



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM  
STUDY SESSION SUMMARY FROM OCTOBER 9 AND 23, 2012**

**MEETING DATE: March 5, 2014**

**AGENDA TITLE:** Consideration of a motion to accept the February 11, 2014 Study Session Summary regarding social misbehavior on the municipal campus.

**PRESENTERS:**  
Tom Carr, City Attorney

**EXECUTIVE SUMMARY:**

The purpose of this agenda item is to seek council approval of the following summary of the February 11, 2014 study session on social misbehavior. Council scheduled this study session to provide a forum for discussion of challenges presented by criminal behavior on the municipal campus.

**STAFF RECOMMENDATION:**

Staff recommends approval of the summary of the February 11, 2014 study session regarding the social misbehavior.

**Suggested Motion Language:**

Staff requests council consideration of this matter and action in the form of the following motion:

Motion to accept the study session summary of the February 11, 2014 study session, included as **Attachment A**.

**BACKGROUND:** The background information for this topic can be found in the [Study Session Memorandum](#) dated February 11, 2014.

**NEXT STEPS:**

Based on input at the study sessions, staff will:

1. Draft proposed ordinances to:
  - a. Repeal sentencing reductions adopted in 2012;
  - b. Adopt a city version of the state law prohibiting unlawful conduct on public property;
  - c. Amend the current code provision regarding suspension from public facilities; and
  - d. Add additional restrictions on panhandling.
2. Develop a proposal for consideration by the Landmarks Board and the City Council for securing the band shell.
3. Continue with additional police patrols on the municipal campus.
4. Monitor the effectiveness of increased sentencing guidelines implemented in December 2013.

ATTACHMENT A – February 11, 2014 Study Session Summary

## February 11, 2014 Study Session Summary on Social Misbehavior

### **PRESENT:**

**City Council:** Mayor Matt Appelbaum, Mayor Pro Tem George Karakehian, Council Members Macon Cowles, Suzanne Jones, Lisa Morzel, Tim Plass, Andrew Shoemaker, Sam Weaver and Mary Young.

**Staff members:** City Manager Jane S. Brautigam, City Attorney Tom Carr, Municipal Court Judge Linda Cooke, Executive Director of Public Works Maureen Rait, Police Chief Mark Beckner, Human Services Director Karen Rahn and Acting Director of Parks and Recreation Jeff Dillon.

### **PURPOSE:**

The purpose of this study session was to:

- To provide an opportunity for council to discuss criminal behavior on the municipal campus.
- Address significant questions regarding a group or groups of individuals who appear to have taken over the municipal campus.
- Address certain behaviors occurring on the campus that effectively prevent other community members from enjoying the campus.

### **OVERVIEW OF THE PRESENTATION AND DISCUSSION**

City Attorney Tom Carr began the discussion with a problem statement as follows:

- Behavior by individuals congregating on the municipal campus has made the area inhospitable to others in the community.
- The behavior includes significant criminal activity. (646 citations in 12 months)
- The municipal campus is a valuable community resource that is not currently available to the majority of community members.

Council members agreed generally that the statement adequately addressed the problem. A council member noted that the problem was not limited to the municipal campus and stressed the importance of addressing similar issues city wide. Another council member noted that the library has major problems that also need to be addressed. Maureen Rait provided council with information regarding security at the library and recent steps to improve conditions.

Council next considered strategies that are already implemented or underway, which are as follows:

- Increased Police Patrols

- No Smoking
- Rules of Conduct
- Increased Sentencing Guidelines
- Exclusion Orders

Council approved the strategy of continuing increased police patrols. The city manager clarified, in response to a question that “increased” means an increase over normal patrols and not an increase from the additional patrols deployed in 2013. The city attorney explained the challenges faced by the police department when adding additional resources to an area. That is, that the department has the ability to redeploy patrols, but this means less coverage in other areas. The additional patrols in 2013 were funded with additional overtime funds. The ability to provide coverage through overtime also is not unlimited. Officers need time off and also have to provide overtime coverage to special events. Chief Beckner explained that it would require hiring 12 additional officers to provide dedicated coverage with two officer patrols.

Council inquired about the effectiveness of the increased sentencing guidelines. The city attorney explained that there was not much data at this time, but preliminary indications were that the court was imposing the recommended sentences in appropriate cases. The city attorney stressed the necessary independence of the judiciary and the ability of the court to decide on an appropriate sentence. Chief Beckner noted that anecdotally officers had reported that they were seeing a difference. A council member asked whether the sentencing guidelines could include mitigating factors such as participation in treatment or transitional housing programs. The city attorney offered to explore including such factors. The municipal judge explained that she did consider such factors before imposing sentences.

The city attorney explained that exclusion orders were intended to address situations in which an individual congregating in particular areas was more likely to get into trouble. A council member asked whether additional enforcement, sentencing enhancements and exclusion orders would just move the problem to other areas of the city. The city attorney admitted that any criminal justice intervention resulted in some level of displacement. The problem on the municipal campus is caused by congregation of groups who disregard the law. The ongoing and proposed interventions are intended to disrupt the congregation that enhances the criminal activity.

The discussion then turned to additional actions proposed by staff which are as follows:

- Additional Panhandling Restrictions
- Partial Closure (Bandshell)
- Repeal Sentencing Limitations

- Enact Unlawful Conduct on Public Property Ordinance

Council engaged in a robust discussion of the proposed actions. A majority of council appeared to support additional consideration of some enhancements to the code provisions addressing panhandling. Several council members objected to such an approach. These council members supported additional efforts to restrict criminal activities, but expressed concern about the need to included panhandling restrictions. One council member emphasized that any such restrictions would need to respect the right of individuals to stand on a corner with a sign.

Council members who supported additional restrictions expressed concern about the public safety risks presented by panhandlers stepping into streets to solicit money from drivers. Members also expressed additional concerns about solicitation of individuals in vulnerable or captive positions such as at automatic teller machines, parking kiosks and outdoor cafés. Council members asked that staff provide information about what effect panhandling has on the individuals engaged in this activity. That is, whether it provides some means of support or instead is merely a mechanism to further addictions and other destructive behavior. Council encouraged staff to engage with social service agencies to explore their views on additional panhandling restrictions.

The city attorney summarized the discussion by stating that there appeared to be sufficient support to present council with some options. The city attorney recommended that his office develop a proposed ordinance with several options for council to consider.

Council had several questions about the proposed fencing of the band shell. Council members expressed concern about the esthetics of a chain link fence in such a prominent area of the municipal campus. One council member emphasized the problems presented by the current unsecured structure. Council members expressed interest in hearing more detail about an enclosure that could protect the structure without diminishing its esthetic value. Council stressed the importance of seeking approval from the Landmarks Board.

Council was supportive of both repealing the sentencing limitations and a proposed ordinance mirroring the state law banning unlawful conduct on public property. In addition, one council member expressed support for consideration of banishment from the city as a sanction. There did not appear to sufficient support from other council members for staff to proceed with this approach.

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