

Council Communication

November 3, 2014, Study Session

Discussion of approaches to panhandling and the Black Swan plaza

FROM:

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SUMMARY:

At its September 2nd business meeting, Council requested a study session to discuss police presence and other actions that could be taken to deal with aggressive panhandlers who loiter downtown, particularly at the corner of East Main and Pioneer Streets in front of the Black Swan Theater. In addition, at the July 1 business meeting, Cynthia Rider, executive director of the Oregon Shakespeare Festival, requested that the City remove its non-functioning fountain from the Black Swan plaza and also remove a planter box that creates a narrowing of the sidewalk in that location. At the mayor's request, discussion of the OSF request was postponed to this study session.

Staff will present a three-pronged approach to the Council, involving new tools the help law enforcement deal with panhandlers, modifications to the Black Swan plaza (in conjunction with the Shakespeare Festival), and community response, in the form of signage in the downtown encouraging donations to the Community Resource Center rather than giving money to panhandlers. In addition, this Council Communication presents ideas that were submitted by Councilors and others in the community. Staff's proposals, as well as the ideas submitted by Councilors and others, are presented for discussion and direction to staff.

BACKGROUND AND POLICY IMPLICATIONS:

Residents, businesses and visitors have frequently voiced concerns over the years about panhandlers loitering at the corner of East Main and Pioneer Streets in front of the Black Swan Theater. While panhandling is protected speech under Oregon law, the City received reports this summer of some of these panhandlers engaging in verbally aggressive behavior, especially toward women, and of panhandlers' dogs attacking passersby. The problem is exacerbated by planter boxes at the corner of East Main and Pioneer that are only a few feet apart from each other so that when people are seated on either side of the sidewalk, it creates a narrow "gauntlet" through which people must walk.

At its September 2nd meeting, the Council heard from a woman (and several others who submitted written testimony) who reported having been verbally harassed by transients and panhandlers. They also testified that a transient's dog had bitten a customer at a downtown store at which one of the women worked. After hearing from Police Chief Terry Holderness later in the same meeting, the Council requested a study session discussion of police presence at the Black Swan and what other actions the Council could take.

In addition, at the July 1st Council meeting, Cynthia Rider, executive director of the Oregon Shakespeare Festival, requested that the City remove its non-functioning fountain from the Black Swan



plaza and also remove a planter box that creates a narrowing of the sidewalk in that location. At the mayor's request, discussion of the OSF request was postponed. Because the issues of aggressive panhandling in front of the Black Swan and the design of the Black Swan plaza are related, that discussion has been added to this study session.

Since the September 2nd meeting, Police, Administration and Legal staff, along with OSF staff, have been engaged in ongoing discussions of how to address these downtown issues, and specifically what additional tools and resources could help the police in this regard. We have also solicited ideas from the Council, accepted ideas from other citizens and spoken at length with the City of Santa Cruz, CA, which has taken a very aggressive approach to similar issues over a fairly long period of time (although Oregon's Constitution and state statutes severely restrict our ability to do many of the things Santa Cruz has done.)

Based on those conversations, we present for Council discussion a three-pronged approach that involves law enforcement, Black Swan plaza redesign and community response/education.

Law Enforcement

- Adopt an ordinance requiring that all dogs be licensed/vaccinated.
 - There are many, many examples of other Oregon cities that have adopted such ordinances. This is a basic health and safety measure. County ordinances require dogs to be licensed (a license is proof of vaccination), but the County does not actively enforce the ordinance inside City limits.
- Prohibit unlicensed or unvaccinated dogs in the downtown area.
 - In conjunction with the ordinance above, the City could prohibit unlicensed/unvaccinated dogs in the downtown area. This would allow the police to require the owner of such a dog to immediately leave the area.
- Add possession of less than an ounce or public consumption (if legalized) of marijuana to ELEA list of violations. Add Bill Patton Garden to the ELEA.
 - This seems to be a common sense measure that would not affect law-abiding citizens. Open marijuana use appears to be somewhat routine among many of the transients. Bill Patton Garden has become a hangout and a haven for alcohol and drug use by transients.
- Stricter enforcement of sidewalk obstruction ordinance.
 - Our sidewalk obstruction ordinance references "objects" obstructing the sidewalk, but not people. The City can amend the ordinance to include people and dogs as well as objects, thus giving the police another tool for dealing with transients along constriction points on City sidewalks. Police could potentially arrest someone who refuses to cease obstructing a sidewalk on a charge of disorderly conduct.
- Use cadets to create more police presence downtown.
 - Cadets are a lower-cost option for improving police presence and the cadet program provides a benefit to the City by offering an entry-level position into law enforcement for people who may eventually become sworn law enforcement officers.

Black Swan design

- Remove northernmost planter box from Black Swan property. Remove fountain from Black Swan property.



- The Oregon Shakespeare Festival is working on plans to make the Black Swan plaza a more open, attractive and active space; a gateway to the festival. OSF has retained an architectural firm to redesign the bricks area and has asked that firm to develop concept plans for the Black Swan. In addition, OSF staff has held a pre-application meeting with City Planning Division staff regarding a conditional use permit for a food cart with tables and chairs in that area. Note that under the City's lease agreement with OSF, the Festival does not need the City's permission to remove the fountain and any planter boxes on the back side of the sidewalk.

Community education

- Signage in the downtown to make people aware that Ashland offers services to those truly in need and requesting that people not give money to panhandlers.
 - An attempt to have businesses engage in a "Don't give money to panhandlers" campaign several years ago resulted in some downtown businesses being vandalized or finding human waste in their doorways. In order to avoid a repeat of that experience, such signage would likely have to be produced by the City and placed on City light posts.

Suggestions from Councilors

- Tobacco-free downtown ordinance
 - This is probably legal. Ashland already prohibits smoking in parks. Police would likely take a "warn first, cite later" approach. Would have to be applied equally to all people in the downtown area. Staff could not find an example of an ordinance that prohibits smoking in a downtown business district anywhere in the U.S.
- Require registry for busking and designate busking zones
 - May be legally permissible. Tricky first amendment freedom of expression issues. Problematic buskers can already be dealt with under the noise and sidewalk obstruction ordinances.
- Reconstruct downtown planters to ground level
 - We would have to hire an outside engineering firm to help us develop an estimate for doing this. Given this maze of utilities in the planter boxes, this would be a very complex task. Note that while the planters are frequently used by transients and panhandlers, particularly at Pioneer and Main Streets, they are also well-used by tourists and Ashland residents.
- Change orientation of existing sidewalk benches
 - Could be done in many locations downtown. (Turn benches to face street instead of sidewalk.) Other locations would require reconstructing planter boxes.
- Provide a food cart for the transients in Lithia Park with the City, OSF and Chamber providing the funding for it
 - Would require concurrence from the Parks Commission and financial contributions from other agencies.

Other ideas submitted by citizens

- Require permits for panhandlers
 - May be legally permissible. Difficult to administer.
- Prohibit passing money from car to someone on sidewalk or in right-of-way
 - Medford and other Oregon cities have adopted such ordinances. ([Click here](#) for Medford Municipal Code section 6.360.) This does not appear to be as big a problem in Ashland as it is in Medford.



- High-frequency sound-generating devices in key locations
 - Devices emit a high-frequency buzz that can only be heard by persons 13 to 25 years old. Used in shopping malls to prevent kids from congregating in certain areas. Problematic to use these in outdoor, public areas.
- Surveillance cameras in key locations
 - Previously discussed in Ashland. Police consider this to be of limited value for law enforcement. Many, many downtown businesses already have surveillance cameras focused on the areas outside their storefronts. Surveillance cameras on public spaces may have psychological value.

Santa Cruz

- Time, place and manner restrictions on panhandling
 - Has been effective in Santa Cruz, but highly questionable that it would survive a court challenge in Oregon, given our Constitution and state statutes.

STAFF RECOMMENDATION AND REQUESTED ACTION:

N/A. This item is scheduled for discussion only, although Council may give direction to staff.

SUGGESTED MOTION:

N/A

ATTACHMENTS

[Santa Cruz neighbors brochure](#)



CONDUCT ON PUBLIC PROPERTY

Sitting on the Sidewalk

Sitting on the sidewalk is not permitted within 14ft of the following:

- building
- street corner or intersection
- fence
- sidewalk café or kiosk
- bench, directory sign, drinking fountain, public trash compactor, sculpture or payphone

or within 50 ft.

- bank or financial institution
- machine

SCMC 9.50.012

Lying on the Sidewalk

Lying on the sidewalk is not permitted.
SCMC 9.50.011

Distributing Literature

Standing and handing out literature is allowed as long as you do not obstruct or interfere with the flow of pedestrian traffic.
SCMC 9.50.010

Skateboard or Rollerskate

Skateboarding and rollerskating are not allowed.
SCMC 10.36.041

Activities with Airborne Objects

Throwing any solid objects such as hackysacks, frisbees, footballs, baseballs, or other similar devices is not allowed.
SCMC 9.50.020

Conduct on Public Property

Walking, standing, or lying upon a bench, drinking fountain, bike rack, trash receptacle, street-tree planter, utility cabinet, railing, planter, or any other public property not designed for such purposes is not permitted.
SCMC 9.50.020

OTHER LAWS

Dogs

For public safety reasons, dogs (even on leashes) are not allowed on public property in most of the downtown business district. All dogs must be licensed and tagged.
SCMC 8.14.200–8.14.201.

Alcohol on Public Property

Drinking or possessing an open alcoholic beverage in any public place or public way is not allowed.
SCMC 9.12.020–9.12.070

Noise Curfew

From 10 p.m. to 8 a.m., noise must be kept to a minimum level.
SCMC Sections 9.36.010–9.36.040

BICYCLE LAWS

Bicyclists must follow the same laws as vehicle drivers.

- Do not ride a bike on the sidewalk
- Ride in the same direction as vehicular traffic
- Stop at all stop signs
- Use the bike racks to park bike

SCMC 10.68 and 10.32.040

PUBLIC PARKING LOTS AND GARAGES

Public parking lots and garages downtown are for the purpose of parking and retrieving vehicles and bicycles or walking from one sidewalk to another or to buildings bordering the parking lot.

No person shall remain in the parking lot or garage premises for more than 15 minutes.
SCMC 9.64.010 – 9.64.050



DOWNTOWN PUBLIC PROPERTY ORDINANCE GUIDE

March 2009

The City of Santa Cruz ordinances are intended to facilitate everyone's enjoyment and use of the downtown area. This guide summarizes some of the relevant ordinance provisions in the Santa Cruz Municipal Code (SCMC) as of March 12, 2009.

The information provided is for informational purposes only and does not constitute legal advice.

The SCMC is available at the public library, 224 Church Street and on the City's website: www.ci.santa-cruz.ca.us.

USE OF CITY SIDEWALKS

Commercial Activities

Commercial sales are not allowed on public sidewalks without a permit.

SCMC 5.42.065

Mobile Vending

No vending, which includes sales of flowers or food from a pushcart, is allowed downtown.

SCMC 5.22.110

Display of Merchandise

Displaying merchandise on streets or sidewalks is not permitted. Persons may display their own original artwork.

SCMC 5.42.020

Noncommercial Activities

Noncommercial activities, which include any public service or charitable activity that is political, civic, or religious in nature, does not require a permit.

A table or display device being used for noncommercial activities on public sidewalks must be no larger than 6 ft x 6 ft x 3 ft and at least 10 ft from the following:

- building
- street corner or intersection
- fence
- sidewalk café or kiosk
- bench, directory sign, drinking fountain, public trash compactor, sculpture or payphone
- any portion of the sidewalk between the sidewalk café and the curb

After one hour, the display device must be moved at least 100 ft to a new location.

SCMC 5.43.020

STREET PERFORMANCE

Anyone can perform on any of the publicly owned sidewalks in the downtown area. However, if a street performer places an object on the sidewalk to collect contributions (a "display device"), the performer must abide by the same regulations for location and the length of time of the performance as noncommercial activities.

SCMC 5.43.020

Special Areas

Two areas near the Tom Scribner statue on the 1500 block of Pacific Avenue traditionally have been used by performers and others. These areas have been designated as areas exempt from the distance and time limits that apply when using a display device.

If a performance requires a space larger than 4 ft by 6 ft or requires more than 20 minutes to set up, permits may be obtained to reserve a space.

Permits are free and applications are available at Parks and Recreation, 323 Church St.

Sound Amplification

Sound amplification equipment is not allowed without securing a permit from the police department.

SCMC 9.40.010

How to measure distances on the sidewalk

Each sidewalk square is 2 ft.
5 squares = 10 ft.
7 squares = 14 ft.
25 squares = 50 ft.
50 squares = 100ft.

Distances can be measured in any direction

PANHANDLING/SOLICITATION

Asking (with your voice or with a sign) for a donation of money, food, cigarettes, or items of value is considered panhandling/solicitation and is regulated by time, place and manner.

Panhandling not allowed within 14 ft

- building
- street corner or intersection
- fence
- sidewalk café or kiosk
- bench, directory sign, drinking fountain, public trash compactor, sculpture or payphone

Panhandling not allowed within 50 ft

- bank or financial institution
- ATM or money changing machine

Panhandling is not allowed

- in bank parking lots
- while seated or leaning on a bench, planter, monument, or other public property
- on private property without permission
- from a vehicle or to a person in a vehicle
- in a public bus or at bus stop.

Manner of panhandling prohibited

- in a group of two or more persons
- by using profane or abusive language either during the solicitation or following a refusal
- while under the influence of alcohol or illegal drugs
- by coming within 3 ft. of the person
- by blocking the path of a person
- by following a person who walks away
- giving false or misleading information, such as stating donation is for a need that does not exist

Panhandling is not allowed after dark.

SCMC 9.10.010 – 9.10.060