

**Missoula City Council Committee of the Whole Minutes --DRAFT**

**June 12, 2024**

**2:40 PM**

**Council Chambers (in person) or TEAMS (virtually)**

**Attend in person: City Council Chambers, 140 W Pine, Missoula MT**

**Members present: Amber Sherrill, Stacie Anderson, Mirtha Becerra, Bob Campbell, Daniel Carlino, Sierra Farmer, Gwen Jones, Kristen Jordan, Eric Melson, Mike Nugent, Jennifer Savage, Sandra Vasecka**

Also present: Andrea Davis, Mayor, Ryan Sudbury, City Attorney, Anneliese Brown, Legislative Services Specialist

**1. ADMINISTRATIVE BUSINESS**

Amber Sherrill called the meeting to order at 2:40 PM.

**1.1 Roll Call**

**1.2 Approval of the Minutes**

**1.2.1 Minutes from June 5, 2024**

The minutes were approved as submitted.

**2. PUBLIC COMMENT**

Karl Spitzmacher provides public comment on non-agenda items, asks how to provide safety with inadequate cameras at the Poverello, and observes the passing of a community member last night.

**3. COMMITTEE BUSINESS**

**3.1 Ordinance adding Chapter 12.60, to adopt regulations governing camping on City Right-of-way and other City Property.**

Discussion - Ordinance adding Chapter 12.60, to adopt regulations governing camping on City Right-of-way and other City Property.

Amber Sherrill lays out the process for this meeting, advises we will not vote on the ordinance today, and we will only be voting on amendments to the ordinance today.

Mayor Andrea Davis reiterates the reasoning and background for the urban camping working group (i.e. housing market, pandemic, decision on encampment under Reserve Street Bridge, the Poverello was full). This led to people camping and the city was deluged with campers. In June 2023, Jordan Hess called a houselessness emergency and postponed new decision making on the ordinance until the new Mayor was sworn in. The City set up a webpage that went live June 14, 2023, and to date, 1170 complaints

were submitted by a form, 431 complaints have been received since January 1st. The City staff has received calls from constituents that are not tracked. In February, the Urban Camping Working Group convened due to requests made to the mayor by council, the public, and in an interest for different voices to be represented across the community. This ordinance will replace the preexisting ordinance which to date has not allowed camping in Missoula, although the City has allowed camping due to extenuating circumstances.

Mayor Davis provides a presentation on the Urban Camping Ordinance, clarifies the working group was not tasked with drafting the ordinance, and City Council alone is the policy making body working with the recommendations.

Amber Sherrill advised we do not track all City Council emails or calls. Camping increased and became much more visible due to COVID. We did cleanups and that led to the enlightenment of the severity of environmental damage. This is an issue of community and humanitarian crisis. Johnson Street Shelter was not open last summer, we opened it and looked at a new ordinance and with a new mayor. My understanding was the Mayor asked for actionable directions from the working group and not to draft the ordinance itself. We heard great ideas and are working on those in short, medium, and long term. With the directive to the Mayor, with buffers and allowing 8PM to 8AM camping is best solution we can offer immediately. There is space in the shelters if even that is not an ideal solution. The numbers in the shelters have gone down. The ordinance and resolution are not perfect, but it is the best we have with what we have.

Ryan Sudbury, City Attorney - Civil Services Division, provides background on the urban camping ordinance. The previous ordinance was 4 1/2 pages in length and the new ordinance is 10 pages in length with all new material coming from the Urban Camping Working Group recommendations or material. We did our best to incorporate Urban Camping Group recommendations. Existing municipal code states it is unlawful to camp or sleep in the city, speaks to the Johnson vs. Grants Pass, this ordinance will be repealed, and we will provide a suite of new regulations. Most other large municipalities in Montana have rules such as closing parks for overnight use, and most cities close all city property to overnight camping. Bozeman has adopted an ordinance to address RV camping. He discusses modern approaches to overnight camping and camping prohibition policy in Couer D'Alene, Idaho. He discusses how the Mayor will develop programs, the timeframe camping is allowed, access to certain properties, and areas where camping will be prohibited by the ordinance. Kiwanis Park is an example of overnight sheltering zone outside of the buffer zone. He addresses rules around living in vehicles on city streets, locations outside of buffer zones including Midtown and Expressway. He discusses regulations for unsheltered living, a permit system which allows people to live on the street with an attempt to limit the concentration of vehicles. He discusses enforcement and there is no direction of enforcement in the previous ordinance. We are trying to limit adverse impacts. Cleanup is required prior to a citation issued, must inquire if the person has a case worker and reach to them if they do. There will be a written warning issued after the previous step with a specific timeframe provided to correct the issue prior to a violation being issued. It will be required for there to be at least 24 hours between the warning and violation correction. He discusses a deferred imposition of sentence if the individual is in compliance for an agreed upon period of time. We are attempting to gain compliance but will issue a municipal infraction if judicial action

is necessary but does not allow for arrest due to a violation of anything in the ordinance. He discusses abatement issues, locker storage, and items not stored.

Amber Sherrill takes questions from Council.

Daniel Carlino discusses Urban Camping Working Group and asks why are there fines in the ordinance when the working group advised not to issue fines? How are we going to enforce these fines when the Municipal Court judge said he would have to dismiss the fines? What is the logic here?

Ryan Sudbury addresses Daniel's questions and advises civil penalty is authorized but there is a requirement to impose community service if it is available. Donna Gaukler has advised she would set up a community service program if it is desired by council. He speaks to worker's compensation and Montana State Fund will cover worker's compensation for mandatory community service under the volunteer service fund. We stand ready with Municipal Court to stand up this program. If a person doesn't complete community service and a sentence is reimposed, then a civil penalty may be imposed. The Court has the ability to say a zero-dollar penalty may be authorized for those that can't pay.

Amber Sherrill asks for Daniel's next question.

Daniel Carlino asks in terms of camp abatements and private property how will this differ from what the city currently does?

Ryan Sudbury advises ordinance sets up system for city staff to refer to if something needs to be saved, city staff would need to comply with the terms of the ordinance, store appropriate items for 30 days, and provide notice of where to pick it up.

Amber Sherrill asks for Daniel's third question.

Daniel Carlino asks if we have heard any service providers or unhoused neighbors that have spoken in favor of resolution?

Amber Sherrill answers we don't know of anyone that has spoken in favor if they are unhoused.

Mayor Davis advises that community and service providers have repeatedly indicated they want predictability. We cannot have predictability with the ordinance. Some providers did not support certain elements of the resolution, but overall, they support predictability. You will have to ask those service providers and houseless leaders directly. Mayor Davis met with a member of the HOT (Homeless Outreach Team) team and walked through a lot of this today, and people are looking for predictability. The reality is having something clarified and a commitment to developing a program that has some structure is exactly what people have been asking for and they are eager to move forward.

Amber Sherrill moves to Kristen Jordan's questions.

Kristen Jordan asks if we have considered what city staff might throw away is not what an unhoused person might want thrown away?

Ryan Sudbury advises that is what the five, three, or 24-hour notice is for. Previously, staff may not have allowed an individual to come back to retrieve their stuff. The

ordinance provides for people to be able to reclaim their stuff at a cleanup site, even if there is heavy machinery. If you have things you want to keep, you should take them before the cleanup happens. This doesn't account for clean up on private property, and that is why we have the notice provision.

Kristen Jordan asks how we will teach city staff what to take and what not to take during cleanups?

Amber Sherrill advised Ryan already answered that question and to move on to the next question.

Kristen Jordan advised that did not answer her question and asks her next question. Does Parks Department have the capacity to run this program? Do they have the capacity and training to add a community service program to the Parks Department? It isn't as easy as running a summer camp.

Donna Gaukler, Director of Parks and Recreation, advises we do not have the staff ready to go today. In the past we have run a couple different kinds of community service programs in association with Judge Larson's Youth Court, and with larger court systems with community service programs. Donna advises we have done it twice, and we can do it again.

Kristen Jordan states she disagrees with what the Mayor said about the unhoused asking for predictability and clarifies what they want is a map that complies with the ordinance and indicating where they can camp so they can get the predictability they asked for. She asks when is the City going to give a map that complies with the ordinance?

Donna Gaukler advises Parks and Rec is in the process of building maps today, it does take time due to nuances in maps, the maps will be similar to what Ryan presented earlier and will be produces for most of the parks in the system. Public Works is working on similar maps for campers. Overall, this will provide immense predictability.

Amber Sherrill moves to Bob Campbell's questions.

Bob Campbell advises this question is for Ryan and concerning the possibility for fines or civil penalties within the realm of Municipal Court. Bob cites Montana Code Annotated (MCA) 46-18-231 subsection three delineates requirements that sentencing judges shall consider with delineation of fines. Bob reads MCA 46-18-231 subsection 3, and references MCA 46-18-232 as it relates to court costs and that a judge may not sentence a fine unless a person is able to pay. Bob asks if Ryan is familiar with those codes and if he thinks municipal court considers those fines at this time if they have the inability to pay those fines.

Ryan Sudbury answers that he is not the best person to answer the question as he doesn't appear in Municipal Court to prosecute those cases, but he understands the Court may make an inquiry into ability to pay fines, but it may not be a detailed inquiry.

Bob Campbell thanks Ryan for the information and mentions he spoke with Keith Worthington and Municipal Court this morning and looks forward to further information on the subject

Sandra Vasecka asks if she should send her amendments to all of Council?

Amber Sherrill advises she should and moves to Public Comments.

#### Public Comment on Ordinance

Dawid Whitestone provides public comment. He asks if you have considered allowing homeless to have their own camp sovereignty. He comments that maps are good, try addressing complaints and check-in on people, some of the things in the ordinance could be oppressive if not dealt with, and possibly get the campers and houseless involved to help.

Chris Foster provides comment. How do we know who is survival camping and who is not? He asks questions regarding reporting violations, sees problems with removing the reporting form like measuring outcomes if we don't know about complaints. His second question is will the City formalize an enforcement policy involving vehicle camping on public streets. Will they enforce valid driver's license, insurance and registration. Does the City have the authority to ignore these laws as they are state laws? Will insurance companies get involved and raise their premiums?

Sage Bennett, Ward 3, provides public comment on emails and feedback, why the imbalance of turn out, speaks to the death of a community member, speaks to passion about ordinance and deaths that may be incurred as a result.

Stephanie Land, Ward 5, speaks to her experience being homeless with a 7-month-old due to domestic violence and using her car for security, napping, and storing her belongings. She speaks to why she chose to move to Missoula with her daughter, living in an RV in her father's driveway before moving to a shelter where her daughter took her first steps before her first birthday. She cites a study from the California Partnership to End Domestic Violence stating 57% of women who are homeless attributed domestic violence as the primary reason for lacking shelter, and 80% if the woman has a child in her care. She advised it took her six years to find housing security.

SJ Howell, Executive Director of Montana Women Vote, representative of House District 95, lives in Ward 1, speaks to feeling honored for being asked to be involved with the Urban Camping Working Group and would do it again, is not confused about the scope or mandate the working group was given. Wants to go on the record that there was "a strong and large minority of the working group that did not sign on to the recommendations that much of the ordinance has been drawn from." Summarizes the Minority Report and the members that signed (every unhoused, every advocate, and three out of four service providers, and others). Goes on the record again stating, "I don't feel like my life experience or my participation in the working group is well represented in this ordinance." A bigger concern than the process is the ordinance itself. Feels the ordinance is ultimately not effective, people need a place to be, more unsheltered people than can be sheltered at J Street, neighbors near J Street think the impact on their neighborhood is untenable, and offering J Street as a solution doesn't make sense. Supports the City creating maps for those areas outside of buffer zone formal and public. Encourages analysis of how many individuals, tents and RVs are able to fit into these spots. Thinks there is not enough room outside of the buffer zones, would have preferred to have made the analysis before the buffer zones went into effect, but better late than never. Wants to figure out what numbers we are actually working with now.

Kat Cowley, they/she pronouns, works in Ward 3. She is the program manager for the Basic Needs Office as well as the UN Food Pantry. She mentions queer folks, youth poverty and homelessness. She discusses the difficulty navigating two systems - seeking permanent housing and navigating the ordinance. Wishes everyone a happy pride month, discusses her background, and experiences with homelessness and a violent relationship.

Janna Richter, they/them, Ward 3, urges for specificity, how many neighbors can fit in the maps outside the buffer zones, will the maps be posted at parks, will there be one on one outreach, has general concerns on the complaint-based model, complaint-based models lead to overrepresentation, building trust with the community with people impacted by ordinance, invites Council to Food Not Bombs at J Street, and is excited to hear amendments.

Kenzie Carter, Ward 6, provides public comment, is opposed to the ordinance. She asks hypothetical question why did you run for office? Do you know who voted for you?

Jil Bonny, Executive Director for Poverello, provides public comment, thanks Council, and acknowledges you are trying to solve an impossible situation. Wants to point out if Council and the Mayor were removed from the working group then everyone else is the majority and not the minority. A person passed away last night in front of Winds of Change last night in what would have been a buffer zone. She requests to remove the HOT Team language from ordinance and refer to it as outreach.

Karl Spitzmacher speaks to his time being homeless in Seattle, the Chamber of Commerce, and community service. Suggests having a day service so you can go to a central location and where they can get daily information for what to do.

Alassandro Mitchell, Ward 6, there is not enough shelter space for people living outside. Resources and efforts would be better used as community wide outreach programs focused on those living outside safe and in compliance and simultaneously develop a sense of what the populations need are in terms of new facilities and services needed to shrink houselessness in Missoula.

Brad Carlson provides public comment and speaks to the of Oath of Office, the 8th amendment unreasonable fines and punishment, city employee discretion for items disposal. He feels marginalized and tokenized for providing his input in the Urban Camping Working Group. Takes the remainder of his time in remembrance of person that passed away at the Poverello the night before.

(pick up at 1:34)

David Quattrocchi provides public comment and speaks to economic issues, code compliance and cleaning encampments, the 8AM to 8PM ban will disrupt predictability, most people are willing to clean their encampments. The camping time constraints will disrupt care workers because they are off work by then and won't be able to locate those in need of their assistance.

John Rhoades, thanks Mike Nugent for trying to get lockers over from YMCA to Johnson Street. He speaks to uncertainty with buffer zones, the parks near Youth Homes would not be an option if Youth Homes was open, don't run the sprinklers in the parks from 8PM

to 8AM, requests a process in place for what happens if stuff is thrown away and wasn't supposed to be, and he doesn't think this will improve predictability.

Amber Sherill moves to online comments and speaks to the fact this isn't perfect and there may be updates along the way.

#### Online Public Comments

Chris Patalano, renter in Ward 3, attorney with constitutional law experience speaking in his own personal capacity. Provides comment on Boise vs. Grants Pass, enforceability, constitutionally vague, and provides his recommendations.

Lotus Porte is unable to unmute their microphone.

Lisa Sirois is unable to unmute their microphone.

Marthe VanSickle, staff attorney for ACLU of Montana and member of Urban Camping Working Group, provides public comment and asks how many have been without housing, lived in tent or car, needed food stamps to survive, survivors of domestic violence, and veterans. She shares her background as an unhoused child, survivor of domestic violence, and encourages try to find enough space to sleep and then pack up and go to work. She asks that we don't pass the ordinance today as it will push people away from services, we make maps of where people can go, remove the 8AM-8PM restrictions, and recognize they deserve dignity, respect and a place to be.

Five-minute technology break.

Lisa Sirois, Ward 2, provides public comment on no trash cans available at Expressway, it is an industrial area, no restrooms, not many buses and believes that is not an option for camping. She discusses she places that are approved to camp do not have necessary facilities.

Amber Sherrill recognizes the loss of a community member and is hopeful to provide aid in the future. We do not need amendments made to the resolution. Amber makes a friendly amendment to incorporate Jil Bonny's request to removing the name 'HOT Team' out of the ordinance.

Mayor Davis makes a friendly amendment to remove all references to names of services providers from the ordinance.

Ryan Sudbury clarifies the friendly amendment to ensure other services providers may provide information.

Sandra Vasecka makes four amendments, three pass. See amendments attached to the agenda.

Daniel Carlino makes three amendments, none pass. See amendments attached to the agenda.

Discussion ensues. Votes are taken.

**Moved by:** Sandra Vasecka

**#1 -- Page 4: 12.60.30 Part C - 2 - I:**

1. Within ~~50~~ 100 feet of the water's edge for the Clark Fork River, Bitterroot River, Rattlesnake Creek, or Grant Creek, including any side channels or backwaters thereof, where those waterways are located within City limits.

AYES: (2): Bob Campbell, and Sandra Vasecka

NAYS: (10): Amber Sherrill, Stacie Anderson, Mirtha Becerra, Daniel Carlino, Sierra Farmer, Gwen Jones, Kristen Jordan, Eric Melson, Mike Nugent, and Jennifer Savage

**Vote results: Failed (2 to 10)**

**Moved by:** Sandra Vasecka

**#2 -- Page 5: 12.60.040 Part A:**

### **12.60.040 Designated Temporary Camping Sites and Safe Parking Sites**

A. Mayor to Investigate Designating Camping/Parking Sites. The Mayor is directed to investigate the possibility of designating temporary camping sites and safe parking sites on City property or on private property where the owner of the property is voluntarily willing to allow use of their property under agreed upon terms and conditions enforceable by the City. If the Mayor, in their sole discretion, deems it feasible, practicable, and in the public interest, the Mayor shall bring a proposal to City Council is authorized to designate temporary camping sites and safe parking sites on City property or on private property where the owner of the property is voluntarily willing to allow use of their property under agreed upon terms and conditions enforceable by the City.

, in their sole discretion,

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is authorized

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where the owner of the property is voluntarily willing to allow use of their property under agreed upon terms and conditions enforceable by the City.

AYES: (12): Amber Sherrill, Stacie Anderson, Mirtha Becerra, Bob Campbell, Daniel Carlino, Sierra Farmer, Gwen Jones, Kristen Jordan, Eric Melson, Mike Nugent, Jennifer Savage, and Sandra Vasecka

**Vote results: Approved (12 to 0)**

**Moved by:** Sandra Vasecka

**#3 -- Page 9-10: 12.60.050 Part C - 8:**

8. *Towing Vehicles; Costs.* In the event a Vehicle camp structure belonging to an Unsheltered Individual is towed and/or impounded by the city, no fees will be associated with the towing or impoundment; however any costs incurred by the City to cleanup public or private property surrounding the towed vehicular camp structure, due to accumulation of garbage and refuse around the vehicle, must be paid to the City before the vehicle is released. In the event the city tows or causes to be towed the same vehicular camp structure more than three (3) two (2) times due to violations of this Chapter, costs of towing and impoundment may be assessed.

three (3)

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AYES: (8): Amber Sherrill, Stacie Anderson, Mirtha Becerra, Bob Campbell, Sierra Farmer, Gwen Jones, Eric Melson, and Sandra Vasecka

NAYS: (4): Daniel Carlino, Kristen Jordan, Mike Nugent, and Jennifer Savage

**Vote results: Approved (8 to 4)**

**Moved by:** Sandra Vasecka

**#4 -- Page 6-7 12.60.050 Part B – 4:**

B. Violations.

4. *Penalty Authorized.* No violation of this Chapter shall be considered a criminal offense; violations of this Chapter shall only be enforced as a municipal civil infraction. Further, *City Council directs the Mayor to investigate the feasibility of creating and if feasible,*

*implementing a Community Service Program and* the City desires to impose required community service and/or restitution in lieu of civil penalties; however, where the interests of justice are furthered by the imposition of a civil penalty, the state law defined penalties for municipal infractions are authorized (Section 7-1-4150, MCA). Jail time is not an authorized penalty under this Chapter.

AYES: (12): Amber Sherrill, Stacie Anderson, Mirtha Becerra, Bob Campbell, Daniel Carlino, Sierra Farmer, Gwen Jones, Kristen Jordan, Eric Melson, Mike Nugent, Jennifer Savage, and Sandra Vasecka

**Vote results: Approved (12 to 0)**

**Moved by:** Daniel Carlino

#### **12.60.050 Enforcement.**

1. *Abandoned Personal Property.* Unclaimed or abandoned items found in an abatement site shall be eligible for storage ~~if circumstances indicate that the item belongs to a person, the item has apparent utility in its current condition and circumstances (i.e. the item is not damaged, deteriorating, or falling apart), and the item can be safely retrieved from the site.~~

AYES: (4): Daniel Carlino, Sierra Farmer, Kristen Jordan, and Jennifer Savage

NAYS: (8): Amber Sherrill, Stacie Anderson, Mirtha Becerra, Bob Campbell, Gwen Jones, Eric Melson, Mike Nugent, and Sandra Vasecka

**Vote results: Failed (4 to 8)**

**Moved by:** Daniel Carlino

#### **12.60.040 Designated Temporary Camping Sites and Safe Parking Sites**

1. Mayor to Investigate Designating Camping/Parking Sites. The Mayor is directed to ~~investigate the possibility of designating~~ designate temporary camping sites and safe parking sites on City property or on private property where the owner of the property is voluntarily willing to allow use of their property under agreed upon terms and conditions enforceable by the City. ~~If the Mayor, in their sole discretion, deems it feasible, practicable, and in the public interest, t~~ The Mayor is authorized to shall designate temporary camping sites and safe parking sites on City property or on private property where the owner of the property is voluntarily willing to allow use of their property under agreed upon terms and conditions enforceable by the City.

AYES: (3): Daniel Carlino, Kristen Jordan, and Jennifer Savage

NAYS: (9): Amber Sherrill, Stacie Anderson, Mirtha Becerra, Bob Campbell, Sierra Farmer, Gwen Jones, Eric Melson, Mike Nugent, and Sandra Vasecka

**Vote results: Failed (3 to 9)**

**Moved by:** Daniel Carlino

**12.60.050 Enforcement.**

1. Violations.

2. *Written Warning Required.* For a first violation of any provision of Chapter 12.60, a violator will be given a written warning identifying the provisions of Chapter 12.60 that were violated. Where possible, the written warning should provide suggested remedies that may correct the violation as well as a timeframe to correct the violation. ~~The written warning and associated municipal infraction under this Section must occur no less than 24 hours apart.~~

~~2. *Violations to Be Enforced as a Municipal Infraction; Criminal Charges not Authorized.* A second or subsequent violation of Chapter 12.60, after a prior written warning or after a prior judgment as a municipal infraction under this Subsection within the previous year, may be enforced as a municipal infraction under Chapter 12.01 of the Missoula Municipal Code. If the City or private party incurs costs to remediate the area around an individual's camp structure due to violations of the Time, Place, and Manner requirements above, those costs may be imposed as restitution in lieu of the civil penalty provided by Section 7-1-4150, MCA.~~

4. *Violations to Be Enforced as Community Service Suggestion to the Municipal Courts.* If a violator did not remedy the violations within the allotted timeframe and is receiving a second or subsequent violation of Chapter 12.60, this violation may be enforced as a community service directive by the municipal court.

4. *Penalty Authorized.* No violation of this Chapter shall be considered a criminal offense; ~~violations of this Chapter shall only be enforced as a municipal civil infraction. Further, the City desires to impose required community service and/or restitution in lieu of civil penalties; however, where the interests of justice are furthered by the imposition of a civil penalty, the state law defined penalties for municipal infractions are authorized (Section 7-1-4150, MCA). Jail time is not an authorized penalty under this Chapter.~~

AYES: (2): Daniel Carlino, and Kristen Jordan

NAYS: (10): Amber Sherrill, Stacie Anderson, Mirtha Becerra, Bob Campbell, Sierra Farmer, Gwen Jones, Eric Melson, Mike Nugent, Jennifer Savage, and Sandra Vasecka

**Vote results: Failed (2 to 10)**

**4. ADJOURNMENT**

Meeting adjourned at 5:50 PM.