

PUBLIC SAFETY AND HEALTH COMMITTEE REPORT
Wednesday, May 26, 2010 10:05 AM – 11:00 AM
Council Chambers, 140 West Pine Street, Missoula, Montana

Members Present: Dave Strohmaier, Pam Walzer, Roy Houseman, Bob Jaffe, Jon Wilkins, Dick Haines, Renee Mitchell, Ed Childers.

Members Not Present: Lynn Hellegaard

Others Present: Jason Wiener, Stacy Rye, Mark Muir, Mike Brady, Chris Odlin, Jim Nugent, Dick Ainsworth, Tristan Scott, Pat McDonald

I. ADMINISTRATIVE BUSINESS

1. Approve Minutes from [May 19, 2010](#) . Minutes approved unanimously.

II. PUBLIC COMMENT

III. CONSENT AGENDA ITEMS

IV. REGULAR AGENDA ITEMS

1. [Regular](#) and an [emergency ordinance](#) amending Missoula Municipal Code (MMC) Title 2, Chapter 2.32 by creating new Section 2.32.060 giving Missoula police arrest authority to five miles outside the city limits. ([memo](#)) ([PSH](#)) (Returned from Council floor: 05/03/2010) HELD IN COMMITTEE

MOTION: The committee recommends the City Council adopt an emergency ordinance amending Missoula Municipal Code (MMC) Title 2, Chapter 2.32 by creating new Section 2.32.060 giving Missoula police arrest authority to five miles outside the city limits.

MOTION: The committee recommends the City Council deny an ordinance amending Missoula Municipal Code (MMC) Title 2, Chapter 2.32 by creating new Section 2.32.060 giving Missoula police arrest authority to five miles outside the city limits.

Dave Strohmaier summarized the status of the proposed ordinance.

Ed Childers made the motion to remove the agenda item from the table for discussion.

Motion Carried.

Bob Jaffe clarified the status of the motion. He proposed an amendment to address issues that arose during prior discussion. He feels that the proposed ordinance should be treated more like a zoning issue when considering the maximum impact. He feels that this proposed ordinance does indeed provide City services to the County. Pursuant to MCA 7.32.4301-2 this section authorizes Missoula City Police officers jurisdiction authority to make arrests outside the incorporated city limits with the following conditions: Missoula City Police Officers may A) Initiate investigations, respond to calls, and have full arrest authority within 250 feet of the City limits. B) Arrest individuals charged with or suspected of committing crimes within the City of Missoula in an area of up to five miles from City limits. C) Respond to suspected criminal activity personally observed while en route between the contiguous City limits and the non contiguous annexed areas. This ordinance does not create additional authority or place additional restrictions on participation in any mutual aid agreements or multijurisdictional task forces. Bob moved to offer this as a substitute motion.

Pam Walzer made the same motion. Pam stated her position on liability concerns and officer safety.

Jon Wilkins asked for Chief Muir's input. Jon cited the fact that other Montana cities have similar ordinances in place, and have not had any problems.

Chief Muir cited three cases involving questions about this issue, all related to DUIs. There has been no Case Law developed regarding this as of yet. Mark stated that he has been interested in passing the proposed ordinance since before he became Chief of Police. He discussed the limitations of the memorandums of understanding with other agencies. He outlined five reasons for a five mile limit: Public safety, criminal mobility, task force liability for unlawful arrest, and geography and uncertain boundaries that exist.

Jon Wilkins asked if the passing of the proposed ordinance would require additional funding.

Mark Muir responded that it would not.

Jon Wilkins asked if 911 calls received from the County would be dispatched to the County Sheriff.

Mark Muir responded that 911 calls received from the County would be dispatched to the County Sheriff.

Jon Wilkins asked if the proposed ordinance would lead to the annexation of East Missoula into the City.

Jim Nugent responded that he is unaware of any plans to annex East Missoula at this time because of this ordinance.

Jon Wilkins asked if Chief Muir could live with this amendment.

Mark Muir thinks that the amended proposed ordinance would be better than nothing, but he feels that the original proposal is superior.

Dave Strohmaier stated that he is not inclined to support the substitute motion.

Ed Childers asked Chief Muir why 250 feet is not enough.

Mark Muir clarified with an example.

Ed Childers asked for another example of why the original ordinance is needed.

Mark Muir provided another example involving the two mile stretch of County between the eastern City limits, and the Canyon View city island.

Ed Childers stated that he still needs clarification regarding 'Initiate investigation and respond to calls'.

Mark Muir described a high priority situation and the potential liability that exists.

Ed Childers proposed a jurisdictional 'corridor' to address these concerns.

Mark Muir provided an example of why a jurisdictional 'corridor' would not work.

Renee Mitchell feels that the issues surrounding the proposed ordinance have been addressed, and she supports the original proposed ordinance.

Bob Jaffe discussed the reasons for annexation. He believes that the proposed ordinance will result in costs to the City. He thinks that the City Police should provide services to the taxpayers that support them. He asked Chief Muir about why City Police response outside of the City limits is currently limited to cases of domestic violence.

Mark Muir responded that domestic violence exception is statutory, but 'dicey'. He stated that exigency does not create jurisdiction

Bob Jaffe inquired about a citizen's authority in a criminal situation.

Mark Muir responded that a citizen would have to have probable cause to act whereas a police officer would only need a reasonable suspicion to act.

Dave Strohmaier opened the discussion to public comment.

Pat McDonald spoke in favor of the original proposed ordinance. He welcomes additional police presence. He cited issues he has had on the Deer Creek bridge.

Roy Houseman thinks that the five mile limit seems excessive. He is concerned about City-financed law enforcement being provided to County residents. He is also concerned about City liability.

Mark Muir stated that City response to the maximum five mile limit would be unlikely. He described the current mutual aid agreement and its provisions for liability.

Dick Haines described the jurisdiction issues in the Miller Creek area. He thinks that 250 feet is not adequate. He supports the ordinance as originally proposed. Dick called the question.

The motion failed.

Pam Walzer expressed concern about how a future Police administration might apply these new powers. She also expressed concern about diverting City resources to the County.

Jon Wilkins stated that he will not support the amended ordinance. He called the question on the amended ordinance.

The motion failed.

Bob Jaffe offered to modify the language in his proposed amendment to read 'initiate investigations and respond to calls and have full arrest authority within 250 feet of the City limits or 5 miles in the case of exigent circumstances'.

Dave Strohmaier asked for Bob to clarify if the modified language applies to both the regular and emergency ordinances.

Bob responded that it would apply to both.

Ed Childers requested a separate vote for the regular and emergency proposals. He would like to review financial information from the East Missoula Sewer District prior to making a decision on the proposed regular ordinance.

Jon Wilkins wanted clarification on the substitute motion.

Bob Jaffe clarified.

Jon Wilkins stated that he cannot support the rewording.

Roy Houseman reiterated his concern about the five mile limit.

Stacy Rye stated that she cannot support undefined language.

Renee Mitchell supports the original five mile limit. She cited unintended consequences from wording in zoning decisions.

Dave Strohmaier called the vote for the emergency ordinance with the amended language as proposed by Bob Jaffe.

Motion failed.

Dave Strohmaier called the vote for the regular ordinance with the amended language as proposed by Bob Jaffe.

Motion failed.

Dave Strohmaier called the vote for both the regular and emergency ordinance as moved by Jon Wilkins.

Ed Childers requested a separate vote for the regular and emergency proposals.

Dave Strohmaier called the vote for original emergency ordinance.

Motion carried.

Dave Strohmaier called the vote for original regular ordinance.

Motion failed.

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. 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)
4. 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)

V. ADJOURNMENT

The meeting adjourned at 10:11 AM. Submitted by Gregg Schonbachler.