

EUGENE CITY COUNCIL

AGENDA ITEM SUMMARY



Public Hearing: An Ordinance Concerning Personal Property Sale Procedures and Amending Sections 2.835 and 2.855 of the Eugene Code, 1971

Meeting Date: January 23, 2012
Department: Eugene Police Department
www.eugene-or.gov

Agenda Item Number: 3
Staff Contact: Jason Petersen
Contact Telephone Number: 541-682-2800

ISSUE STATEMENT

The Police Department is requesting that E.C. 2.835 Personal Property Sale Procedures, be amended to reduce the length of time that personal property is required to be retained by the City. This request is due to significant shortages in storage space at the City's Property Control Unit. This change will also align Eugene's retention schedule with the state standard.

BACKGROUND

ORS 98.245(2)(b) establishes procedures for the sale of unclaimed property by law enforcement agencies. The statutes define "unclaimed property" as "personal property that was seized by a removing authority as evidence, abandoned property, found property or stolen property, and that has remained in the physical possession of that removing authority for a period of more than 60 days following conclusion of all criminal actions related to the seizure of the evidence, abandoned property, found property or stolen property or conclusion of the investigation if no criminal action is filed."

Chapter Two of the Eugene Code provides procedures, based on state statutes, which govern the Police Department's responsibilities to attempt to return property to its rightful owner. This code section was amended by Ordinance 20464 in October 2010. The agenda item summary for that ordinance explained: "Approval by the City Council of this amendment to the Eugene Code would align Eugene's property sale procedures to Oregon state law." Because of the complexity of the property regulations, this proposed amendment completes the alignment intended in 2010. The state statutes require that property must be maintained a minimum of 60 days, while Eugene Code requires holding the property six months. This proposal amends the amount of time property is to be held to the State required minimum and to standardize the holding period to 60 days.

As the six-month property retention requirement has been implemented, physical internal storage maximums have been surpassed, forcing more and more property to be stored outside in the weather, devaluing and damaging the property. In the last three months, outside storage has increased by 877 square-feet now totaling approximately 1,267 square-feet. With no internal space left, outdoor storage will continue to increase at approximately this same rate. Without passing this proposal, the City will have to consider adding additional space at the current location or renting additional space for these property items to avoid possible liability issues. Planning for future growth at the rate currently experienced, warehouse rental would cost approximately \$5,000.00 to \$7,000.00 a month. Currently no

warehouse rental facility in Eugene provides the security required for evidence/property storage and additional door and video security equipment would need to be purchased to make the space suitable. A warehouse rental would also require significant additional staff time to transport and track items in and out of the system.

It should be noted that “Found Property” retrieved by police officers poses the largest problem regarding storage space; over 70 percent of these items are never claimed and most have little to no value. Bicycles represent a disproportionate share of the “Found Property” items; over 90 to 95 percent are never claimed or reported.

The Property Crime Unit (PCU) is very diligent in its efforts to research owners within the first two weeks that property is stored in PCU. At intake and prior to the disposition of the property, all serial numbers are searched for reported owners. Un-serialized bicycles and valuable items are searched at intake and prior to disposition. PCU staff additionally document owner and unique markings on valuable property items and attempt to find contact information for any owners through SABA, Google, 411, UO and EPD bicycle registration searches.

RELATED CITY POLICIES

Council Goal: *Effective, Accountable Municipal Government - A government that works openly, collaboratively, and fairly with the community to achieve measurable and positive outcomes and provides effective, efficient services.*

The City has previously maintained consistency between provisions of the Eugene Code and relevant State statutes.

TRIPLE BOTTOM LINE – SOCIAL, ENVIRONMENTAL, ECONOMIC IMPACTS

Environmental – This proposal does not have any significant impact to environmental considerations.

Economic – This proposal has a positive effect on the economic impacts for the City. With limited space, reducing the duration that property is held will result in storage capacity that may have otherwise been required to be purchased, if City space was exhausted.

Social – This proposal has both positive and negative effects on the social impacts. People whose property is being held will be required to claim their property in a shorter time, or lose claim to the property. Because of the internal conflicts in the legislation, this proposal will standardize and simplify the regulations, to a consistent 60-S:\CMO\2012 Council Agendas\M120117\S1201172.docx day time period.

COUNCIL OPTIONS

No formal action is required as this is a public hearing. Council action is scheduled for February 27, 2012.

CITY MANAGER’S RECOMMENDATION

This item is scheduled for public hearing only. No action is required at this time.

SUGGESTED MOTION

No motion is proposed for the public hearing.

ATTACHMENTS

A. Draft Ordinance

FOR MORE INFORMATION

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ORDINANCE NO. _____

AN ORDINANCE CONCERNING PERSONAL PROPERTY SALE PROCEDURES AND AMENDING SECTIONS 2.835 and 2.855 OF THE EUGENE CODE, 1971.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. Sections 2.835 and 2.855 of the Eugene Code, 1971, are amended to provide as follows:

2.835 Personal Property Sale Procedures - Preceding Sale.

- (1) If after 60 days from the day the personal property valued at \$25 or more (other than any impounded motor vehicle) [shall] comes into the possession of the police department, the owner, conditional vendor, mortgagee or other person interested therein cannot be found after due diligence as herein set out, then the chief of police shall cause to be posted in three public places in the city and published at least once in a newspaper printed and published in the county, a notice generally describing the [~~finding, the~~] property, [~~found and~~] ***the address and telephone number where the property can be claimed***, the final date before which the property may be claimed, ***and a statement in substantially the following form: "The Eugene Police Department has in its physical possession the unclaimed personal property described below. If you have any ownership interest in any of that unclaimed property, you must file a claim with the Eugene Police Department within 30 days from the date of publication of this notice, or you will lose your interest in that property."***
- (2) If the owner, conditional vendor, mortgagee or other person interested therein [shall apply] ***applies*** to the chief of police for the return of the property before a sale has taken place, and [shall] submits to the chief of police satisfactory evidence of his or her interest and [shall] pays the costs in the seizing and holding of the motor vehicle or other personal property, the chief of police, being satisfied with the claim, shall surrender the same to the claimant.
- (3) If no person appears and establishes ownership of or interest in the property prior to the [~~expiration of six months after the date the personal property has come into the possession of the police department,~~] ***date set forth in the notice***, the city shall sell the property pursuant to section 2.840, or upon approval of the city manager shall transfer the property to public use by entering it on the city's fixed asset inventory. If the personal property is a weapon described in chapter 4 of this code

declared unlawful to possess by state law, it shall be destroyed by the chief of police.

- (4) ***Notwithstanding sections 2.835(1) and (3), if a property owner waives ownership interest in property that is in the police department's possession for more than 60 days, upon the expiration of the 60 days, the city shall sell the property pursuant to section 2.840, discard the property that has no monetary value, or upon approval of the manager transfer the property to public use by entering it in the city's fixed asset inventory. When personal property is not seized as evidence, the 60 days begins to run when the property is placed in a Lane County Jail locker by a Eugene police officer or when it is taken by the police during an arrest. When personal property is seized as evidence, the 60 days begins to run when the case is fully adjudicated.***

2.855 Personal Property Sale Procedures - Special Disposition of Personal Property.

- (1) The city may cause any motor vehicle or other personal property coming into the hands of the police department to be appraised by an appraiser qualified by the police department. If a motor vehicle is appraised at \$100 or less, or any other personal property is appraised at less than \$25, the chief of police may prepare a Notice of Intent to Junk or Dismantle the motor vehicle or other personal property. Such notice shall contain a description of the motor vehicle or other personal property; its license, motor, serial or other identification number; its location; its appraised value; and notification that the motor vehicle or other personal property will be junked or dismantled after 10 days from the date of the notice. ***The chief of police shall post the notice in three public places in the city.***
- (2) If the owner, conditional vendor, mortgagee, or other person interested in the motor vehicle or other personal property is found or identified, a copy of the notice of intent to junk or dismantle shall be [sent] ***mailed*** to such owner, conditional vendor, mortgagee, or other interested person [~~by certified letter~~].
- (3) If, after 10 days from the preparation of the notice of intent to junk or dismantle, or 10 days from the mailing of the notice to the owner, conditional vendor, mortgagee or other person interested therein, whichever is later,
- (a) the owner, conditional vendor, mortgagee or other interested person, after exercise of due diligence, cannot be found, or
 - (b) the owner, conditional vendor, mortgagee, or other interested person, after notification as prescribed in subsection (2) of this section, has not reclaimed the motor vehicle or other personal property, or
 - (c) the owner, conditional vendor, mortgagee, or other interested person, has signed a release, under oath, disclaiming any future

interest in the motor vehicle or other personal property, any and all future rights of ownership or interest of any owner, conditional vendor, mortgagee or other interested party in such motor vehicle or other personal property shall be deemed waived.

- (4) Upon expiration of the time period prescribed in subsection (3) of this section, the city may, without notice or public auction, junk or dismantle the motor vehicle or other personal property and, if required, execute a bill of sale as prescribed by subsection 2.840(2) of this Code.

Section 2. The City Recorder, at the request of, or with the consent of the City Attorney, is authorized to administratively correct any reference errors contained herein, or in other provisions of the Eugene Code, 1971, to the provisions added, amended or repealed herein.

Passed by the City Council this

____ day of _____, 2012

City Recorder

Approved by the Mayor this

____ day of _____, 2012

Mayor