

PUBLIC SAFETY AND HEALTH COMMITTEE REPORT
Wednesday, August 19, 2009 8:00 AM – 9:00 AM
Council Chambers, 140 West Pine Street, Missoula, Montana

Members Present: Ed Childers, Dick Haines, Renee Mitchell, Dave Strohmaier, Pam Walzer, Jason Wiener, Jon Wilkins

Members Not Present: Lynn Hellegaard, John Hendrickson, Bob Jaffe,

Other Present: Mark Muir, Rob Scheben, Keithi Worthington, Jim Nugent, Mike Painter, Trudy Mizner, Rod Austin, Kate Morsch

I. ADMINISTRATIVE BUSINESS

1. Approve minutes from [August 12, 2009](#). Minutes approved unanimously.

II. PUBLIC & STAFF COMMENT

III. CONSENT AGENDA ITEMS

1. Confirmation of Police Officer Melissa Sparling ([memo](#)).—Regular Agenda (Mark Muir) (Referred to committee: 08/10/09) **REMOVE FROM AGENDA**

Motion: The committee recommends the City Council confirm the Mayor's appointment of Melissa Sparling as a Police Officer for the City of Missoula.

Mark Muir stated Officer Sparling has successfully completed her probationary period. He stated she has done an exceptional job and is looking forward to her confirmation by the City Council.

Jon Wilkins made the motion to move the appointment to the council floor. Motion passed unanimously.

4. Approve and authorize the Mayor to sign a contract for services with Emergency Response Training Institute (ERTI) in the amount of \$34,981.20 which is being funded by a grant to provide a Hazardous Materials Technician certification course at the Missoula Fire Department. ([memo](#)) (Mike Painter) (Referred to committee: 08/17/09) **REMOVE FROM AGENDA**

Motion: The committee recommends the City Council approve and authorize the Mayor to sign a contract for services with Emergency Response Training Institute (ERTI) in the amount of \$34,981.20 which is being funded by a grant to provide a Hazardous Materials Technician certification course at the Missoula Fire Department.

Mike Painter stated the Missoula Fire Department has received approval for grant funding through the Montana State Department of Emergency Services to put on a 90 hour Hazardous Materials Technician certification course in Missoula. Due to the cost of the course exceeding \$10,000, the Fire Department is seeking Council approval for the Mayor to sign the contract with Emergency Response Training Institute (ERTI) to provide that training.

Because the grant is funding the cost of the training and the course is being held at the Missoula Fire Department's facility, we will be able to send eight (8) firefighters at no travel or tuition cost.

Pam Walzer made the motion. Motion passed unanimously.

IV. REGULAR AGENDA ITEM

2. Presentation on drug disposal event ([memo](#)).—Regular Agenda (Renee Mitchell) (Referred to committee: 08/03/09) **REMOVE FROM AGENDA**

Trudy Mizner spoke about the problem of prescription drug overdoses that have occurred in the past. The task force that has been formed to address this problem has determined the most vulnerable population is the elderly and the youth. They decided that a Drug Disposal Day would give these people a good avenue to get the prescription drugs out of their homes. The first Drug Disposal Day was June 27th. This turned out to be very easy for the people and a lot of prescription drugs were collected. They are hoping to have up to four of these disposal days each year.

3. An [emergency ordinance](#) and an [ordinance](#) amending Missoula Municipal Code Title 9, entitled Public Peace, Morals and Welfare, Chapter 34 entitled Pedestrian Interference, Sections 9.34.020, 9.34.030, 9.34.040 and 9.34.050. ([memo](#)) ([Updated Memo](#)) ([PS&H](#)) (Referred to committee: 07/27/2009) **HELD IN COMMITTEE**

Dave Strohmaier asked about the language in the ordinance of leaving six feet of sidewalk available stating some sidewalks are barely five foot wide.

Keithi Worthington stated this provision came from long discussion, trying to define it in clear standards, they contemplated limiting the provision to the downtown area. We came to the decision to leave that discussion to the city council if they want to limit it. If it is limited, signage would need to be put up. This provision would also limit people in the neighborhoods from sitting on their sidewalks. This is the standard that comes from Title 12, if you get a right of way permit for a sidewalk.

Mark Muir stated perhaps modify the language to say to not occupy more than 50% of the available sidewalk; kind of a share the sidewalk mentality.

Jason Wiener asked if you have a sidewalk with a sandwich board and somebody sitting there, it is possible the people and the board take up more than the 50%, so who gets priority of it clearing the six feet rule.

Mark Muir stated the sign has statutory connotations to it. The sandwich boards only need to leave five feet of space, the street vendors have to leave six feet.

Jim Nugent stated in residential neighborhoods, you need to leave room for a wheelchair to get by.

Pam Walzer made the motion to accept the draft ordinance with an amendment to prohibitive conduct, 9.34.040. The last section, it is unlawful for any person to lay or sleep upon any street, I would like to include or alley, and delete sidewalk or other public right of way and then keep within the city limits. It is unlawful for any person to lay or sleep upon any street or alley within the city limits.

Jon Wilkins stated the downtown area needs to be cleaned up and that he will not support this amendment.

Pam Walzer stated if people are forbidden to lie or sleep in a certain part of the city, they are going to move to another part of the city and part of my constituency has a significant problem with the homeless living under their shrubs behind their back door and if you push them out of one place, they are going to go to go someplace else so it is much harder to deal with people in the residential areas and as they are scared out in someone's property I think then seeing them obviously downtown.

Dave Strohmaier asked for clarification from Ms. Walzer, "Did you intend that your motion to adopt the ordinance include this particular amendment or are you wanting to segregate it such that we can vote on the amendment?"

Pam Walzer stated she definitely wants to segregate it. There are additional amendments that I would like to have, do them one at a time.

Ed Childers wanted to clarify the amendment.

Renee Mitchell asked Chief Muir if someone is sleeping under a resident's shrub or bush, can they call and have that person removed because they are trespassing.

Mark Muir answered absolutely. This does not pertain to private property issues and on your private property, you have the ability to make the rules on who is allowed on your property or not.

Dick Haines stated he is astounded by hearing the people talk about our beautiful downtown Missoula, allowing people to sleep on the street would be in the direction of killing our downtown.

Ed Childers asked Chief Muir if we have anything to govern public drunkenness.

Mark Muir answered absolutely not; it is prohibited by the Montana State Constitution with the exception of intoxicated pedestrians in a roadway.

Ed Childers asked if the roadway includes streets and alleys and right of way.

Mark Muir answered no, with respect to the manner in which the state statute is written, it pertains only to that traveled portion of the roadway.

Ed Childers asked without passage of this paragraph, if someone is falling out of a wheelchair and a police officer goes by, they will just go by, they won't stop to see what is going on?

Mark Muir answered when a citizen or tourist comes across one of these folks who are in a condition of unresponsiveness, it's an automatic call to 911 or it's a complete ignorance until they are found deceased days later.

Pam Walzer asked if we have officers who are doing a sidewalk beat downtown and they come across somebody who is sleeping on the sidewalk; would it be appropriate for the officer to ask how they are doing? Or is that inappropriate?

Mark Muir answered we have to have a reasonable suspicion of there being something wrong. Montana State law defines what is called investigatory stop and typically that is in relation to stopping an individual as opposed to just checking on them.

Dave Strohmaier called for the vote on this amendment. 1 Aye, 6 opposed. Motion to amend fails. We are out of time; we will carry this over into committee, hopefully next week, the motion remains on the floor.

V. HELD AND ON-GOING AGENDA ITEMS

1. Police Department Update – Ongoing in Committee. (Mark Muir)
2. Fire Department Update – Ongoing in Committee (Mike Painter)
3. Health Department Update – Ongoing in Committee. (Ellen Leahy)
4. An [ordinance](#) amending Chapter 10.42 of the Missoula Municipal Code entitled "Bicycles" that would require minors to wear headgear while bicycling on streets, roadways, sidewalks, alleys and trails; and holding responsible the parent or guardian of a minor found to be in violation of this ordinance. ([Alternative Ordinance](#)) ([PS&H](#)) (Returned from Council floor: 2/26/07)
5. Update on the Police facility project. ([memo](#)) – Regular Agenda (Mark Muir)(Referred to committee: 05/12/08)
6. An [ordinance](#) amending Missoula Municipal Code Chapter 6.09 entitled "Missoula Cat Ordinance" section 6.09.010 through 6.09.090 to amend definitions, to limit the number of cats over the age of four months that a person, family, or household can harbor, keep, or

- maintain to five and to enact other general amendments. ([PS&H](#)) (Returned from Council floor: 01/12/09)
7. An [ordinance](#) amending Missoula Municipal Code Title 6 entitled "Animals" generally amending Chapter 6.04 entitled "Animals Running at Large" and Chapter 6.08 entitled "Dogs and Pet Shops," increasing the fee when an animal is impounded and establishing a fee for a boarding kennel license. ([PS&H](#)) (Returned from Council floor: 01/12/09)
 8. Discussion on the MRL herbicide program within the city limits ([memo](#)).—Regular Agenda (Bob Jaffe)
 9. Discuss measures to prohibit bicycle riding on sidewalks in downtown Missoula ([memo](#)).—Regular Agenda (Dave Strohmaier) (Referred to committee: 07/27/09)
 10. Authorize acceptance of the COPS (Community Oriented Policing Services) Hiring Recovery Program (CHRP) award ([memo](#)).—Regular Agenda (Mark Muir) (Referred to committee: 08/10/09)
 11. An [emergency ordinance](#) and an [ordinance](#) adopting Missoula Municipal Code Title 9, Chapter 36 entitled Solicitation and Aggressive Solicitation as Acts of Disorderly Conduct, Sections 9.36.010, 9.36.020, 9.36.030, 9.36.040, 9.36.050, 9.36.060, 9.36.070, 9.36.080 and 9.36.090. ([memo](#)) ([Updated Memo](#)) ([PS&H](#)) (Referred to committee: 07/27/2009)

V. ADJOURNMENT

The meeting adjourned at 9:00 AM. Submitted by Leslie Willis.