

Craig, Sondra

From: Neumann, Mark
Sent: Friday, June 16, 2023 9:43 AM
To: Craig, Sondra
Subject: FW: Memo Regarding Resolution 23-0673
Attachments: La Crosse Ordinance 34-52.pdf; La Crosse Ordinance 32-5.pdf; Martin V. City of Boise.pdf; Amendment of Ordinance 32-5.pdf

Here it is, Sondra.
Thank you,
Mark

From: Neumann, Mark
Sent: Thursday, June 15, 2023 9:13 PM
To: Elsen, Nikki <Elsenn@cityoflacrosse.org>
Subject: FW: Memo Regarding Resolution 23-0673

Hi Nikki,
Please attach this memo (without the attachments) to legislative item 23-0673 on Legistar. Would it be ok to let zzCM's know that this new addition has been added?
Thanks, Mark

Resolution 23-0673 Needs the Addition of Recitals

I believe that the proposed legislation (23-0673) could be improved by including recitals ("whereas..." declarations) that give clear statements for why the ordinance sub-section 32-5 should be improved by amendment. These recitals should include statements about the mission and purposes of the city departments most directly implicated in the application of the ordinance. The recitals should summarize why the City's services to its citizens (including both those with preservation of property interests and those living in our municipality without the benefit of secure housing) and to its visitors could be improved by amending the ordinance as it is currently written. Without these clear statements of purpose for the proposed ordinance adaptation, the members of our populace are free to presume their own conceptions of why an amendment to 32-5 is needed and what the amendment is expected to achieve. I believe that the recitals for 23-0673 should result from an enunciation of the mission and vision of our City government and its departments of service delivery. There might be other statements of purpose that clarify precisely why an amendment to Ordinance 32-5 would be good policy for the Common Council to enact.

Department of Police Statement from City Website:

"The La Crosse Police Department is committed to being leaders in providing a safe and vibrant community. We believe this is achieved through a dedicated approach to community-oriented policing, with a focus on problem-solving, partnerships, professionalism, and ethical practices."

Department of Parks and Recreation from City Website:

"The City of La Crosse Parks, Recreation & Forestry Department's Mission is to enrich our community through stewardship of the environment and through provision of quality recreation, facilities and fun."

Common Council:

"The La Crosse Common Council values the importance creating a common understanding and support of the characteristics and values we wish to see in the future of our city.

Vision

La Crosse is a city of choice – a community for a lifetime – that offers the highest possible quality of life.

Mission

As elected officials, we establish policies to provide services and infrastructure, and to promote sustainable economic development, diverse cultural, recreational and educational opportunities, and public health and safety.

Core Values

Leadership: Visionary focus on the long-term, comprehensive needs of the community.

Diversity: Active welcoming of all residents, visitors and employers.

Communication: Clear, open, respectful dialog with each other, employees, citizens and other stakeholders.

Integrity: Honest, responsible, transparent actions in the best interest of the community.

Stewardship: Judicious investment of public resources and protection of natural and cultural resources.”

Mayor’s Office:

Per Wisconsin Statutes Section 62.09(8)(a), the mayor is the chief executive officer of the city and is responsible for supervising and directing the day-to-day operation of city government. As chief executive officer of the city, the mayor has a statutory duty to “take care that city ordinances and state laws are observed and enforced and that all city officers and employees discharge their duties.”

Resolution 23-0673 Needs Clarification to Guard Against Arbitrary Application

I believe that the language in the proposed amendment to ordinance sub-section 32-5 provides an inadequate guard against arbitrary application (or misapplication) of the rule.

Currently 32-5 (a) identifies how decisions by the BPW for restriction of camping on certain public property is to be communicated by the placement of signs. The proposed language of 23-0673 expands the avenue for communication of information about restricted camping to verbal warning by a police officer, or other City officer or authorized employee. But how will these authorized persons know what areas are restricted from camping when signs are absent? Will there be a public registry of restricted sites that the authorized persons will be able to refer to as the basis for their communications to citizens who are in need of being made aware of camping restricted areas?

Currently, 32-5 (b) identifies the Board of Public Works (BPW) to be the authorized body to determine where camping is restricted on the City’s public property. The proposed amendment eliminates this identification of this role for the BPW. Therefore, how do we know what governmental body (or representative) will be authorized to determine where camping is restricted? This uncertainty leaves open the possibility for arbitrary (and potentially unfair) application of the rule.

Currently 32-5 (c) provides for a one-hour grace period after receiving a warning to leave from a camping restricted area of public property before being cited for violation of the ordinance. The proposed language of 23-0673 doesn’t precisely define the start of the one-hour grace period for a warning delivered by verbal communication versus by the observation of a person’s ignorance of posted signage.

Resolution 23-0673 Does Not Resolve Discrepancies Between City Ordinance Subsections 32-5 and 34-52

Prior to our June 8, 2023, Common Council Meeting I was unaware of a City Ordinance that specifically prohibits camping within our public parks. Now I realize that our City ordinance (specifically Sub-section 34-52) provides authorization for the Board of Park Commissioners (BPC) to establish hours of closure for our parks that would by implication make it prohibitive to camp overnight in a City park that has posted hours for closure. If there are other ordinances or state statutes that prohibit camping in our municipal public parks, I am not aware.

Since the BPC can establish hours of park closure, then a rule to prohibit camping in parks appears to be unnecessary to exclude any citizen’s or visitor’s right to be in said parks for any purpose overnight (necessarily excluding camping). In

such case, would 32-5 only be applicable to non-park City public property or parks without designated nocturnal hours of closure? (such as parking garages, surplus city property, public parking lots, the underside of bridges, City owned conservancy land (parcel 50325-82), undeveloped City owned regions (parcel 50325-98) or any other lands of public ownership)

Since receiving comments from constituents concerning the issues raised by resolution 23-0673, I have become aware of a decision by the Ninth Circuit Federal Court in *Martin v. City of Boise*, 920 F.3d 584 (2019) that, if applicable in our federal judicial district, might prohibit the imposition of criminal penalties on homeless individuals who are otherwise unable to obtain shelter for sitting, sleeping, or lying outside on public property. A blanket prohibition by ordinance for camping on any and all City owned property might be problematic in light of the opinions expressed by the judgment in *Martin*.

Given the fact that people have already been camping in our public parks for some time and given the fact that some of these parks might have posted closure hours and given the fact that people have already been allowed to remain in those parks (for their basic human need of a place to sleep) beyond the hours of closure, how do we now make a fair application of an amended rule that has been blatantly ignored in the recent past?

People have many basic needs for survival, one of them being a secure space for the performance of sleeping that every person needs to do daily. The provision of relief for our basic human needs has, therefore, been given recognition, in our modern world, as a basic human right before our laws. (Referencing to the International Declaration of Human Rights)

In America, given our absence of a public policy of apartheid and given our long history of respect for freedom of movement, people are free to move to live within the municipal limits of La Crosse. This freedom allows them to become citizens of our town by their unilateral decision to move to live within those limits. Our local government has the role of serving all citizens and visitors to its region of jurisdiction. A primary service of that government must include an absolute respect for the constitutional and basic human rights of all.

As I listen to our constituents, it appears to me that there are two major currents of public opinion. One current holds that a necessary service of our local government is to help citizens protect their ownership of personal property, their right to do business and their right to enjoy the municipal amenities that their taxes help to pay for. The other current holds that all people living in our town are, by that simple fact, to be treated as neighbors and that every person has a fundamental right to at least survive through the protection of their fundamental human and constitutional right to have their basic human needs met for that survival.

I believe that there are many people in La Crosse who long for something much more than the survival of all citizens. I believe that there are many (if not most) who hope that La Crosse will be a city where all its citizens and visitors are able to thrive and enjoy the best of human living.