority, Health Systems Division Behavioral Health Services shall administer and provide all necessary support to ensure the implementation of this Act.

(4)(a) The Oregon Health Authority, Health Systems Division Behavioral Health Services, in consultation with the Council, may enter into interagency agreements to ensure proper distribution of funds for the grants created and required by section 2.

(b) The Oregon Health Authority, Health Systems Division Behavioral Health Services shall encourage and take all reasonable measures to ensure that grant recipients cooperate, coordinate and act jointly with one another to offer the services described in section 2.

(5) The Oregon Health Authority, Health Systems Division Behavioral Health Services shall provide requested technical, logistical and other support to the Council to assist the Council with its duties and obligations.

FUNDING

Section 5. (1) The Drug Treatment and Recovery Services Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Fund shall be credited to the Fund.

(2) The Drug Treatment and Recovery Services Fund shall consist of:

(a) Moneys deposited into the Fund pursuant to section 6;

- (b) Moneys appropriated or otherwise transferred to the fund by the Legislative Assembly;
 - (c) Moneys allocated from the Oregon Marijuana Account, pursuant to ORS 475B.759(7); and,
 - (d) All other moneys deposited in the fund from any source.
- (3) Moneys in the Fund shall be continuously appropriated to the Oregon Health Authority for the purposes set forth in section 2.
- (4) Unexpended moneys in the Fund may not lapse and shall be carried forward and may be used without regard to fiscal year or biennium.
- (5)(a) Pursuant to subsection (2)(b) of this section, the Legislative Assembly shall appropriate or transfer to the Fund an amount sufficient to fully fund the grants program required by section 2.
- (b) The total amount deposited and transferred into the Fund shall not be less than \$57 million for the first year this Act is in effect.
 - (c) In each subsequent year, that amount set forth in subsection (5)(b) of this section shall be increased by not less than:
 - (i) the percentage (if any) by which the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending December 31 of the prior calendar year exceeds the monthly index for the fourth quarter of the calendar year 2020; and,
 - (ii) an amount not less than the increase in moneys distributed pursuant to ORS 475B.759(7).

Section 6. (1) The Department of Revenue shall credit and transfer or cause to be credited and transferred to the Drug Treatment and Recovery Services Fund the savings to the State of Oregon from the implementation of this Act as calculated in section 7.

(2) If the savings calculated for any subsequent biennium under section 7(1) is less than any prior biennium, the amount credited and transferred to the Drug Treatment and Recovery Services Fund shall be the highest amount calculated for any previous biennium.

(3) The savings as calculated in section 7 shall be transferred on or before the end of the fiscal year in which the calculation is completed.

Section 7. (1)(a) Within 180 days of the end of first biennium in which this Act becomes effective, and within 180 days of the end of each subsequent biennium, the Office of Economic Analysis shall calculate the savings to the State of Oregon resulting from the sentence reductions set forth in section 11 to section 20, including any savings resulting from reductions in arrests, incarceration and supervision.

(b) The savings shall be calculated based on a comparison of the most recent biennium concluded at the time the calculation is made and the biennium immediately preceding the biennium in which this Act became effective.

(2) In making the calculations set forth in this section, the Office of Economic Analysis shall use actual data. The Office of Economic Analysis may use best available estimates where actual data is unavailable.

Section 8. Moneys transferred to the Drug Treatment and Recovery Services Fund and distributed pursuant to section 2 shall, to the maximum extent consistent with law, be in addition

to and not in replacement of any existing allocations or appropriations for the purposes of providing substance use disorder treatment, peer support and recovery services, transitional, supportive and permanent housing for persons with substance use disorders, harm reduction interventions, and for establishing Addiction Recovery Centers.

Section 9. Account Allocation. (1) The Oregon Health Authority shall cause the moneys in the Drug Treatment and Recovery Services Fund to be distributed as follows:

- (a) An amount necessary for administration of section 2 to section 4 not to exceed 4% of the moneys deposited into the Fund in any biennium.
- (b) After the distribution set forth in subsection (1)(a) of this section, the remaining moneys in the Fund shall be distributed to the grants program as set forth in section 2.

Section 10. ORS 475B.759 is amended as follows:

(1) There is established the Oregon Marijuana Account, separate and distinct from the General Fund.

(2) The account shall consist of moneys transferred to the account under ORS 475B.760.

(3)(a) The Department of Revenue shall certify quarterly the amount of moneys available in the Oregon Marijuana Account.

(b) Subject to subsection (4) of this section, **and after making the transfer of moneys required by subsection (7) of this section**, the department shall transfer quarterly 20 percent of the **remaining** moneys in the Oregon Marijuana Account as follows:

(A) Ten percent of the moneys in the account must be transferred to the cities of this state in the following shares:

(i) Seventy-five percent of the 10 percent must be transferred in shares that reflect the population of each city of this state that is not exempt from this paragraph pursuant to subsection (4)(a) of this section compared to the population of all cities of this state that are not exempt from this paragraph pursuant to subsection (4)(a) of this section, as determined by Portland State University under ORS 190.510 to 190.610, on the date immediately preceding the date of the transfer; and

(ii) Twenty-five percent of the 10 percent must be transferred in shares that reflect the number of licenses held pursuant to ORS 475B.070, 475B.090, 475B.100 and 475B.105 on the last business day of the calendar quarter preceding the date of the transfer for premises located in each city compared to the number of licenses held pursuant to ORS 475B.070, 475B.090, 475B.100 and 475B.105 on the last business day of that calendar quarter for all premises in this state located in cities; and

(B) Ten percent of the moneys in the account must be transferred to counties in the following shares:

(i) Fifty percent of the 10 percent must be transferred in shares that reflect the total commercially available area of all grow canopies associated with marijuana producer licenses held pursuant to ORS 475B.070 on the last business day of the calendar quarter preceding the date of the transfer for all premises located in each county compared to the total commercially available area of all grow canopies associated with marijuana producer licenses held pursuant to ORS 475B.070 on the last business day of that calendar quarter for all premises located in this state; and

(ii) Fifty percent of the 10 percent must be transferred in shares that reflect the number of licenses held pursuant to ORS 475B.090, 475B.100 and 475B.105 on the last business day of the calendar quarter preceding the date of the transfer for premises located in each county compared to the number of licenses held pursuant to ORS 475B.090, 475B.100 and 475B.105 on the last business day of that calendar quarter for all premises in this state.

(c) After making the transfer of moneys required by subsection (7) of this section, Eighty eighty percent of the remaining moneys in the Oregon Marijuana Account must be used as follows:

(A) Forty percent of the moneys in the account must be used solely for purposes for which moneys in the State School Fund established under ORS 327.008 may be used;

(B) Twenty percent of the moneys in the account must be used solely for purposes for which moneys in the Mental Health Alcoholism and Drug Services Account established under ORS 430.380 may be used;

(C) Fifteen percent of the moneys in the account must be used solely for purposes for which moneys in the State Police Account established under ORS 181A.020 may be used; and

(D) Five percent of the moneys in the account must be used solely for purposes related to alcohol and drug abuse prevention, early intervention and treatment services.

(4)(a) A city that has an ordinance prohibiting the establishment of a premises for which issuance of a license under ORS 475B.070, 475B.090, 475B.100 or 475B.105 is required is not eligible to receive transfers of moneys under subsection (3)(b)(A) of this section.

(b) A county that has an ordinance prohibiting the establishment of a premises for which issuance of a license under ORS 475B.070 is required is not eligible to receive transfers of moneys under subsection (3)(b)(B)(i) of this section.

(c) A county that has an ordinance prohibiting the establishment of a premises for which issuance of a license under ORS 475B.090, 475B.100 or 475B.105 is required is not eligible to receive transfers of moneys under subsection (3)(b)(B)(ii) of this section.

(5)(a) A city or county that is ineligible under subsection (4) of this section to receive a transfer of moneys from the Oregon Marijuana Account during a given quarter but has received a transfer of moneys for that quarter shall return the amount transferred to the Department of Revenue, with interest as described under paragraph (f) of this subsection. An ineligible city or county may voluntarily transfer the moneys to the Department of Revenue immediately upon receipt of the ineligible transfer.

(b) If the Director of the Oregon Department of Administrative Services determines that a city or county received a transfer of moneys under subsection (3)(b) of this section but was ineligible to receive that transfer under subsection (4) of this section, the director shall provide notice to the ineligible city or county and order the city or county to return the amount received to the Department of Revenue, with interest as described under paragraph (f) of this subsection. A city or county may appeal the order within 30 days of the date of the order under the procedures for a contested case under ORS chapter 183.

(c) As soon as the order under paragraph (b) of this subsection becomes final, the director shall notify the Department of Revenue and the ineligible city or county. Upon notification, the Department of Revenue immediately shall proceed to collect the amount stated in the notice.

(d) The Department of Revenue shall have the benefit of all laws of the state pertaining to the collection of income and excise taxes and may proceed to collect the amounts described in the notice under paragraph (c) of this subsection. An assessment of tax is not necessary and the collection described in this subsection is not precluded by any statute of limitations.

(e) If a city or county is subject to an order to return moneys from an ineligible transfer, the city or county shall be denied any further relief in connection with the ineligible transfer on or after the date that the order becomes final.

(f) Interest under this section shall accrue at the rate established in ORS 305.220 beginning on the date the ineligible transfer was made.

(g) Both the moneys and the interest collected from or returned by an ineligible city or county shall be redistributed to the cities or counties that were eligible to receive a transfer under subsection (3)(b) of this section on the date the ineligible transfer was made.

(6)(a) Not later than July 1 of each year, each city and county in this state shall certify with the Oregon Department of Administrative Services whether the city or county has an ordinance prohibiting the establishment of a premises for which issuance of a license under ORS 475B.070, 475B.090, 475B.100 or 475B.105 is required. The certification shall be made concurrently with the certifications under ORS 221.770, in a form and manner prescribed by the Oregon Department of Administrative Services.

(b) If a city fails to comply with this subsection, the city is not eligible to receive transfers of moneys under subsection (3)(b)(A) of this section. If a county fails to comply with this subsection, the county is not eligible to receive transfers of moneys under subsection (3)(b)(B) of this section.

(c) A city or county that repeals an ordinance as provided in ORS 475B.496 shall file an updated certification with the Oregon Department of Administrative Services in a form and manner prescribed by the department, noting the effective date of the change. A city or county that repeals an ordinance as provided in ORS 475B.496 is eligible to receive quarterly transfers of moneys under this section for quarters where the repeal is effective for the entire quarter and the updated certification was filed at least 30 days before the date of transfer

(7) Before making the transfer of moneys required by subsection (3) of this section, the department shall transfer quarterly to the Drug Treatment and Recovery Services Fund all moneys in the Oregon Marijuana Account in excess of \$11,250,000.

REMOVING DRUG PENALTIES

Section 11. ORS 475.752 is amended to read:

(1) Except as authorized by ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any person to manufacture or deliver a controlled substance. Any person who violates this subsection with respect to:

(a) A controlled substance in Schedule I, is guilty of a Class A felony, except as otherwise provided in ORS 475.886 and 475.890.

(b) A controlled substance in Schedule II, is guilty of a Class B felony, except as otherwise provided in ORS 475.878, 475.880, 475.882, 475.904 and 475.906.

(c) A controlled substance in Schedule III, is guilty of a Class C felony, except as otherwise provided in ORS 475.904 and 475.906.

(d) A controlled substance in Schedule IV, is guilty of a Class B misdemeanor.

(e) A controlled substance in Schedule V, is guilty of a Class C misdemeanor.

(2) Except as authorized in ORS 475.005 to 475.285 and 475.752 to 475.980, it is unlawful for any person to create or deliver a counterfeit substance. Any person who violates this subsection with respect to:

(a) A counterfeit substance in Schedule I, is guilty of a Class A felony.

(b) A counterfeit substance in Schedule II, is guilty of a Class B felony.

(c) A counterfeit substance in Schedule III, is guilty of a Class C felony.

(d) A counterfeit substance in Schedule IV, is guilty of a Class B misdemeanor.

(e) A counterfeit substance in Schedule V, is guilty of a Class C misdemeanor.

(3) It is unlawful for any person knowingly or intentionally to possess a controlled substance unless the substance was obtained directly from, or pursuant to a valid prescription or order of, a practitioner while acting in the course of professional practice, or except as otherwise authorized by ORS 475.005 to 475.285 and 475.752 to 475.980. Any person who violates this subsection with respect to:

(a) A controlled substance in Schedule I, is guilty of a Class [A *misdemeanor*] **E violation**, except as otherwise provided in ORS 475.854, 475.874 and 475.894 and subsection (7) of this section.

(b) A controlled substance in Schedule II, is guilty of a Class [A *misdemeanor*] **E violation**, except as otherwise provided in ORS 475.824, 475.834 or 475.884 or subsection (8) of this section.

(c) A controlled substance in Schedule III, is guilty of a Class [A *misdemeanor*] **E violation**.

(d) A controlled substance in Schedule IV, is guilty of a Class [C *misdemeanor*] **E violation**.

(e) A controlled substance in Schedule V, is guilty of a violation.

(4) In any prosecution under this section for manufacture, possession or delivery of that plant of the genus *Lophophora* commonly known as peyote, it is an affirmative defense that the peyote is being used or is intended for use:

(a) In connection with the good faith practice of a religious belief;

(b) As directly associated with a religious practice; and

(c) In a manner that is not dangerous to the health of the user or others who are in the proximity of the user.

(5) The affirmative defense created in subsection (4) of this section is not available to any person who has possessed or delivered the peyote while incarcerated in a correctional facility in this state.

(6)(a) Notwithstanding subsection (1) of this section, a person who unlawfully manufactures or delivers a controlled substance in Schedule IV and who thereby causes death to another person is guilty of a Class C felony.

(b) For purposes of this subsection, causation is established when the controlled substance plays a substantial role in the death of the other person.

(7) Notwithstanding subsection (3)(a) of this section, unlawful possession of a controlled substance in Schedule I is a Class B felony if[.] **the**

[(a) The person possesses a usable quantity of the controlled substance and:]

[(A) At the time of the possession, the person has a prior felony conviction;]

[(B) At the time of the possession, the person has two or more prior convictions for unlawful possession of a usable quantity of a controlled substance; or]

[(C) The] possession is a commercial drug offense under ORS 475.900(1)(b).[: or]

(b) Notwithstanding subsection (3)(a) of this section and except as provided in ORS 475.900(1)(b), unlawful possession of a controlled substance in Schedule I is a Class A misdemeanor if the [~~The~~] person possesses:

(A) Forty or more user units of a mixture or substance containing a detectable amount of lysergic acid diethylamide; or

(B) Twelve grams or more of a mixture or substance containing a detectable amount of psilocybin or psilocin.

(8) Notwithstanding subsection (3)(b) of this section, unlawful possession of a controlled substance in Schedule II is a Class C felony if [*the person possesses a usable quantity of the controlled substance and:]* **the**

(a) [At the time of the possession, the person has a prior felony conviction;]

[(b) At the time of the possession, the person has two or more prior convictions for unlawful possession of a usable quantity of a controlled substance; or]

[(c) The] possession is a commercial drug offense under ORS 475.900(1)(b).

Section 12. ORS 475.824 is amended to read:

(1) It is unlawful for any person knowingly or intentionally to possess methadone unless the methadone was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of professional practice, or except as otherwise authorized by ORS 475.005 to 475.285 and 475.752 to 475.980.

(2)(a) Unlawful possession of methadone is a Class [A misdemeanor] **E violation.**

(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of methadone is a Class C felony if[.] **the**

[(A) The person possesses a usable quantity of methadone and:]

[(i) At the time of the possession, the person has a prior felony conviction;]

[(ii) At the time of the possession, the person has two or more prior convictions for unlawful possession of a usable quantity of a controlled substance; or]

[(iii) The] possession is a commercial drug offense under ORS 475.900(1)(b)[~~;~~or].

(c) Notwithstanding paragraph (a) of this subsection, unlawful possession of methadone is a Class A misdemeanor if the

[(B) The] person possesses 40 or more user units of a mixture or substance containing a detectable amount of methadone.

Section 13. ORS 475.834 is amended to read:

(1) It is unlawful for any person knowingly or intentionally to possess oxycodone unless the oxycodone was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of professional practice, or except as otherwise authorized by ORS 475.005 to 475.285 and 475.752 to 475.980.

(2)(a) Unlawful possession of oxycodone is a Class *[A misdemeanor]* **E violation.**

(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of oxycodone is a Class C felony if[.] **the**

[(A) The person possesses a usable quantity of oxycodone and:]

[(i) At the time of the possession, the person has a prior felony conviction;]

[(ii) At the time of the possession, the person has two or more prior convictions for unlawful possession of a usable quantity of a controlled substance; or]

[(iii) The] possession is a commercial drug offense under ORS 475.900(1)(b)[~~;~~or].

(c) Notwithstanding paragraph (a) of this subsection, unlawful possession of oxycodone is a Class A misdemeanor if the

[(B) The] person possesses 40 or more pills, tablets or capsules of a mixture or substance containing a detectable amount of oxycodone.

Section 14. ORS 475.854 is amended to read:

(1) It is unlawful for any person knowingly or intentionally to possess heroin.

(2)(a) Unlawful possession of heroin is a Class *[A misdemeanor]* **E violation.**

(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of heroin is a Class B felony if[.] **the**

[(A) The person possesses a usable quantity of heroin and:]

[(i) At the time of the possession, the person has a prior felony conviction;]

[(ii) At the time of the possession, the person has two or more prior convictions for unlawful possession of a usable quantity of a controlled substance; or]

[(iii) The] possession is a commercial drug offense under ORS 475.900(1)(b)~~;~~~~or~~.

(c) Notwithstanding paragraph (a) of this subsection and except as provided in ORS 475.900(1)(b), unlawful possession of heroin is a Class A misdemeanor if the

[(B) The] person possesses one gram or more of a mixture or substance containing a detectable amount of heroin.

Section 15. ORS 475.874 is amended to read:

(1) It is unlawful for any person knowingly or intentionally to possess 3,4-methylenedioxymethamphetamine.

(2)(a) Unlawful possession of 3,4-methylenedioxymethamphetamine is a Class **[A misdemeanor] E violation.**

(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of 3,4-methylenedioxymethamphetamine is a Class B felony if~~[:]~~ **the**

[(A) The person possesses a usable quantity of 3,4-methylenedioxymethamphetamine and:]

[(i) At the time of the possession, the person has a prior felony conviction;]

[(ii) At the time of the possession, the person has two or more prior convictions for unlawful possession of a usable quantity of a controlled substance; or]

[(iii) The] possession is a commercial drug offense under ORS 475.900(1)(b)~~;~~~~or~~.

(c) Notwithstanding paragraph (a) of this subsection and except as provided in ORS 475.900(1)(b), unlawful possession of methylenedioxymethamphetamine is a Class A misdemeanor if the

[(B) The] person possesses one gram or more or five or more pills, tablets or capsules of a mixture or substance containing a detectable amount of:

- (i) 3,4-methylenedioxyamphetamine;
- (ii) 3,4-methylenedioxymethamphetamine; or
- (iii) 3,4-methylenedioxy-N-ethylamphetamine.

Section 16. ORS 475.884 is amended to read:

(1) It is unlawful for any person knowingly or intentionally to possess cocaine unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of professional practice, or except as otherwise authorized by ORS 475.005 to 475.285 and 475.752 to 475.980.

(2)(a) Unlawful possession of cocaine is a Class [A misdemeanor] **E violation**.

(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of cocaine is a Class C felony if[:] **the**

[A] *The person possesses a usable quantity of cocaine and:*

[i] *At the time of the possession, the person has a prior felony conviction;*

[ii] *At the time of the possession, the person has two or more prior convictions for unlawful possession of a usable quantity of a controlled substance; or*

[iii] *The* possession is a commercial drug offense under ORS 475.900(1)(b)[; or].

(c) Notwithstanding paragraph (a) of this subsection and except as provided in ORS 475.900(1)(b), unlawful possession of cocaine is a Class A misdemeanor if the

[B] *The* person possesses two grams or more of a mixture or substance containing a detectable amount of cocaine.

Section 17. ORS 475.894 is amended to read:

(1) It is unlawful for any person knowingly or intentionally to possess methamphetamine unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of professional practice, or except as otherwise authorized by ORS 475.005 to 475.285 and 475.752 to 475.980.

(2)(a) Unlawful possession of methamphetamine is a Class [A misdemeanor] **E violation**.

(b) Notwithstanding paragraph (a) of this subsection, unlawful possession of methamphetamine is a Class C felony if[:]

[A] *The person possesses a usable quantity of methamphetamine and:*

[i] *At the time of the possession, the person has a prior felony conviction;*

[ii] *At the time of the possession, the person has two or more prior convictions for unlawful possession of a usable quantity of a controlled substance; or*

[iii] *The* **the** possession is a commercial drug offense under ORS 475.900(1)(b)~~;~~~~or~~.

(c) Notwithstanding paragraph (a) of this subsection and except as provided in ORS 475.900(1)(b), unlawful possession of methamphetamine is a Class A misdemeanor if the

[B] *The* person possesses two grams or more of a mixture or substance containing a detectable amount of methamphetamine.

Section 18. ORS 153.012 is amended to read:

Violations are classified for the purpose of sentencing into the following categories:

(1) Class A violations;

(2) Class B violations;

(3) Class C violations;

(4) Class D violations;

(5) Class E violations;

[(5)] (6) Unclassified violations as described in ORS 153.015; and

(7) Specific fine violations as described in ORS 153.015.

Section 19. ORS 153.018 is amended to read:

(1) The penalty for committing a violation is a fine. The law creating a violation may impose other penalties in addition to a fine but may not impose a term of imprisonment.

(2) Except as otherwise provided by law, the maximum fine for a violation committed by an individual is:

(a) \$2,000 for a Class A violation.

(b) \$1,000 for a Class B violation.

(c) \$500 for a Class C violation.

(d) \$250 for a Class D violation.

(e) \$100, or, in lieu of the fine, a completed health assessment as specified in section 2(2)(b)(ii) or section 23(2), for a Class E violation.

[(e)](f) \$2,000 for a specific fine violation, or the maximum amount otherwise established by law for the specific fine violation.

(3) If a special corporate fine is specified in the law creating the violation, the sentence to pay a fine shall be governed by the law creating the violation. Except as otherwise provided by law, if a special corporate fine is not specified in the law creating the violation, the maximum fine for a violation committed by a corporation is:

(a) \$4,000 for a Class A violation.

(b) \$2,000 for a Class B violation.

(c) \$1,000 for a Class C violation.

(d) \$500 for a Class D violation.

Section 20. ORS 423.478 is amended to read:

(1) The Department of Corrections shall:

(a) Operate prisons for offenders sentenced to terms of incarceration for more than 12 months;

(b) Provide central information and data services sufficient to:

(A) Allow tracking of offenders; and

(B) Permit analysis of correlations between sanctions, supervision, services and programs, and future criminal conduct; and

(c) Provide interstate compact administration and jail inspections.

(2) Subject to ORS 423.483, the county, in partnership with the department, shall assume responsibility for community-based supervision, sanctions and services for offenders convicted of felonies or designated drug-related misdemeanors who are:

(a) On parole;

(b) On probation;

(c) On post-prison supervision;

(d) Sentenced, on or after January 1, 1997, to 12 months or less incarceration;

(e) Sanctioned, on or after January 1, 1997, by a court or the State Board of Parole and Post-Prison Supervision to 12 months or less incarceration for violation of a condition of parole, probation or post-prison supervision; or

(f) On conditional release under ORS 420A.206.

(3) Notwithstanding the fact that the court has sentenced a person to a term of incarceration, when an offender is committed to the custody of the supervisory authority of a county under ORS 137.124 (2) or (4), the supervisory authority may execute the sentence by imposing sanctions other than incarceration if deemed appropriate by the supervisory authority. If the supervisory authority releases a person from custody under this subsection and the person is required to report as a sex offender under ORS 163A.010, the supervisory authority, as a condition of release, shall order the person to report to the Department of State Police, a city police department or a county sheriff's office or to the supervising agency, if any:

(a) When the person is released;

(b) Within 10 days of a change of residence;

(c) Once each year within 10 days of the person's birth date;

(d) Within 10 days of the first day the person works at, carries on a vocation at or attends an institution of higher education; and

(e) Within 10 days of a change in work, vocation or attendance status at an institution of higher education.

(4) As used in this section:

(a) "Attends," "institution of higher education," "works" and "carries on a vocation" have the meanings given those terms in ORS 163A.005.

(b) "Designated drug-related misdemeanor" means:

[(A) Unlawful possession of a Schedule I controlled substance under ORS 475.752 (3)(a);]

[(B) Unlawful possession of a Schedule II controlled substance under ORS 475.752 (3)(b);]

- (C) Unlawful possession of methadone under [ORS 475.824(2)(a)] **ORS 475.824(2)(c)**;
- (D) Unlawful possession of oxycodone under [ORS 475.834(2)(a)] **ORS 475.834(2)(c)**;
- (E) Unlawful possession of heroin under [ORS 475.854(2)(a)] **ORS 475.854(2)(c)**;
- (F) Unlawful possession of 3,4-methylenedioxymethamphetamine under [ORS 475.874(2)(a)] **ORS 475.874(2)(c)**;
- (G) Unlawful possession of cocaine under [ORS 475.884(2)(a)] **ORS 475.884(2)(c)**; or
- (H) Unlawful possession of methamphetamine under ORS [475.894(2)(a)] **ORS 475.894(2)(c)**.

Section 21. ORS 670.280 is amended as follows:

(1) As used in this section:

- (a) “License” includes a registration, certification or permit.
- (b) “Licensee” includes a registrant or a holder of a certification or permit.

(2) Except as provided in ORS 342.143(3) or 342.175(3), a licensing board, commission or agency may not deny, suspend or revoke an occupational or professional license solely for the reason that the applicant or licensee has been convicted of a crime, but it may consider the relationship of the facts which support the conviction and all intervening circumstances to the specific occupational or professional standards in determining the fitness of the person to receive or hold the license. **There is a rebuttable presumption as to each individual applicant or licensee that an existing or prior conviction for conduct that has been classified or reclassified as a Class E violation pursuant to section 11 to section 19 does not make an applicant for an occupational or professional license or a licensee with an occupational or professional license unfit to receive or hold the license.**

(3) Except as provided in ORS 342.143(3) and 342.175(3), a licensing board, commission or agency may deny an occupational or professional license or impose discipline on a licensee based on conduct that is not undertaken directly in the course of the licensed activity, but that is substantially related to the fitness and ability of the applicant or licensee to engage in the activity for which the license is required. In determining whether the conduct is substantially related to the fitness and ability of the applicant or licensee to engage in the activity for which the license is required, the licensing board, commission or agency shall consider the relationship of the facts with respect to the conduct and all intervening circumstances to the specific occupational or professional standards. **There is a rebuttable presumption as to each individual applicant or licensee that an existing or prior conviction for conduct that has been classified or reclassified as a Class E violation pursuant to section 11 to section 19 is not related to the fitness and ability of the applicant or licensee to engage in the activity for which the license is required.**

Section 22. Any person subject to the penalty set forth in ORS 153.018(2)(e) for a violation that has been classified or reclassified as a Class E violation pursuant to section 11 to section 19, shall be fined up to \$100, but in lieu of the fine, may complete a health assessment, as set forth in section 2(2)(b)(ii), at an Addiction Recovery Center. Upon verification that the person has received a health assessment at an Addiction Recovery Center within 45 days of when the person receives a citation for a violation subject to the penalty set forth in ORS 153.018(2)(e), the fine shall be waived. Failure to pay the fine shall not be a basis for further penalties or for a term of incarceration.

OVERSIGHT AND ADMINISTRATION

Section 23. Implementation. (1) Not later than February 1, 2021, the Oregon Health Authority, Health Systems Division Behavioral Health Services shall establish a statewide temporary telephone Addiction Recovery Center. The temporary telephone Addiction Recovery Center shall be staffed twenty-four hours a day, seven days a week, 365 days a year. The temporary telephone Addiction Recovery Center shall provide the services set forth in section 2(2)(b)(i)-(iii) and the verification set forth in section 2(2)(e).

(2) Until such time as an Addiction Recovery Center is established in the coordinated care organization service area where a person subject to the penalty set forth in ORS 153.018(2)(e) for a violation that has been classified or reclassified as a Class E violation pursuant to section 11 to section 19 resides, the person shall be fined up to \$100, but in lieu of the fine may complete a health assessment, as set forth in section 2(2)(b)(ii), through the temporary telephone Addiction Recovery Center. Upon verification that the person has received a health assessment through the temporary telephone Addiction Recovery Center within 45 days of when the person receives a citation for a violation subject to the penalty set forth in ORS 153.018(2)(e), the fine shall be waived. Failure to pay the fine shall not be a basis for further penalties or for a term of incarceration.

(3) When an Addiction Recovery Center is established in each coordinated care organization service area, and not later than October 1, 2021, the temporary telephone Addiction Recovery Center shall be terminated.

Section 24. Audits. (1) No later than December 31, 2022, and at least once every two years thereafter, the Oregon Secretary of State, Audits Division shall conduct financial and performance audits regarding the uses of the Drug Treatment and Recovery Services Fund and the effectiveness of the Fund in achieving the purposes of the Fund and the policy objectives of this Act. The audit shall include:

(a) Data on grant programs, including:

(i) A list of organizations and agencies receiving moneys from the Fund;

(ii) The amount each organization and agency received from the Fund;

(iii) The total number of organizations and agencies that applied for moneys from the Fund;

(iv) The moneys that remained in the Fund after funds were disbursed;

(v) The moneys used to administer the programs selected by the Fund;

(vi) The effectiveness of the grants in increasing access to substance use disorder treatment, peer support and recovery services, harm reduction interventions as well as housing placement, and any other relevant outcome measures;

(b) Data on Addiction Recovery Centers, including:

(i) The outcomes of each Center, including, but not limited to, the number of clients with substance use disorder served by each Center, the average duration of client participation, and client outcomes, including rates of recidivism, substance use disorder treatment completion, ability to obtain housing, employment, and legitimate income;

(ii) The number of people seeking assistance from the Center who are denied or not connected to substance use disorder treatment and other services, and the reasons for such denials;

(iii) The average wait time it takes for people at the Center to be able to fulfill their Individual Intervention Plan and the reason for any delays, such as waiting lists at referred services;

(iv) The total amount of money disbursed to each Center.

(c) Data on implementation, including, the number of citations for Class E violations issued and the race of the person receiving a citation for a Class E violation;

(2) The audits set forth in subsection (a) of this section shall be conducted pursuant to the provisions of Oregon Revised Statutes Chapter 297 (and any subsequent modifications or amendments to those statutes), except to the extent any provision of Chapter 297 conflicts with any provision of this Act, in which case the provisions of this Act shall control.

(3) The Audits Division shall monitor and report annually on agency progress in implementing recommendations made in the audits. The Audits Division shall follow up on recommendations as part of recurring audit work or as an activity separate from other audit activity. When following up on recommendations, the Audits Division may request from the appropriate agency evidence of implementation.

MISCELLANEOUS

Section 25. Effective and Operative Dates. (1) This Act shall become effective pursuant to Article IV, section 1(4)(d) of the Oregon Constitution.

(2) The amendments to statutes by section 11 to section 21, and section 22, become operative on February 1, 2021.

Section 26. Severability. If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect any other provision or application of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.



CITY OF COOS BAY CITY COUNCIL

Agenda Staff Report

MEETING DATE	AGENDA ITEM NUMBER
July 25, 2022	3.a.

TO: Mayor Benetti and City Councilors

FROM: Nichole Rutherford, Assistant City Manager

THROUGH: Rodger Craddock, City Manager

ISSUE: Presentation of Recent Ninth Circuit Court of Appeals Case Law and Enacted State Laws by City Attorney Nate McClintock

SUMMARY:

City Attorney Nate McClintock will provide an overview of both recent case law from the Ninth Circuit Court of Appeals and State of Oregon enacted laws. This will include the Martin v Boise case (decriminalization of homelessness), House Bill 3115 (allowing for time, manner and place local laws) and House Bill 3124 (establishing regulations around the removal and subsequent secured storage of personal property belonging to homeless individuals).

ACTION REQUESTED:

BACKGROUND:

BUDGET IMPLICATIONS:

ATTACHMENT(S):

- ▢ Martin v Boise
- ▢ House Bill 3115
- ▢ House Bill 3124

EIGHTH AMENDMENT — CRIMINALIZATION OF HOMELESSNESS —
NINTH CIRCUIT REFUSES TO RECONSIDER INVALIDATION OF ORDINANCES COMPLETELY BANNING SLEEPING AND CAMPING IN PUBLIC.
— *Martin v. City of Boise*, 920 F.3d 584 (9th Cir. 2019).

When should judges protect the people, and when should they defer to them? In countless contentious cases, courts have split: majorities invalidate laws to defend rights; dissents decry the decisions as undemocratic.¹ Recently, in *Martin v. City of Boise*,² the Ninth Circuit engaged in that familiar back-and-forth, this time sparring over the constitutionality of two city ordinances that banned sleeping and camping on public property. After a panel held that absolute bans violate the Eighth Amendment rights of homeless people,³ Judge Milan Smith, dissenting from a denial of rehearing en banc, accused his “unelected[] colleagues [of] improperly inject[ing] themselves into the role of public policymaking”⁴ and thereby creating chaos for “hundreds of local governments . . . and . . . millions of people.”⁵ But this fractious debate is belied by the panel’s narrow holding, which neither protected homeless people nor precluded democratic politics. Indeed, the incremental political achievements of *Martin*’s long litigation process may prove more significant than the panel’s divisive, undemocratic decision.

A decade ago, in Boise, Idaho, it was illegal to sleep in public. One ordinance banned “[o]ccupying, lodging or sleeping in any . . . place . . . without . . . permission”;⁶ another barred the “use [of] any . . . streets, sidewalks, parks or public places as a camping place at any time.”⁷ Janet Bell was cited twice, once for sitting on a riverbank with her backpack, another time for putting down a bedroll in the woods.⁸ She pled

¹ For two recent examples, compare *Obergefell v. Hodges*, 135 S. Ct. 2584, 2605 (2015) (quoting *Schuette v. BAMN*, 134 S. Ct. 1623, 1637 (2014)) (“[W]hen the rights of persons are violated, ‘the Constitution requires redress by the courts,’ notwithstanding . . . democratic decisionmaking.”), with *id.* at 2629 (Scalia, J., dissenting) (“A system of government that makes the People subordinate to . . . nine unelected lawyers does not deserve to be called a democracy.”); and compare *Citizens United v. FEC*, 558 U.S. 310, 340 (2010) (“[P]olitical speech must prevail against laws that would suppress it . . .”), with *id.* at 479 (Stevens, J., concurring in part and dissenting in part) (“In a democratic society, the longstanding consensus on the need to limit corporate campaign spending should outweigh the wooden application of judge-made rules.”).

² 920 F.3d 584 (9th Cir. 2019).

³ *Martin v. City of Boise*, 902 F.3d 1031, 1035 (9th Cir. 2018), *amended by* 920 F.3d 584.

⁴ *Martin*, 920 F.3d at 593 (M. Smith, J., dissenting from the denial of rehearing en banc).

⁵ *Id.* at 594.

⁶ *Bell v. City of Boise*, 834 F. Supp. 2d 1103, 1106 (D. Idaho 2011) (alteration in original) (quoting BOISE, IDAHO, CODE § 6-01-05(A), *invalidated by Martin*, 902 F.3d 1031).

⁷ *Bell v. City of Boise*, 709 F.3d 890, 893 (9th Cir. 2013) (quoting BOISE, IDAHO, CODE § 9-10-02, *invalidated by Martin*, 902 F.3d 1031).

⁸ Amended Complaint for Injunctive and Declaratory Relief and Monetary Damages ¶ 7, *Bell*, 834 F. Supp. 2d 1103 (No. 09-CV-540) [hereinafter Amended Complaint].

guilty and received a thirty-day suspended sentence.⁹ Robert Martin, who has difficulty walking, received a citation for resting near a shelter.¹⁰ He was found guilty at trial and charged \$150.¹¹

On October 22, 2009, Bell, Martin, and nine other homeless people sued the City.¹² They claimed that the enforcement of the ordinances violated their Eighth Amendment rights, criminalizing them for carrying out basic bodily functions.¹³ Using § 1983,¹⁴ they sought expungement of their records, reimbursement for fines, enjoinder of enforcement, and a declaration that the ordinances were unconstitutional.¹⁵

On July 6, 2011, the district court granted summary judgment to the City.¹⁶ Retrospective relief, Magistrate Judge Bush found, was barred because the plaintiffs did not challenge their convictions in state court before bringing their federal case.¹⁷ Prospective prohibition of enforcement, he held, was moot because there was no longer any “reasonable expectation” of an Eighth Amendment violation.¹⁸ While he admitted that a “complete bar on sitting, lying, or sleeping in public at any time of day” would unconstitutionally criminalize homeless status,¹⁹ Magistrate Judge Bush highlighted three limits on the ordinances — all instituted in the immediate aftermath of the case’s filing. First, in November 2009,²⁰ the City Council redefined camping, restricting it to overnight stays on public property;²¹ second, on January 1, 2010, the

⁹ See Answer to Plaintiffs’ Amended Complaint for Injunctive Relief and Declaratory Relief and Monetary Damages ¶ XI, *Bell*, 834 F. Supp. 2d 1103 (No. 09-CV-540) [hereinafter Answer to Amended Complaint].

¹⁰ Amended Complaint, *supra* note 8, ¶ 10.

¹¹ Answer to Amended Complaint, *supra* note 9, ¶ XIV. He had to pay a \$75 fine and \$75.50 in court costs. *Id.* In 2012, after filing a case against the city, Martin received another citation. *Martin*, 902 F.3d at 1038.

¹² See Amended Complaint, *supra* note 8, ¶¶ 3, 7–18. The plaintiffs also sued the City’s Police Department and Police Chief, *id.* ¶¶ 19–20, but both eventually left the litigation, see *Martin v. City of Boise*, No. 09-CV-540, 2015 WL 5708586, at *1 (D. Idaho Sept. 28, 2015).

¹³ *Bell*, 834 F. Supp. 2d at 1106. The plaintiffs argued that the ordinances also violated the Fourteenth Amendment’s Equal Protection and Due Process Clauses, as well as equivalent portions of the Idaho Constitution. See Amended Complaint, *supra* note 8, ¶¶ 55–69.

¹⁴ 42 U.S.C. § 1983 (2012). The plaintiffs also sought relief via the Declaratory Judgment Act, 28 U.S.C. §§ 2201–2202 (2012). *Martin*, 902 F.3d at 1038.

¹⁵ *Bell*, 834 F. Supp. 2d at 1106.

¹⁶ *Id.* at 1116.

¹⁷ *Id.* at 1110 (summarizing the rationale of the Rooker-Feldman doctrine by explaining that “[i]f the Court were to grant . . . relief [from state court judgments], the instant lawsuit would serve as an end-run around the state court appellate process”).

¹⁸ *Id.* at 1111 (quoting *Native Vill. of Noatak v. Blatchford*, 38 F.3d 1505, 1509 (9th Cir. 1994)).

¹⁹ *Id.* at 1107 (citing *Jones v. City of Los Angeles*, 444 F.3d 1118 (9th Cir. 2006), *vacated*, 505 F.3d 1006 (9th Cir. 2007)). The Ninth Circuit held that such a bar violated the Eighth Amendment in *Jones v. City of Los Angeles*, 444 F.3d 1118, *vacated*, 505 F.3d 1006, but it vacated the opinion after the parties settled. *Bell*, 834 F. Supp. 2d at 1107 n.1.

²⁰ *Bell v. City of Boise*, 709 F.3d 890, 894 (9th Cir. 2013).

²¹ *Bell*, 834 F. Supp. 2d at 1114 (citing BOISE, IDAHO, CODE § 9-10-02).

Boise Police Department issued a Special Order that prohibited enforcement of either ordinance when shelters were full;²² third, in the same Special Order, the Department formalized its policy not to enforce either ordinance during the day.²³ The ordinances, Magistrate Judge Bush concluded, now criminalized voluntary conduct, not homeless status.²⁴

In 2013, the Ninth Circuit reversed and remanded.²⁵ Contra the district court decision, it held that retrospective relief was possible because the plaintiffs were challenging the City's enforcement, not their state court judgments.²⁶ Prospective enjoinder of enforcement was not mooted either, it held, because the Special Order was only an "internal policy,"²⁷ not a "permanent change" to local laws.²⁸

On remand, the district court, in two opinions, again granted the City summary judgment. In 2014, Magistrate Judge Bush barred retrospective relief because the plaintiffs had not contested their convictions before filing the case.²⁹ In 2015, he prohibited prospective relief because the City Council incorporated the Police Special Order into the City Code and thus made unconstitutional enforcement unlikely.³⁰

In September 2018, the Ninth Circuit affirmed with respect to the plaintiffs' requests for retrospective relief, but it again reversed and remanded with respect to their requests for prospective relief.³¹ Judge Berzon, writing for the panel,³² began with the persistent procedural problems. First, she found that, despite the incorporation of the Special Order into the City Code, future prosecution was still possible: even on nights when beds were empty, the plaintiffs might not be able to sleep in shelters with religious or continual-stay restrictions.³³ Second, she

²² *Id.* at 1111.

²³ *Id.* (noting that the Special Order barred enforcement during public park hours).

²⁴ *Id.* at 1108–09. Magistrate Judge Bush, drawing on *Robinson v. California*, 370 U.S. 660 (1962), and *Powell v. Texas*, 392 U.S. 514 (1968), explained, "[t]he Supreme Court draws a distinction between laws that criminalize status, which *are* unconstitutional, and laws that criminalize conduct, which *may be* constitutional." *Bell*, 834 F. Supp. 2d at 1107 (emphasis added).

²⁵ *Bell*, 709 F.3d at 893.

²⁶ *Id.* at 897.

²⁷ *Id.* at 900.

²⁸ *Id.* at 901.

²⁹ *Bell v. City of Boise*, 993 F. Supp. 2d 1237, 1239 (D. Idaho 2014). *Heck v. Humphrey*, 512 U.S. 477 (1994), requires a plaintiff seeking retrospective relief via § 1983 to show that their conviction was "reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal[,] . . . or called into question by a federal court's issuance of a writ of habeas corpus," *id.* at 486–87.

³⁰ *Martin v. City of Boise*, No. 09-CV-540, 2015 WL 5708586, at *2, *5 (D. Idaho Sept. 28, 2015).

³¹ *Martin v. City of Boise*, 902 F.3d 1031, 1049 (9th Cir. 2018).

³² Judge Berzon was joined by Judge Watford. Judge Owens concurred in the denial of retrospective relief but insisted that prospective relief was also barred by *Heck* because declaring the ordinances unconstitutional would "necessarily demonstrate the invalidity of the plaintiffs' prior convictions." *Id.* at 1050 (Owens, J., concurring in part and dissenting in part).

³³ *Id.* at 1040–42 (majority opinion).

agreed with the District Court that retrospective relief was mostly barred by the plaintiffs' failure to contest their convictions,³⁴ but she found that prospective injunctive relief under § 1983 remained viable.³⁵ Finally, she reached the merits of the Eighth Amendment challenge. Any ordinance that allowed for the "imposition of criminal penalties for sitting, sleeping, or lying outside on public property for homeless individuals who cannot obtain shelter," she argued, unconstitutionally criminalized homeless status.³⁶ This holding, she insisted, was limited to involuntary conduct: the Eighth Amendment bars punishing a person only "for lacking the means to live out the 'universal and unavoidable consequences of being human.'"³⁷

In April 2019, the Ninth Circuit denied rehearing en banc³⁸ over the objections of two "dramatic" dissents.³⁹ In a concurrence, Judge Berzon called the dissents "petitions for writ of certiorari on steroids, rather than reasoned judicial opinions."⁴⁰ Judge Bennett, in one, attacked the panel's holding as contrary to the Eighth Amendment's original meaning.⁴¹ The ban on cruel and unusual punishment, he wrote, was meant to invalidate "*methods* of punishment," not to limit criminalization.⁴²

Judge Smith, in the other, claimed the panel perverted precedent to enact its policy preferences.⁴³ First, he claimed, no binding precedent held that laws that criminalize involuntary conduct unconstitutionally criminalize status.⁴⁴ Second, he argued, the panel effectively invalidated prior convictions by granting prospective relief even though the Supreme Court bars that action in such cases.⁴⁵ Finally, he explained,

³⁴ *Id.* at 1044.

³⁵ *Id.* at 1045.

³⁶ *Id.* at 1048.

³⁷ *Id.* at 1048 n.8 (quoting *Jones v. City of Los Angeles*, 444 F.3d 1118, 1136 (9th Cir. 2006), *vacated*, 505 F.3d 1006 (9th Cir. 2007)). Judge Berzon relied on the concurrence and dissent in *Powell* to conclude that involuntary conduct constituted status and could not be criminalized. *Id.* at 1047–48.

³⁸ *Martin*, 920 F.3d at 588.

³⁹ *Id.* (Berzon, J., concurring in the denial of rehearing en banc).

⁴⁰ *Id.* Judge Berzon was criticizing dissents to denials for rehearings en banc in general, but the implication was clear. *See id.* In August 2019, the City filed a writ of certiorari that drew extensively on the dissents. *See generally* Petition for a Writ of Certiorari, *City of Boise v. Martin*, No. 19-247 (Aug. 22, 2019).

⁴¹ *Martin*, 920 F.3d at 603 (Bennett, J., dissenting from the denial of rehearing en banc). Judge Bennett was joined by Judges Bea, Ikuta, and Ryan Nelson. Judge Smith joined in part.

⁴² *Id.* at 602 (citing *Harmelin v. Michigan*, 501 U.S. 957, 977, 979 (1991) (Scalia, J., concurring)).

⁴³ *Id.* at 590, 593 (M. Smith, J., dissenting from the denial of rehearing en banc). Judge Smith was joined by Judges Callahan, Bea, Ikuta, Bennett, and Ryan Nelson.

⁴⁴ *Id.* at 590–92 (analyzing the opinions in *Powell* via the *Marks* rule, which gives precedential value to the opinion that used the narrowest grounds to reach a judgment in cases without a majority opinion, *Marks v. United States*, 430 U.S. 188, 193 (1977)).

⁴⁵ *Id.* at 597 (citing *Heck v. Humphrey*, 512 U.S. 477 (1994)).

the panel allowed two plaintiffs without convictions to sue for retrospective relief even though the Court allows such relief only “*after . . . a formal adjudication of guilt.*”⁴⁶ The panel’s precedent-stretching decision, he argued, could cause “dire . . . consequences.”⁴⁷ Cities that did not “undertake [the] overwhelming financial responsibility”⁴⁸ to provide adequate shelter for and accurate counts of homeless people would be unable to enforce bans on homeless people’s “defecation,” “urination,” and “use of hypodermic needles.”⁴⁹ As a result, disease and despair would spread across the Ninth Circuit — home to some of the country’s highest concentrations of homeless people.⁵⁰ “[T]he Eighth Amendment,” he concluded, “is not a vehicle . . . to critique public policy choices or to hamstring a local government’s enforcement of its criminal code.”⁵¹

Did *Martin* protect homeless people or preclude democratic politics? On closer inspection, the case neither nullified the range of laws that punish homeless people, nor prevented the political process from addressing “the serious societal concern of homelessness.”⁵² Instead, the panel’s holding is narrow enough that it may prove insignificant for homeless people in the Ninth Circuit, but the process of litigation led to positive political developments for Boise’s homeless residents. Indeed, by forcing the City to account for its actions in an adversarial forum, the case created opportunities for homeless people to participate in reforming policies designed to exclude them. In this way, *Martin* suggests that debates about judicial review may be too focused on judges’ decisions, missing the impact of the litigation process itself.

In their dueling opinions, Judges Berzon and Smith advanced archetypal arguments about judicial review. Judge Berzon embraced judicial supremacy to protect a vulnerable minority, whose rights, she suggested, were too easily trammled.⁵³ Judge Smith insisted that the panel’s intervention was illegitimate — it used the Constitution to invalidate democratic

⁴⁶ *Id.* at 598 (quoting *Ingraham v. Wright*, 430 U.S. 651, 671 n.40 (1977) (emphasis added)).

⁴⁷ *Id.* at 594.

⁴⁸ *Id.*

⁴⁹ *Id.* at 596.

⁵⁰ *Id.* at 595.

⁵¹ *Id.* at 599.

⁵² *Id.* at 590.

⁵³ See *Martin v. City of Boise*, 902 F.3d 1031, 1035 (9th Cir. 2018). Judge Berzon began her opinion with Anatole France’s famous quip on the false freedom of formal equality: “The law, in its majestic equality, forbids rich and poor alike to sleep under bridges, to beg in the streets, and to steal their bread.” *Id.*; see also Emma Kaufman, *The New Legal Liberalism*, 86 U. CHI. L. REV. 187, 198 (2019) (book review) (describing defenders of judicial review as committed to “a morality-inflected understanding of constitutional rights, a juriscentric conception of social change, and a muscular vision of courts’ ability to produce that change”).

decisions⁵⁴ — and ill-advised⁵⁵ — it constrained cities' efforts to aid homeless people and protect other citizens.⁵⁶ Despite their differences, then, both agree that judicial decisions are what matters.⁵⁷

For advocates of judicial review, the *Martin* decision is likely to prove insufficiently protective. As Judge Berzon noted, “only . . . municipal ordinances that criminalize sleeping, sitting, or lying in *all* public spaces, when *no* alternative sleeping space is available, violate the Eighth Amendment.”⁵⁸ Already, lower courts are following the panel's lead: under *Martin*, cities can clear homeless camps,⁵⁹ arrest those who refuse to leave,⁶⁰ and force those arrested to show that shelters are full.⁶¹ Put simply, the panel left cities ample power to police and punish homeless people, as well as regulate and restrict their access to public space.⁶²

Moreover, to effect the panel's narrow holding, cities must enact only a minor policy. To satisfy Judge Berzon's ruling that a city cannot prosecute homeless people for sleeping in public when there are more homeless people than available beds in shelters, cities need simply to create some way to know that shelters are full or, because of restrictions, effectively so. Judge Smith insisted that even this was burdensome,⁶³

⁵⁴ *Martin*, 920 F.3d at 599 (M. Smith, J., dissenting from the denial of rehearing en banc); see also ALEXANDER M. BICKEL, *THE LEAST DANGEROUS BRANCH* 16–17 (1962) (describing the counter-majoritarian difficulty as “when the Supreme Court declares unconstitutional a legislative act . . . [and] thwarts the will of . . . [the] people”); cf. Jeremy Waldron, *The Core of the Case Against Judicial Review*, 115 *YALE L.J.* 1346, 1376–86 (2006) (describing risks of legalistic reasoning creating rights that express no one's preferences).

⁵⁵ *Martin*, 920 F.3d at 594 (M. Smith, J., dissenting from the denial of rehearing en banc). There is a rich empirical literature showing that expansive rights creation by judges can lead to destructive backlash. See generally Robert Post & Reva Siegel, *Roe Rage: Democratic Constitutionalism and Backlash*, 42 *HARV. C.R.-C.L. L. REV.* 373 (2007).

⁵⁶ See *Martin*, 920 F.3d at 594 (M. Smith, J., dissenting from the denial of rehearing en banc). Judge Smith seems to have in mind the use of so-called “therapeutic policing,” which uses citations and threats of arrest to coerce homeless people into services. See FORREST STUART, *DOWN, OUT, AND UNDER ARREST* 6 (2016).

⁵⁷ The emphasis on decisions and their consequences is endemic to debates about judicial review. See, e.g., Barry Friedman, *The Importance of Being Positive: The Nature and Function of Judicial Review*, 72 *U. CIN. L. REV.* 1257, 1290 (2004) (“Although most normative scholars focus on justifying the judicial act of interpretation, it is actually what comes next that matters.”).

⁵⁸ *Martin*, 920 F.3d at 589 (Berzon, J., concurring in the denial of rehearing en banc).

⁵⁹ *Quintero v. City of Santa Cruz*, No. 19-CV-01898, 2019 WL 1924990, at *3 (N.D. Cal. Apr. 30, 2019); *Le Van Hung v. Schaaf*, No. 19-CV-01436, 2019 WL 1779584, at *5 (N.D. Cal. Apr. 23, 2019); *Miralle v. City of Oakland*, No. 18-CV-06823, 2018 WL 6199929, at *2 (N.D. Cal. Nov. 28, 2018).

⁶⁰ *Shipp v. Schaaf*, 379 F. Supp. 3d 1033, 1037 (N.D. Cal. 2019).

⁶¹ *Butcher v. City of Marysville*, No. 18-CV-02765, 2019 WL 918203, at *7 (E.D. Cal. Feb. 25, 2019).

⁶² A wide range of actions short of arrest — move-along orders, citations, property destruction, threats of arrest — can dispossess, debt burden, and preclude access to services for homeless people. Chris Herring et al., *Pervasive Penalty: How the Criminalization of Poverty Perpetuates Homelessness*, 66 *SOC. PROBS.* (forthcoming 2019) (manuscript at 15) (on file with the Harvard Law School Library); see also KATHERINE BECKETT & STEVE HERBERT, *BANISHED* 63–102 (2009) (describing Seattle's place-based restrictions as controlling homeless people without totally criminalizing them).

⁶³ *Martin*, 920 F.3d at 594–95 (Smith, J., dissenting from the denial of rehearing en banc).

though it undoubtedly falls well short of the expense needed to build housing, increase shelters, or pursue other options, like expanding employment, providing healthcare, or increasing benefits.⁶⁴ In short, the panel's decision undermined popular power to produce little positive change.

Why, then, does *Martin* matter? As the plaintiffs recognized, Boise wanted “to drive . . . homeless individuals out of the City” by punishing them for staying still.⁶⁵ This is a long-standing tactic: cities and towns have imposed penalties on those passing through — casual workers, day laborers, poor people — to keep them moving.⁶⁶ The case's most significant impact, then, was to limit cities' ability to push homeless people out; by allowing them to stay *somewhere* within Boise's boundaries, the panel turned homeless people into part of the City's public. In this way, Judge Berzon's decision, despite its substantive aura, is closer to a democratic-procedure-protecting judicial intervention.⁶⁷

But, at least for Boise's homeless people, this success did not require the court's decision.⁶⁸ In fact, it's not clear that the court's decision will have any effect on Boise's actual policies.⁶⁹ Instead, it seems, the litigation itself facilitated the inclusion of homeless people in the City's political process. First, consider the immediate impact of the complaint.

⁶⁴ Cf. *id.* at 595 n.11.

⁶⁵ Amended Complaint, *supra* note 8, ¶ 50. See generally Harry Simon, *Towns Without Pity: A Constitutional and Historical Analysis of Official Efforts to Drive Homeless Persons from American Cities*, 66 TUL. L. REV. 631 (1992).

⁶⁶ See NELS ANDERSON, ON HOBOS AND HOMELESSNESS 121 (Raffaele Rauty ed., 1998) (noting link between European vagrancy laws and American efforts to evict homeless people); Michel Foucault, Lecture at the Collège de France (Jan. 17, 1973), in *THE PUNITIVE SOCIETY* 43, 49–50 (Bernard E. Harcourt et al. eds., Graham Burchell trans., Palgrave Macmillan 2015) (2013) (“[As eighteenth-century French jurist Guillaume-Francois Le Trosne noted,] the most important penalty against begging [was] banishment [F]ar from being the target of penalty, the vagabond [was] its effect.”); 1 KARL MARX, *CAPITAL* 895 (Ben Fowkes trans., Penguin Books 1990) (1867) (claiming creation of “free and rightless proletarians” was key step in capitalist development).

⁶⁷ See JOHN HART ELY, *DEMOCRACY AND DISTRUST* 87 (1980) (arguing for a “participation-orientated, representation-reinforcing approach to judicial review”).

⁶⁸ In this respect, *Martin* is not unique: the Ninth Circuit vacated its nearly identical holding in *Jones* after Los Angeles agreed to amend its laws in line with plaintiffs' demands, *Jones v. City of Los Angeles*, 505 F.3d 1006 (9th Cir. 2007); the ACLU challenged another Boise ordinance, this one barring panhandling, and after a district court judgment against it, the City Council amended the ordinance rather than appealing, see George Prentice, *ACLU to Boise, After Re-write of Solicitation Ordinance: This All Could Have Been Avoided*, *BOISE WKLY.* (Jan. 15, 2014), <https://www.boiseweekly.com/boise/aclu-to-boise-after-re-write-of-solicitation-ordinance-this-all-could-have-been-avoided/Content?oid=3039448> [<https://perma.cc/Q9ZB-Z5HC>].

⁶⁹ It is still unclear whether the Boise ordinances are unconstitutional, facially or as applied. Compare *Martin*, 920 F.3d at 589 (Berzon, J., concurring in the denial of rehearing en banc) (“The City [in its brief] is quite right about the limited nature of the opinion.”), and Supplemental Brief Regarding Defendant/Appellee's Petition for Panel Rehearing & Rehearing En Banc at 2, *Martin*, 920 F.3d 584 (No. 15-35845) (“[T]he panel did *not* conclude that Boise's challenged Ordinances violate the Eighth Amendment or that the City's enforcement . . . was unconstitutional.”), with *Martin*, 920 F.3d at 594 (M. Smith, J., dissenting from the denial of rehearing en banc) (describing the panel decision as “holding that Boise's enforcement of its Ordinances violates the Eighth Amendment”).

Less than a month after its filing, the City Council clarified the definition of camping, narrowed the scope of police discretion, and restricted enforcement to the time between “sunset and sunrise.”⁷⁰ The Police Special Order, issued two months later, restricted officers from enforcing the ordinances on nights when no shelter beds were available.⁷¹ In 2014, the City Council voted to include these policies in the ordinances themselves.⁷² All this happened without a court deciding whether the plaintiffs had standing, let alone whether the ordinances were constitutional.

And policy changes were not the only consequences of the case. For one, the litigation created a record of sworn testimony about Boise’s policies: by the final filings, the City’s lawyers were ready to admit that issuing camping citations, let alone pursuing convictions, should be a “last resort.”⁷³ The case also prompted the Department of Justice to file a rare Statement of Interest criticizing the City — and pitting one level of government against another.⁷⁴ Finally, by challenging the City in a forum where they had some control over their stories, the plaintiffs spurred media coverage that questioned the City’s policies, highlighted the lack of shelter beds, and, generally, reframed their struggles as city-wide concerns.⁷⁵ Again, none of this required a favorable ruling on the merits.

Maybe *Martin* wouldn’t have had any collateral consequences if judges didn’t sometimes make divisive, undemocratic decisions. Maybe the City needed the threat of a court’s coercion to come to the table; maybe the press needed the prospect of an aggressive ruling to cover the cause. But *Martin* shows, at least, that advocates and adversaries of judicial review overemphasize how pivotal judges are. For homeless people in Boise, the decision may make no difference; the case had already facilitated sought-after reforms. Even these, though, won’t come close to addressing the hardships of being homeless. What should Boise, and cities like it, do? That’s something no judge can decide.

⁷⁰ *Bell v. City of Boise*, 709 F.3d 890, 894 (9th Cir. 2013).

⁷¹ *Id.*

⁷² *Martin*, 920 F.3d. at 608 (Bennett, J., dissenting from the denial of rehearing en banc).

⁷³ See Supplemental Brief Regarding Defendant/Appellee’s Petition for Panel Rehearing & Rehearing En Banc, *supra* note 69, at 15. After the en banc decision, the City issued a statement that read, in part: “[W]riting citations for camping is used as sparingly as possible.” *9th Circuit Court Denies Boise’s Request in Homeless Camping Lawsuit*, IDAHO NEWS (Apr. 1, 2019), <https://idahonews.com/news/local/9th-circuit-court-of-appeals-denies-boises-request-in-homeless-lawsuit> [<https://perma.cc/4G3Q-EW83>].

⁷⁴ Statement of Interest of the United States at 4, *Martin v. City of Boise*, No. 09-CV-540 (D. Idaho Sept. 28, 2015).

⁷⁵ See, e.g., Harrison Berry, *Camping Out in the Courts*, BOISE WKLY. (Sept. 12, 2018), <https://www.boiseweekly.com/boise/camping-out-in-the-courts/Content?oid=13833987> [<https://perma.cc/PK3J-VBT7>]; see also Rachel Best, *Situation or Social Problem: The Influence of Events on Media Coverage of Homelessness*, 57 SOC. PROBS. 74, 88 (2010) (finding that “actor-promoted events,” *id.* at 76, result in coverage that constructs homelessness as a structural issue rather than the product of choice).

Enrolled
House Bill 3115

Sponsored by Representative KOTEK; Representatives DEXTER, MARSH, MCLAIN, POWER, REYNOLDS, WILDE, Senators DEMBROW, MANNING JR, RILEY

CHAPTER

AN ACT

Relating to the regulation of public property with respect to persons experiencing homelessness; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) **As used in this section:**

(a) **“City or county law” does not include policies developed pursuant to ORS 203.077 or 203.079.**

(b)(A) **“Keeping warm and dry” means using measures necessary for an individual to survive outdoors given the environmental conditions.**

(B) **“Keeping warm and dry” does not include using any measure that involves fire or flame.**

(c) **“Public property” has the meaning given that term in ORS 131.705.**

(2) **Any city or county law that regulates the acts of sitting, lying, sleeping or keeping warm and dry outdoors on public property that is open to the public must be objectively reasonable as to time, place and manner with regards to persons experiencing homelessness.**

(3) **It is an affirmative defense to a charge of violating a city or county law described in subsection (2) of this section that the law is not objectively reasonable.**

(4) **A person experiencing homelessness may bring suit for injunctive or declaratory relief to challenge the objective reasonableness of a city or county law described in subsection (2) of this section. The action must be brought in the circuit court of the county that enacted the law or of the county in which the city that enacted the law is located.**

(5) **For purposes of subsections (2) and (3) of this section, reasonableness shall be determined based on the totality of the circumstances, including, but not limited to, the impact of the law on persons experiencing homelessness.**

(6) **In any suit brought pursuant to subsection (4) of this section, the court, in its discretion, may award reasonable attorney fees to a prevailing plaintiff if the plaintiff:**

(a) **Was not seeking to vindicate an interest unique to the plaintiff; and**

(b) **At least 90 days before the action was filed, provided written notice to the governing body of the city or county that enacted the law being challenged of an intent to bring the action and the notice provided the governing body with actual notice of the basis upon which the plaintiff intends to challenge the law.**

(7) **Nothing in this section creates a private right of action for monetary damages for any person.**

SECTION 2. **Section 1 of this 2021 Act becomes operative on July 1, 2023.**

SECTION 3. This 2021 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect on its passage.

Passed by House April 15, 2021

.....
Timothy G. Sekerak, Chief Clerk of House

.....
Tina Kotek, Speaker of House

Passed by Senate June 9, 2021

.....
Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2021

Approved:

.....M,....., 2021

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2021

.....
Shemia Fagan, Secretary of State

Enrolled House Bill 3124

Sponsored by Representative LIVELY; Representatives POWER, WILDE, Senator GORSEK

CHAPTER

AN ACT

Relating to homelessness; amending ORS 203.079 and section 1, chapter 21, Oregon Laws 2018; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 203.079 is amended to read:

203.079. (1) A policy developed pursuant to ORS 203.077 shall *[include, but is not limited to,]* **conform, but is not limited, to** the following^[.] provisions.

(2) **As used in this section, “personal property” means any item that can reasonably be identified as belonging to an individual and that has apparent value or utility.**

[(a)] (3) **Except as provided in subsection (9) of this section, at least 72 hours before** removing homeless individuals from an established camping site, law enforcement officials shall post a **written** notice, *[written]* in English and Spanish, *[24 hours in advance]* **at all entrances to the camping site to the extent that the entrances can reasonably be identified.**

[(b)] (4)(a) *[At the time that a 24-hour]* **When a 72-hour** notice is posted, law enforcement officials shall inform the local agency that delivers social services to homeless individuals **as to** where the notice has been posted.

[(c)] (b) The local agency may arrange for outreach workers to visit the camping site *[where a notice has been posted]* **that is subject to the notice** to assess the need for social service assistance in arranging shelter and other assistance.

[(d)] (5)(a) All *[unclaimed]* personal property **at the camping site that remains unclaimed after removal** shall be given to *[law enforcement officials whether 24-hour]* **a law enforcement official, a local agency that delivers social services to homeless individuals, an outreach worker, a local agency official or a person authorized to issue a citation described in subsection (10) of this section, whether** notice is required **under subsection (3) of this section** or not.

(b) **The unclaimed personal property must be stored:**

(A) **For property removed from camping sites in counties other than Multnomah County, in a facility located in the same community as the camping site from which it was removed.**

(B) **For property removed from camping sites in Multnomah County, in a facility located within six blocks of a public transit station.**

(c) **Items that have no apparent value or utility or are in an insanitary condition may be immediately discarded upon removal of the homeless individuals from the camping site.**

(d) **Weapons, controlled substances other than prescription medication and items that appear to be either stolen or evidence of a crime shall be given to or retained by law enforcement officials.**

(6) The written notice required under subsection (3) of this section must state, at a minimum:

(a) Where unclaimed personal property will be stored;

(b) A phone number that individuals may call to find out where the property will be stored; or

(c) If a permanent storage location has not yet been determined, the address and phone number of an agency that will have the information when available.

(7)(a) The unclaimed personal property shall be stored in an orderly fashion, keeping items that belong to an individual together to the extent that ownership can reasonably be determined.

(b) The property shall be stored for a minimum of 30 days during which it [will] shall be reasonably available to any individual claiming ownership. Any personal property that remains unclaimed [for] after 30 days may be disposed of or donated to a corporation described in section 501(c)(3) of the Internal Revenue Code as amended and in effect on December 31, 2020. [For purposes of this paragraph, "personal property" means any item that is reasonably recognizable as belonging to a person and that has apparent utility. Items that have no apparent utility or are in an insanitary condition may be immediately discarded upon removal of the homeless individuals from the camping site. Weapons, drug paraphernalia and items that appear to be either stolen or evidence of a crime shall be given to law enforcement officials.]

[(e)] (8) Following the removal of homeless individuals from a camping site on public property, the law enforcement officials, local agency officials and outreach workers may meet to assess the notice and removal policy, to discuss whether the removals are occurring in a humane and just manner and to determine if any changes are needed in the policy.

[(2)] (9)(a) The [24-hour] 72-hour notice [required] requirement under subsection [(1)] (3) of this section [shall] does not apply:

[(a)] (A) When there are grounds for law enforcement officials to believe that illegal activities other than camping are occurring at an established camping site.

[(b)] (B) In the event of an exceptional emergency [such as] at an established camping site, including, but not limited to, possible site contamination by hazardous materials [or when there is], a public health emergency or other immediate danger to human life or safety.

(b) If a funeral service is scheduled with less than 72 hours' notice at a cemetery at which there is a camping site, or a camping site is established at the cemetery less than 72 hours before the scheduled service, the written notice required under subsection (3) of this section may be posted at least 24 hours before removing homeless individuals from the camping site.

[(3)] (10) A person authorized to issue a citation for unlawful camping under state law, administrative rule or city or county ordinance may not issue the citation if the citation would be issued within 200 feet of [the] a notice [described in] required under subsection (3) of this section and within two hours before or after the notice was posted.

(11) Any law or policy of a city or county that is more specific or offers greater protections to homeless individuals subject to removal from an established camping site preempts contrary provisions of this section.

SECTION 1a. If Senate Bill 410 becomes law, section 1 of this 2021 Act (amending ORS 203.079) is repealed and ORS 203.079, as amended by section 1, chapter __, Oregon Laws 2021 (Enrolled Senate Bill 410), is amended to read:

203.079. (1) A policy developed pursuant to ORS 203.077 shall [include, but is not limited to,] conform, but is not limited, to the following[:] provisions.

(2) As used in this section, "personal property" means any item that can reasonably be identified as belonging to an individual and that has apparent value or utility.

[(a)] (3) [Prior to] Except as provided in subsection (9) of this section, at least 72 hours before removing homeless individuals from an established camping site, law enforcement officials

shall post a **written** notice, *[written]* in English and Spanish, *[24 hours in advance]* **at all entrances to the camping site to the extent that the entrances can reasonably be identified.**

[(b)] **(4)(a)** *[At the time that a 24-hour]* **When a 72-hour** notice is posted, law enforcement officials shall inform the local agency that delivers social services to homeless individuals **as to** where the notice has been posted.

[(c)] **(b)** The local agency may arrange for outreach workers to visit the camping site *[where a notice has been posted]* **that is subject to the notice** to assess the need for social service assistance in arranging shelter and other assistance.

[(d) Except as otherwise provided in paragraph (e) of this subsection:]

[(A)] **(5)(a)** All *[unclaimed]* personal property **at the camping site that remains unclaimed after removal** shall be given to *[law enforcement officials whether 24-hour]* **a law enforcement official, a local agency that delivers social services to homeless individuals, an outreach worker, a local agency official or a person authorized to issue a citation described in subsection (10) of this section, whether** notice is required **under subsection (3) of this section** or not.

(b) The unclaimed personal property must be stored:

(A) For property removed from camping sites in counties other than Multnomah County, in a facility located in the same community as the camping site from which it was removed.

(B) For property removed from camping sites in Multnomah County, in a facility located within six blocks of a public transit station.

(c) Items that have no apparent value or utility or are in an insanitary condition may be immediately discarded upon removal of the homeless individuals from the camping site.

(d) Weapons, controlled substances other than prescription medication and items that appear to be either stolen or evidence of a crime shall be given to or retained by law enforcement officials.

(6) The written notice required under subsection (3) of this section must state, at a minimum:

(a) Where unclaimed personal property will be stored;

(b) A phone number that individuals may call to find out where the property will be stored; or

(c) If a permanent storage location has not yet been determined, the address and phone number of an agency that will have the information when available.

(7)(a) The unclaimed personal property shall be stored in an orderly fashion, keeping items that belong to an individual together to the extent that ownership can reasonably be determined.

(b) The property shall be stored for a minimum of 30 days during which it *[will]* shall be reasonably available to any individual claiming ownership. Any personal property that remains unclaimed *[for]* after 30 days may be disposed of **or donated to a corporation described in section 501(c)(3) of the Internal Revenue Code as amended and in effect on December 31, 2020.**

[(B) For purposes of this paragraph, "personal property" means any item that is reasonably recognizable as belonging to a person and that has apparent utility. Items that have no apparent utility or are in an insanitary condition may be immediately discarded upon removal of the homeless individuals from the camping site.]

[(C) Weapons, drug paraphernalia and items that appear to be either stolen or evidence of a crime shall be given to or retained by law enforcement officials.]

[(e) For unclaimed personal property located in Multnomah County:]

[(A) All unclaimed personal property shall be given to a law enforcement official, a local agency that delivers social services to homeless individuals, an outreach worker, a local agency official or a person authorized to issue a citation described in subsection (3) of this section, whether 24-hour notice is required or not.]

[(B) Facilities for storage of personal property under paragraph (d) of this subsection must be located within six blocks of a public transit station.]

[(f)] **(8)** Following the removal of homeless individuals from a camping site on public property, the law enforcement officials, local agency officials and outreach workers may meet to assess the notice and removal policy, to discuss whether the removals are occurring in a humane and just manner and to determine if any changes are needed in the policy.

[(2)] **(9)(a)** The [24-hour] **72-hour** notice [required] **requirement** under subsection [(1)] **(3)** of this section [shall] **does** not apply:

[(a)] **(A)** When there are grounds for law enforcement officials to believe that illegal activities other than camping are occurring **at an established camping site**.

[(b)] **(B)** In the event of an exceptional emergency [such as] **at an established camping site, including, but not limited to,** possible site contamination by hazardous materials [or when there is], **a public health emergency or other** immediate danger to human life or safety.

(b) If a funeral service is scheduled with less than 72 hours' notice at a cemetery at which there is a camping site, or a camping site is established at the cemetery less than 72 hours before the scheduled service, the written notice required under subsection (3) of this section may be posted at least 24 hours before removing homeless individuals from the camping site.

[(3)] **(10)** A person authorized to issue a citation for unlawful camping under state law, administrative rule or city or county ordinance may not issue the citation if the citation would be issued within 200 feet of [the] a notice [described in] **required under subsection (3) of this section** and within two hours before or after the notice was posted.

(11) Any law or policy of a city or county that is more specific or offers greater protections to homeless individuals subject to removal from an established camping site pre-empts contrary provisions of this section.

SECTION 2. Section 1, chapter 21, Oregon Laws 2018, is amended to read:

Sec. 1. (1) The Department of Transportation may enter into an intergovernmental agreement with a city that has a population of 500,000 or more for the removal, storage and disposition of personal property deposited, left or displayed on property that is owned by the department.

(2) Notwithstanding ORS 377.650, 377.653 and 377.655, an intergovernmental agreement entered into under this section may provide alternative provisions related to the removal, storage and disposition of personal property if the alternative provisions conform with the requirements for local government policy for removal of homeless individuals and personal property [described] under ORS 203.079, *except that under this section the notices described in ORS 203.079 must be posted 48 hours in advance*.

(3) In addition to the requirements described in subsection (2) of this section, an intergovernmental agreement entered into under this section must include the following:

(a) Requirements for posting notice before the removal of personal property, including but not limited to the following:

(A) That the notice is created using durable materials and securely posted within 30 feet of the personal property to be removed;

(B) That the notice must provide the date the notice begins and the date upon which the city may begin removing personal property; and

(C) That the notice must provide a description of:

(i) How an individual may access personal property that is removed and stored; and

(ii) The length of time the city will store personal property before the city disposes of it.

(b) A requirement that the notice expires 10 days after the city posts the notice.

(c) A severe weather protocol regarding the weather conditions under which the city will not remove personal property.

(d) Provisions related to inventorying and storing the personal property to be removed.

(e) Provisions related to the city relinquishing unclaimed personal property after the storage period to the city's designated agent.

(f) Provisions related to when the city will provide impact reduction services, including but not limited to trash collection.

(4) The [48-hour] **72-hour** notice **under ORS 203.079** required under subsection (2) of this section does not apply:

(a) When there are grounds for law enforcement officials to believe that illegal activities other than camping are occurring;

(b) Where there is an exceptional emergency, such as possible site contamination by hazardous materials; or

(c) When there is immediate danger to human life or safety.

(5) Before the city adopts an intergovernmental agreement under this section or changes to the agreement, the city shall invite public comment on the proposed agreement or the proposed changes to the agreement.

SECTION 3. This 2021 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect on its passage.

Passed by House April 19, 2021

Received by Governor:

Repassed by House June 9, 2021

.....M.,....., 2021

Approved:

.....
Timothy G. Sekerak, Chief Clerk of House

.....M.,....., 2021

.....
Tina Kotek, Speaker of House

.....
Kate Brown, Governor

Passed by Senate June 8, 2021

Filed in Office of Secretary of State:

.....
Peter Courtney, President of Senate

.....M.,....., 2021

.....
Shemia Fagan, Secretary of State

CITY OF COOS BAY CITY COUNCIL

Agenda Staff Report

MEETING DATE July 25, 2022	AGENDA ITEM NUMBER 4.a.
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TO: Mayor Benetti and City Councilors

FROM: Nichole Rutherford, Assistant City Manager

THROUGH: Rodger Craddock, City Manager

ISSUE: Presentation of Various Contributing Factors and Challenges Surrounding Homelessness by Police Chief Chris Chapanar

SUMMARY:

Police Chief Chris Chapanar will share various contributing factors and challenges surrounding homelessness, including an overview of police department, department response and statistics, availability of jail resources, some misconceptions regarding homeless population, and housing challenges such as foreclosures.

ACTION REQUESTED:

BACKGROUND:

BUDGET IMPLICATIONS:

ATTACHMENT(S):

- ▣ Property Taxes Collected vs Public Safety Essential Services

Property Tax Revenues vs. Public Safety Costs

	<u>FY 2021-22</u>	<u>FY 2020-21</u>	<u>FY 2019-20</u>	<u>FY 2018-19</u>	<u>FY 2017-18</u>	<u>FY 2016-17</u>	<u>FY 2015-16</u>	<u>FY 2014-15</u>	<u>FY 2013-14</u>	<u>FY 2012-13</u>	<u>FY 2011-12</u>
Property Taxes											
Current collection	6,425,701	6,265,366	6,046,965	5,741,598	5,555,720	5,358,690	5,256,337	5,222,241	5,058,672	4,938,255	4,952,021
Delinquent collection	374,159	305,995	256,299	322,014	287,501	249,659	294,649	323,690	379,234	312,523	304,731
Total Property Taxes	<u>6,799,860</u>	<u>6,571,360</u>	<u>6,303,264</u>	<u>6,063,612</u>	<u>5,843,221</u>	<u>5,608,349</u>	<u>5,550,986</u>	<u>5,545,931</u>	<u>5,437,906</u>	<u>5,250,779</u>	<u>5,256,752</u>
Public Safety											
Police Administration	4,540,295	4,491,800	4,252,507	3,982,604	4,012,307	3,701,927	3,713,648	3,425,145	3,398,204	3,384,493	3,314,394
Police Support Services	1,011,992	871,206	920,387	781,484	806,321	772,628	790,307	717,117	675,616	672,412	666,266
Fire	3,153,986	3,094,346	2,761,540	2,591,907	2,630,976	2,477,896	2,490,498	2,313,571	2,367,946	2,286,421	2,225,689
Total Public Safety	<u>8,706,273</u>	<u>8,457,352</u>	<u>7,934,434</u>	<u>7,355,995</u>	<u>7,449,604</u>	<u>6,952,450</u>	<u>6,994,453</u>	<u>6,455,834</u>	<u>6,441,765</u>	<u>6,343,326</u>	<u>6,206,348</u>
Revenues Over/ (Under) Expenses	<u>(1,906,413)</u>	<u>(1,885,992)</u>	<u>(1,631,170)</u>	<u>(1,292,384)</u>	<u>(1,606,384)</u>	<u>(1,344,101)</u>	<u>(1,443,467)</u>	<u>(909,903)</u>	<u>(1,003,859)</u>	<u>(1,092,548)</u>	<u>(949,596)</u>

CITY OF COOS BAY CITY COUNCIL

Agenda Staff Report

MEETING DATE	AGENDA ITEM NUMBER
July 25, 2022	5.a.

TO: Mayor Benetti and City Councilors

FROM: Nichole Rutherford, Assistant City Manager

THROUGH: Rodger Craddock, City Manager

ISSUE: Discussion Regarding Various Efforts Made to Date

SUMMARY:

Councilor Stephanie Kilmer, Police Chief Chris Chapanar, Police Captain Tom Lindahl, and City Manager Rodger Craddock discuss several actions taken by the City of Coos Bay towards finding solutions to ease the burden of homelessness.

Councilor Kilmer will share the formation of the Homeless Work Group, a community group which meets monthly and discusses opportunity to effect change for those experiencing homelessness, balanced with the overall needs of the community, as well as an overview of the extensive list of recommendations made to City Council.

Chief Chapanar will present an overview of the addition of the Community Resource Officer (CRO) position within the Police Department, including general job duties and the types of response calls the CRO is involved in and the benefits of regular contacts within the homeless community. He will also share several community partnerships developed with non-profits and faith based entities, helping to support programs aimed towards assisting the unhoused, such as the Homeward Bound Program.

Captain Lindahl provides some insight on actions taken City Council, based upon recommendations made by the Homeless Work Group, including overview of the Exclusionary Ordinance and the Camping Ordinance.

Chief Chapanar will continue the discussion on Homeless Work Group recommendations that were acted upon by City Council, including the development of a Property Watch Program and the Registration of Unoccupied Properties Ordinance.

City Manager Craddock will share an overview of the housing challenges affecting the Coos Bay community and several solutions put in place by City Council to encourage, incentivize and ease requirements housing development, including various municipal code amendments, transitional housing projects, and developing partnerships towards larger affordable housing opportunities.

ACTION REQUESTED:

BACKGROUND:

BUDGET IMPLICATIONS:

ATTACHMENT(S):

- ▣ HWG Recommendations to Council
- ▣ Homeward Bound Program

Homeless Work Group

The Homeless Work Group was established by the Coos Bay City Council with first membership appointments made at the February 20, 2018 City Council meeting. The meeting of the Homeless Work Group was held April 12, 2018. Currently the Homeless Work Group meets on the fourth Thursday of every month. The Homeless Work Group has made the following recommendations to City Council:

- Development of Community Resource Officer
- Establishment of Warming Center Guidelines
- Regulations Excluding Individuals from City Facility or Property
- Development of Registry for Unoccupied Homes
- Regulations for Receivership
- Revisions to Development Code to Allow Accessory Dwelling Units
- Regulations to Allow Temporary Lodging Facilities on Faith Based Properties
- Development of Property Watch Program
- Development of Urban Camping Site (Coal Bank Village)
- Regulations for Camping Within the City
- Revisions to the Towing Ordinance
- Revisions to the Abandoned Vehicle Ordinance
- Revisions to Regulations to Allow for Vacant Land On-Site Security Lodging

**ORCCA Homeward Bound Program
Reimbursement Requests**

FROM:
Oregon Coast Community Action (ORCCA)
1855 Thomas Avenue
Coos Bay, OR 97420
541-435-7080

TO:
City of Coos Bay
500 Central Avenue
Coos Bay, OR 97420
541-269-8915

DATE	# Individuals	DESTINATION	DEPARTURE	Mode of Transport	COST
12/28/2018	1	Billings, Montana	1/3/2019	Pacific Crest Line (Bus)	\$ 211.15
1/7/2019	1	Boise, Idaho	1/8/2019	Pacific Crest Line (Bus)	\$ 84.49
1/31/2019	2	Eugene, Oregon	2/1/2019	Pacific Crest Line (Bus)	\$ 72.10
2/14/2019	1	Dallas, Texas	2/15/2019	Paific Crest Line (Bus)	\$ 278.10
2/26/2019	1	Vancouver, Washington	2/26/2019	FUEL	\$ 89.47
2/26/2019	1	Clarksville, Tennessee	2/26/2019	Pacific Crest Line (Bus)	\$ 301.79
3/13/2019	1	Las Cruces, New Mexico	3/15/2019	Pacific Crest Line (Bus)	\$ 286.34
4/8/2019	2	Klamath Falls, Oregon	4/9/2019	Pacific Crest Line (Bus)	\$ 206.00
4/9/2019	1	Lincoln, Nebraska	4/10/2019	Pacific Crest Line (Bus)	\$ 207.95
4/10/2019	1	Los Angeles, California	4/11/2019	Pacific Crest Line (Bus)	\$ 192.05
4/26/2019	5	Brookings, Oregon	5/1/2019	Curry Public Transit	\$ 32.00
5/6/2019	1	Fort Worth, Texas	5/7/2019	Pacific Crest Line (Bus)	\$ 327.02
5/23/2019	1	Centralia, Washington	5/29/2019	Pacific Crest Line (Bus)	\$ 163.15
6/19/2019	1	Newton, North Carolina	6/20/2019	Pacific Crest Line (Bus)	\$ 394.49
6/24/2019	1	Los Angeles, California	6/25/2019	Pacific Crest Line (Bus)	\$ 171.49
6/27/2019	1	Salem, Oregon	6/27/2019	Pacific Crest Line (Bus)	\$ 93.21
FY19	22				\$ 3,110.80
7/1/2019	1	Grand Junction, Colorado	7/2/2019	Pacific Crest Line (Bus)	\$ 359.98
7/15/2019	1	Seattle, Washington	7/16/2019	Pacific Crest Line (Bus)	\$ 123.08
8/15/2019	1	Bristol, Tennessee	8/16/2019	Pacific Crest Line (Bus)	\$ 510.46
8/23/2019	1	Troy, Montana	8/27/2019	Pacific Crest Line (Bus)	\$ 240.55
8/29/2019	2	La Cross, Wisconsin	8/30/2019	Pacific Crest Line (Bus)	\$ 762.20
8/30/2019	1	Bismark, North Dekota	9/3/2019	Pacific Crest Line (Bus)	\$ 243.59
9/27/2019	1	Oklahoma City, Oklahoma	9/30/2019	Pacific Crest Line (Bus)	\$ 240.50
10/1/2019	1	Greatfalls, Montana	10/16/2019	Pacific Crest Line (Bus)	\$ 261.10
10/8/2019	1	Norfolk, Nebraska	10/18/2019	Pacific Crest Line (Bus)	\$ 295.27
11/7/2019	1	Apache Jct. Arizona	11/7/2019	Pacific Crest Line (Bus)	\$ 348.65
11/7/2019	1	Eugene, Oregon	11/8/2019	Pacific Crest Line (Bus)	\$ 36.05
11/18/2019	1	George town, S.Carolina	11/19/2019	Pacific Crest Line (Bus)	\$ 295.09
12/2/2019	1	Lolo, Montana	12/3/2019	Pacific Crest Line (Bus)	\$ 274.49
12/4/2019	1	Grants Pass Oregon	12/5/2019	Pacific Crest Line (Bus)	\$ 102.49
12/10/2019	1	Eastover, N.Carolina	12/12/2019	Pacific Crest Line (Bus)	\$ 441.35
1/9/2020	1	Eugene, Oregon	1/10/2020	Pacific Crest Line (Bus)	\$ 36.05
1/9/2020	1	Boston, Massachusetts	1/10/2020	Pacific Crest Line (Bus)	\$ 510.36
1/14/2020	1	Nampa, Idaho	1/19/2020	Pacific Crest Line (Bus)	\$ 138.85
2/7/2020	1	Gresham Oregon	2/11/2020	Pacific Crest Line (Bus)	\$ 104.50
FY20	20				\$ 5,324.61
7/9/2020	1	Fresno, CA	7/9/2020	COAST EXPRESS & AMTRAK	\$ 136.00
7/14/2020	1	Missoula, MT	7/16/2020	CCAT/ LINK LANE/AMTRAK	\$ 136.00
9/30/2020	1	Des Moines, IA	10/1/2020	CCAT/ LINK LANE/AMTRAK	\$ 259.00
10/14/2020	1	Aumsville, OR	10/15/2020	CCAT/ LINK LANE/AMTRAK	\$ 39.00
10/26/2020	1	Nebraska	10/29/2020	CCAT/ LINK LANE/AMTRAK	\$ 312.00
11/12/2020	1	Ottuma, IA	11/16/2020	CCAT/ LINK LANE/AMTRAK	\$ 275.00
3/11/2021	1	Billings, MT	3/15/2021	CCAT/ LINK LANE/AMTRAK	\$ 211.99
3/29/2021	2	Macon, GA	4/2/2021	CCAT/ LINK LANE/AMTRAK	\$ 791.98
FY21	9				\$ 2,160.97
TOTAL TO DATE	51				\$ 10,596.38



City of Coos Bay PUBLIC COMMENT FORM

The City of Coos Bay values our citizen's input and participation in our various councils, boards, and commissions. In an effort to encourage access to participation, we have established a process by which the public can provide written comments in advance which allows for potential timely addition to the agenda topics of interest to the public. Each council meeting provides for a public comment period, as well as when a public hearing is held. Public comment is an opportunity to share information or concern with the council. Public comment is limited to three (3) minutes, per individual.

If you wish to provide public comment at an upcoming meeting, please fill out this form and submit to publiccomment@coosbay.org. You may also mail or hand deliver your completed form to 500 Central Avenue, Coos Bay, OR 97420; fax to 541-267-5912; or leave in the drop box at the front doors at City Hall. Completed forms must be received by 1:00 pm the day of the meeting to be added to Public Comment List.

Public Comment Rules:

- Public Comment Form must be completed before speaking.
- Limited to three (3) minutes per speaker.
- Coos Bay residents and business will be given preference for addressing the council during the time allotted for public comment.
- Speakers may not convey/donate their time to another speaker.
- Council cannot engage in question/answer conversations with the speaker.
- Questions/concerns about operations should be handled by city staff during regular business hours.
- The presiding officer has responsibility of enforcement of these rules, and may alter the order of speakers for efficiency.

Name: _____

Address: _____

Phone: _____ Email: _____

I wish to speak to the City Council on the following agenda item/issue:

I have previously addressed the City Council on this issue.

In lieu of speaking, I request the City Recorder to include my written comments into the public record (comment area provided on page two).

By signing below, I acknowledge the above public comment rules. Pursuant to ORS 192.420, this document is considered a public record and disclosure may be required upon request.

SIGNATURE REQUIRED

DATE

Written Public Comment Area

Lined area for writing public comments.

CITY OF COOS BAY CITY COUNCIL

Agenda Staff Report

MEETING DATE	AGENDA ITEM NUMBER
July 25, 2022	7.a.

TO: Mayor Benetti and City Councilors

FROM: Nichole Rutherford, Assistant City Manager

THROUGH: Rodger Craddock, City Manager

ISSUE: Presentation of Opportunities Community Members Can Do to Make a Difference by Mayor Joe Benetti

SUMMARY:

Mayor Joe Benetti will share several opportunities that community members have in providing assistance and support towards solutions to homeless challenges in Coos Bay, including legislative advocacy requesting support of housing incentives and financial support for local wrap-around services, and awareness of upcoming ballot measure requesting financial support for the County Jail.

ACTION REQUESTED:

BACKGROUND:

BUDGET IMPLICATIONS:

ATTACHMENT(S):

PUBLIC COMMENTS ROSTER

Town Hall Meeting of July 25, 2022

Citizens wishing to address the Town Hall Meeting Panel during the time set for public comments are requested to sign the roster as provided by the city recorder. Please print your name and address below.

<u>Name</u>	<u>Full Address</u>
✓ Robert More	950 S. 4 th St
✓ Ms Akrve	935 South 5 th St Coos Bay
✓ Mott Wilbanks	Homeless / Coos Bay
✓ Emmanuel Kelly	2161 Ohio AVE NORTH BEND
Barbara Stachura	890 5th St CB
John	
✓ Carl Duntorf	Northbend / Homeless
✓ Ray J. J. J.	" "
✓ Steve Sander	3810 Buccara / North Bend
✓ Kamryn Alexandra Stringfellow	780 S 5 th St. Coos Bay
✓ Xavier Kraebel	
✓ Katie Loy	Cammann Rd Coos Bay
✓ Charlotte Kaye	280 Ackerman C.B 97420
✓ Jane Schultz	58301 Fairview rd
✓ Lynda Johnson	Coos Bay

PUBLIC COMMENTS ROSTER

Town Hall Meeting of July 25, 2022

Citizens wishing to address the Town Hall Meeting Panel during the time set for public comments are requested to sign the roster as provided by the city recorder. Please print your name and address below.

<u>Name</u>	<u>Full Address</u>
✓ Chad La Mere	96557 Hwy 241 Coos Bay
✓ Michael Will	870 Taylor Ave Coos Bay
✓ DAVE TILTON	93445 EAST CRK LN COOS BAY
Jan Gordon n	97420 Lighthouse way Coos Bay ✓
Tara Johnson n	15076 Sittum Ln. MP.
Jacque Mousen n	^{HARRIS} 63683 Coos Bay
✓ Tommy Fromm	63251 Shinglehouse Rd
✓ RALPH MBHIZ	1165 FERRELLSON CB
✓ Garrett King	64589 Lammun Rd CB
✓ MIKE KINNAIRD *XXXX	P.O. BOX 397 COQUILLE, OR 97423
✓ Tracy Pierce	878 Michigan Ave CSB OR 97420
✓ Shirlee Benell	160 N 12th St, Lakeside, OR 97449
✓ Rob Gensark	2666 OAK ST NB 97459
✓ Rick Skinner	1009 Canyon Dr. CB
✓ Susan Foreman	1025 Pacific Ave CB