

**HUMAN SERVICES COMMITTEE
MINUTES
May 21, 2013**

Present

Councilor Penny York, Chair
Councilor Bruce Sorte
Councilor Mike Beilstein

Staff

Jim Patterson, City Manager
Jon Sassaman, Police Chief
Mary Steckel, Public Works Director
Steve Deghetto, Parks and Recreation Assistant Director
Robyn Bassett, Transportation and Buildings Division Mgr
Carrie Mullens, City Manager's Office

Visitors

Skip Hamilton, ProPrint

SUMMARY OF DISCUSSION

	<u>Agenda Item</u>	<u>Information Only</u>	<u>Held for Further Review</u>	<u>Recommendations</u>
I.	Healthy Eating Active Living (HEAL) Cities Campaign			Approve participation in the HEAL Cities Campaign by adoption of a resolution read by the City Attorney.
II.	Municipal Code Review: Chapter 5.03, "Offenses" (Alcohol Minimum Fines/Social Host/Special Response Notice)			Amend Corvallis Municipal Code Chapter 5.03, "Offenses," by means of an ordinance read by the City Attorney.
III.	Smoking Prohibition in Public Places			Amend Corvallis Municipal Code Chapter 5.03, "Offenses," by means of an ordinance read by the City Attorney.
IV.	Other Business	***		

Chair York called the meeting to order at 2:00 pm.

CONTENT OF DISCUSSION

I. Healthy Eating Active Living (HEAL) Cities Campaign

Mr. Deghetto said the Oregon Public Health Institute and League of Oregon Cities collaborated to bring the HEAL Cities Campaign to Oregon to assist civic leaders in creating healthy communities through policy, wellness, the built environment, and access to healthy choices.

The four policy areas outlined in the HEAL menu include: 1) land use and transportation, 2) access to healthy foods, 3) shared use, and 4) workplace wellness.

The City's Departments already participate in the four policy areas. Human Resources sponsors many workplace wellness events. The transit system is free for all riders, offers disability access, and onboard bicycle transportation. The City partners with Corvallis School District 509J for shared facility usage and Benton County for shared equipment. The Parks and Recreation Department provides access to walking and hiking trails, community gardens, and healthy food choices. After the City adopted a Community Gardens Master Plan, the Parks and Recreation staff began working with Oregon State University (OSU) students to create a community gardens brochure that is easily understood and bilingual. Parks and Recreation is also working on nutrition guidelines for summer camps and vending facilities to limit high calorie items and high sugar content beverages.

In response to Councilor Beilstein's inquiry, Mr. Deghetto said participation allows staff to take advantage of additional grants and partnerships. The HEAL organization has many tools that can be useful in continuing the work City staff has already initiated. Corvallis would also be recognized as a participant in the HEAL Cities Campaign and be defined as a "FABULOUS CITY" in the HEAL model.

Mr. Deghetto opined that Corvallis is already a fabulous city and said participation in this campaign will not increase staff workload. The program will encompass current efforts and accomplishments and provide staff with a good framework for use on other related projects.

The Committee unanimously recommends Council approve participation in the HEAL Cities Campaign **by adoption of a resolution read by the City Attorney.**

II. Municipal Code Review: Chapter 5.03, "Offenses" (Alcohol Minimum Fines/Social Host/Special Response Notice)

Chief Sassaman explained that the recommendation to amend the Corvallis Municipal Code (CMC) is the result of work efforts of the OSU/City Collaboration Neighborhood Livability Work Group. The work group was charged with examining issues and concerns to improve the quality of life in neighborhoods experiencing increased parties, noise, and police response incidents. The work group reviewed laws focusing on alcohol enforcement ordinances in Corvallis and other university jurisdictions related to noise, drinking in public, minors in possession (MIP), furnishing alcohol to minors, social hosting, and other alcohol-related issues. From those studies and based on current CMC, the work group discovered that Corvallis is ahead of most other jurisdictions in having the legal tools (ordinances) needed to

respond to many of these issues (chronic nuisance property, second response notice (SRN), open container, drinking in public). The work group discussed how to apply the social host concept to existing ordinances to make them consistent with State statutes. The work group recommended increasing some fines to be consistent with the State and to amend the SRN ordinance to assign greater accountability.

Chief Sassaman said CMC Subsection 5.03.040.010, Alcohol, does not include a purpose statement. The work group recommended the following language be included in the ordinance to establish the purpose of alcohol legislation:

The City Council finds that the unlawful use and/or possession of alcoholic liquor contributes to the commission of offenses defined and made punishable under this code and contributes to the degradation of and poses substantial risks to the public health, safety, and welfare concerns for Corvallis citizens.

Chief Sassaman reviewed additional ordinance amendments recommended by the work group:

- Update the Oregon Liquor Control Act definition in CMC 5.03.040.010.01.6. The current definition has outdated statutory reference.
- Increase fines addressing persons providing alcoholic liquor to persons under the age of 21 to be consistent with the related Oregon Revised Statute (ORS). [CMC 5.03.040.010.01 and ORS 471.410.]
- Include a new subsection in 5.03.040.010 that states, "This Section is intended to be a strict liability crime and the court shall not require proof of mental state."

Chief Sassaman explained that adding the new subsection means the City is not required to prove a culpable mental state of either intentionally, knowingly, recklessly, or criminal negligence at trial. As a strict liability offense, the act is proof the ordinance has been violated and the language makes a person legally responsible by the act.

- Replace existing CMC MIP language with ORS MIP language to remain current with the State law in its entirety. [CMC 5.03.040.010.03 and ORS 471.430.]
- Remove out-of-date statutory references in CMC 5.03.040.010.07, Arresting Officer to seize property.
- Amend CMC 5.03.040.010.10, Hosting party for minors, to add affirmative defense in subsection 2, identify the offense as a strict liability crime in subsection 3, and add incremental penalties in subsection 4 to be consistent with CMC 5.03.040.010.02 and State statute.

- Modify the SRN [CMC 5.03.150] to capture the actual cost for the first response and second response if a subsequent response occurs within 30 days.

Chief Sassaman provided several examples related to the proposed changes for SRN, hosting, and strict liability offense.

Chief Sassaman assured Chair York that the Department will provide community education regarding the SRN amendments, if approved. He clarified that the first response continues as a warning only. If a second response occurs within 30 days, the offender would be required to pay the costs for the first and second responses, based on the proposed language. Language printed on the warning document will be updated to match amended CMC language.

In response to Councilor Beilstein's inquiry, Chief Sassaman said he could not estimate the cost of a first response since any response could develop into other issues. Councilor Beilstein said, at the time of the first response, the offender needs to be told they will be charged for the first response if a second response is necessary.

Chief Sassaman clarified for Chair York that many of the proposed amendments create consistency with State statute language and fines.

Councilor Beilstein said open container violations are inconsistent with State penalties for drunk driving. A drunk driving violation allows the offender to complete diversion and an open container violation (if convicted) is identified as a crime on the criminal record. It appears that it may be better to receive a drunk driving violation.

Chief Sassaman explained that drunk driving diversion options include classes and large fines. Any failure along the way negates the diversion and a second offense increases fines substantially. The criminal record of individuals completing diversion identifies the violation as diversion versus a conviction; however, it is listed on their criminal record. Diversion is an acceptance of guilt. An open container violation is an arrestable offense adjudicated by the court.

In response to Councilor Sorte's inquiries, Chief Sassaman offered the following:

- When the work group reviewed laws at other universities related to furnishing alcohol to minors, they found an advantage to enforcement with jurisdictions who had matching local and state law. University communities deal with new populations every year so a decline in violations due to matching ordinances was not noted.

- The Department conducts education in advance, but uses a reactive model for enforcement. Several ordinances provide tools needed for investigative latitude when responding to parties (furnishing alcohol to minors, open container, etc.). Officer observations of criminal behaviors also allow the Department to obtain a search warrant when needed.
- OSU representatives are not present when the Department responds to related complaints, but they are notified afterwards. Often times a complaint is based on a fight or disturbance at a party. Providing immediate response does not allow time to include an OSU representative in the response.
- OSU is hiring additional staff in the student conduct office. When that process is complete, the Department will initiate collaboration to mitigate these types of issues.
- A third conviction for furnishing alcohol to minors can result in a 30-day jail sentence. In those cases, the Department pays the Benton County Sheriff's Office for each booking. Some offenders serve the entire 30 days and the judge has the latitude to identify how long and when the sentence should occur (weekend, day, up to 30 days). It is very rare to escalate to the third offense on the same individual.

The Committee unanimously recommends Council amend Corvallis Municipal Code Chapter 5.03, "Offenses," **by means of an ordinance read by the City Attorney.**

III. Smoking Prohibition in Public Places

Ms. Bassett reviewed the staff report recommending expansion of the smoking prohibition ordinance to include the entire City Hall block. The recommendation follows a large number of complaints from citizens and business owners about exposure to second-hand smoke in and near City bicycle parking structures, bus shelters, and the Downtown Transit Center (DTC). Public Works and Police Department staff discussed proposed changes and enforcement issues. The expanded prohibition will make bicycle shelters more available for their intended use and enhance the comfort and health of transit system users.

Ms. Bassett identified proposed amendments to CMC Chapter 5.03, Offenses:

- Add language in the "public place" definition (5.03.080.160.01) to include City-owned bicycle parking structures and transit shelters.
- Add language prohibiting smoking in the interior of and within ten feet of the exterior of any City-owned covered bicycle parking structure and transit shelter; and on the entire City Hall block (5.03.080.160.02).

Ms. Bassett explained that smoking in private automobiles parked on the City Hall block is allowed if all windows and doors are closed. She noted that the City Hall

block language was created primarily due to the difficulties of enforcing the ten-foot rule around existing City-owned facilities on the block.

In response to Councilor Sorte's inquiries, Ms. Steckel said the Police Department will respond on a complaint basis. Staff assumes citizens who want to smoke while waiting for a City bus will use the 5th Street parking lot, east of the DTC. They can view incoming and outgoing buses from this location. Staff is working with the property owners to provide trash and ash containers.

Councilor Sorte stated preference for a transit employee or transit officer to enforce the rule instead of having a police officer respond. He did not believe it was a good use of a Police Officer's time.

Skip Hamilton stated support for the proposed amendments. He said an unintended consequence of the fareless transit system transformed the DTC into an easy place for people to congregate and socialize. Littering and spitting has dramatically increased and it can be intimidating for other citizens to walk through the DTC to the Library or City Hall parking lot. Many families use free transit to visit the Library, Police Department, Benton County Courthouse, and other businesses and organizations downtown. They are forced to walk through litter and second-hand smoke. He understands that the Police Department is understaffed and believes that if Council adopts the amendments and installs no smoking signs on the block, the social group currently meeting at the DTC will migrate to another location.

Councilor Beilstein said when the ordinance was amended to prohibit smoking on the Library block, Library staff told smokers about the new law and asked them to move on. If they refused, the Police Department was called. Most likely, if smoking is prohibited on the City Hall block, the same circumstances will occur. Citizens and transit employees can easily be responsible to inform smokers about the new law.

The Committee unanimously recommends Council amend Corvallis Municipal Code Chapter 5.03, "Offenses" **by means of an ordinance read by the City Attorney.**

IV. Other Business

The meeting adjourned at 2:55 pm.

The next Human Services Committee meeting is scheduled for 2:00 pm on Tuesday, June 4 in the Madison Avenue Meeting Room.

Respectfully submitted,
Penny York, Chair