

City Clerk Staff

From: David Aronofsky <aronofskydavid@gmail.com>
Sent: Sunday, August 27, 2023 6:03 PM
To: Jordan Hess; Grp. City Council and City Web Site; Ryan Sudbury
Subject: Serious Legal Mistakes With Proposed Camps Ordinance Delay

I am writing to urge the City Council **NOT** to delay action on an unsheltered persons park camps ordinance until next November; and **NOT** to let the current emergency camps ordinance automatically lapse early next month when it expires without taking further emergency action. If the city goes forward with both these proposed actions it could soon find itself buried to the neck in a legal quagmire. I write this not in my attorney capacity, but rather as a Ward 1 deeply concerned about protecting and respecting Missoula's involuntarily unsheltered population's rights.

As problematic as the current emergency ordinance is, which I have already said plenty about its major legal flaws in my previous Council communications, automatically reverting back to the city's original ordinance without significant changes now is worse. The city already openly acknowledged, the night it approved the emergency ordinance last June, that the original ordinance it was temporarily replacing is illegal because it violates *Martin v. Boise* requirements. Therefore, keeping the original one on the books unchanged perpetuates its likely illegality as written; and exacerbates its probable illegality if enforced. The current emergency ordinance is also illegal, arguably as written and almost certainly as applied in the several park camps evictions occurring to date since last July, because the city gave evicted involuntarily unsheltered campers nowhere else to go where they could legally stay without facing yet other imminent evictions.

The city has several ways to avoid the above legal problems.

First, the city can impose a moratorium on enforcing both the emergency and the original ordinances until a new legally compliant permanent one is approved. This need not wait until November.

Second, the city can immediately approve a new emergency ordinance which complies with both the *Martin v. Boise* and *Johnson v. Grants Pass* 9th Circuit decisions. The one I drafted and presented to you yesterday likely meets compliance requirements, as would easily drafted alternatives.

Third, the city can roll up its sleeves, go to work, and pass a permanent ordinance before or shortly after the current emergency one expires, while briefly ceasing enforcement of the latter.

Finally, the city can take a little more time to adopt a final ordinance by approving clear and detailed enforcement instructions compliant with the two 9th Circuit cases as it prepares the final one.

Any above alternative beats from a legal standpoint what the city is apparently proposing for the August 28 Council meeting, at least for future enforcement purposes. Reverting to an unchanged original ordinance already declared illegal is no acceptable choice, and guarantees the city a losing lawsuit if one is filed over its application.

Sincerely,

David Aronofsky
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Missoula MT 59802

City Clerk Staff

From: Tim Toolman <gressphn@gmail.com>
Sent: Sunday, August 27, 2023 11:24 AM
To: Grp. City Council and City Web Site
Subject: Rezoning of Johnson and North Ave.

Can anyone tell be where to find the paper work on the rezoning of 1919 North Ave. Or tell me the date that it was done.

If I do not get a response to this email (2 weeks from date of email) then I will have to assume that the rezoning was not done and Poverello has to abide by the zoning laws.

I bring this up because at the Franklin School meeting some mentioned about zoning and this space does not meet the requirements for use.

So I would like to see all documents that pertain to the rezoning for use for this property.

If there was a waver I would like to see all things that have been waved for the this use.

Thanks in advance for you quick response.

Tim