From Stephen Greenberg to Nevada City City Council, for 8/10/2011

KEY ANTI-LOITERING PROVISION IN 1997 & 2011 ORDINANCES

1997 version (enacted by City Council, 5/12/1997; 4-1 vote):

9.14.010 Obstruction of movements in public ways.
No person, after having been notified by a law enforcement officer that he or she is in violation of the prohibition in this section, shall intentionally occupy any portion of a public way or public place so as to obstruct or interfere with the flow of pedestrian or vehicular traffic thereon, whether such person does so alone or together with one or more persons, or with equipment or personal property of any nature, and whether such person does so by standing, sitting, lying or in any other manner.

2011 version (agendized for 1st reading, 8/10/2011):

9.14.040- Obstruction of movements in public ways.
A. No person, after having been reasonably notified by a police officer that he or she is in violation of the prohibition in this section, shall intentionally occupy so much of a public way in the Historical District of the city as to obstruct or interfere with the flow of pedestrian or vehicular traffic thereon, whether such person does so alone or together with one (1) or more other persons, or with equipment or personal property of any nature, and whether such person does so by standing, sitting, lying or in any other manner.

2011 version, showing modifications to 1997 version:

9.14.010- Obstruction of movements in public ways.
A. No person, after having been reasonably notified by a ~~law enforcement~~ police officer that he or she is in violation of the prohibition in this section, shall intentionally occupy ~~any portion~~ so much of a public way ~~or public place so~~ in the Historical District of the city as to obstruct or interfere with the flow of pedestrian or vehicular traffic thereon, whether such person does so alone or together with one (1) or more other persons, or with equipment or personal property of any nature, and whether such person does so by standing, sitting, lying or in any other manner.

WHAT HAPPENED TO THE 1997 ORDINANCE?

1. Within 30 days, 251 of Nevada City's registered voters — 11% of the electorate — signed a referendum petition, effectively suspending the ordinance until it could be included (as Measure C) on the June 1998 public ballot.

2. During the campaign, the "No on C" position was endorsed by:
   - 37 Nevada City businesses (list available on request)
   - 2 county political parties (Democrats & Greens)
   - 4 of the 5 candidates for 2 City Council seats (Arnett, Dyer, Greensfelder, Poulter)
   - The 1 "No" vote on the City Council (Cottrell)

   The "Yes on C" position was endorsed by:
   - No Nevada City businesses
   - No political parties
   - 1 of the 5 candidates for 2 City Council seats (then-Mayor Harry Stewart, running for re-election)
   - The 3 other "Yes" votes on the City Council (Balch, Matson, Tobiassen)

3. Over 300 concerned citizens from in and around Nevada City endorsed the "No on C" position. (List available on request.)

4. On Election Day, June 2, 1998, the results were:

   - **Measure C**: 533 Yes (41.9%); 739 No (58.1%). I.e., the No vote won, by a margin of 16.2%.

   - **City Council**:
     Elected: Arnett, 559 votes; Dyer, 487 votes (both opponents of Measure C)
     Lost Re-Election Bid: Stewart, 401 votes (lone supporter of Measure C on ballot)

HIGHLIGHTS OF "SPECIAL REPORT" BY NEVADA CITY CHAMBER OF COMMERCE, SOCIAL CONCERNS COMMITTEE ("ZERO TOLERANCE"), SEPTEMBER 1999

Page 9: "Clearly Nevada City faces a significant social problem that will require a multi-faceted solution, involving full community support and involvement."

Pages 10-11: "The public debate and battle over Measure C did much to divide the community."

"In reality, a vast majority of the community abhors the unruly conduct exhibited by certain individuals. Many who vocally complained to the City regarding the behavior, however, also opposed Measure C and did so for a multitude of reasons. These reasons varied from a belief that there was a need for the police to enforce existing laws, to the presumed vagueness or lack of constitutionality of the ordinance."

"Recently, there has been a move underway to introduce yet another ordinance to address public behavior issues in Nevada City. The committee reviewed the proposed legislation at its inception, and kept an open mind with regard to the necessity for such legislation pending completion of its study. .... [¶] .... After an exhaustive review of existing law by the committee, interviews with Nevada County District Attorney Michael Ferguson, Nevada City Police Chief Lou Trovato and numerous others, **we are of the opinion that current law covers the egregious conduct, and these laws need to be enforced by the Nevada City Police Department.** This issue is addressed elsewhere in this report."

Pages 12-19: "NEVADA CITY POLICE DEPARTMENT," with 9 subsections:
"(a) THE COMMUNITY AND THE POLICE," e.g., "A common complaint of residents, businesspersons and even the youth of Nevada City, has been a failure of the department to provide necessary police services to address the problems on Spring and Pine Streets."
"(b) USE OF VOLUNTEERS," e.g., "the recruiting of volunteers should become a department and City Council priority."
"(c) POLICE PRESENCE AS A DETERRENT," e.g., "Every effort has to be made to make officers visible in the problem areas on a regular basis. Foot patrol, increased vehicular patrol, and posting of an officer when available are effective means to combat the problem."

"(d) PRIORITIZE THE PROBLEM," e.g., "It is apparent in monitoring the Spring and Pine area that only certain officers have an interest in addressing the problem."
"(e) VISIBILITY OF THE POLICE," e.g., "The committee believes that whatever can be done to keep officers visible on the street, should be done ...."
"(f) CITIZEN'S ARREST," e.g., "The citizen's action is an important component in helping to address the problem."
"(g) JUVENILE CITATIONS," e.g., "The committee is concerned with the lack of parental involvement in the current process."
"(h) TOOLS," e.g., "Other tools explored by the committee which may be of assistance to officers in the performance of their duties include the use of surveillance cameras and 'open complaint' forms for trespassing."
"(i) APPROACH TO THE PROBLEM," e.g., "Businesses in the immediate vicinity of Spring and Pine streets have interestingly noted a marked difference in the approach of the Nevada County Sheriff's Department when called upon to cover the area in the absence of an available Nevada City police officer. A no-nonsense approach has been observed in these instances which has provided positive results."
(Conclusion section): "The committee believes that the Nevada City Police Department is operating reactively to the problems on Spring and Pine streets without clear direction. It is interesting to observe the obvious increase in the availability of officers for Spring and Pine streets after City Council interest or public outcry. However, when the public scrutiny decreases, the police presence decreases. [¶] The Nevada City Police Chief through the City Manager, needs clear direction from the City Council; and officers need clear direction from their chief. .... [¶] Proactive law enforcement is necessary to address the problem. Additional police attention, presence and a shared commitment is a must."

Pages 20-22: "OTHER AGENCIES," introduction: "To address the problems outlined in this report, all agencies even remotely associated with the problem must be involved in a coordinated approach."

Pages 23-25: "RECOMMENDATIONS OF THE COMMITTEE," including as number 1: "NO ENACTMENT OF NEW CITY ORDINANCES AT THIS TIME[.]"

(All 16 recommendations: see following.)

Pages 26-28: Conclusion and signature lines; see following.

RECOMMENDATIONS OF THE COMMITTEE

1. NO ENACTMENT OF NEW CITY ORDINANCES AT THIS TIME;

2. A REGULAR HIGH VISIBILITY POLICE PRESENCE MUST BE ESTABLISHED IN THE DOWNTOWN AREA, PARTICULARLY AROUND THE SPRING AND PINE STREETS. THIS PRESENCE SHOULD INCLUDE THE FOLLOWING:

   (a) Increased foot patrol,

   (b) Increased vehicular patrol,

   (c) Prioritize increased patrols by all officers,

   (d) Use of proactive law enforcement, including, undercover agents, stings, etc.,

   (e) Use of Spring and Pine streets as a officer meeting post, rather than Express Mart;

3. POLICE CHIEF: INITIATE AN AGGRESSIVE PROGRAM FOR RECRUITING VOLUNTEERS TO ASSIST NEVADA CITY POLICE DEPARTMENT IN THE PERFORMANCE OF ITS DUTIES;

4. POLICE CHIEF: STEP UP RECRUITING OF QUALIFIED RESERVE OFFICERS;

5. CITY COUNCIL: IDENTIFY FUNDS, THROUGH GRANTS OR BUDGET, TO PURCHASE COMPUTER(S) FOR POLICE VEHICLES TO ALLOW OFFICERS GREATER PRESENCE ON THE STREET;

6. POLICE CHIEF: PROVIDE MERCHANTS WITH MATERIALS FOR CITIZEN'S ARREST EDUCATION PROGRAM;

7. POLICE CHIEF: INSTITUTE MERCHANT PROGRAM UTILIZING

"OPEN COMPLAINTS" FOR TRESPASSING;

8. CHAMBER: SUPPORT A CO-OP MERCHANT EFFORT TO FUND SURVEILLANCE CAMERAS FOR SPRING AND PINE STREETS IF THE POLICE DEPARTMENT DETERMINES THAT SUCH CAMERAS CAN ASSIST IN THE PERFORMANCE OF ITS DUTIES;

9. CITY COUNCIL AND CHAMBER: ACTIVELY SUPPORT, FINANCIALLY OR OTHERWISE, THE ADVENTURE PLAYGROUND SKATEPARK AND OTHER YOUTH ACTIVITIES;

10. CITY COUNCIL: EXPLORE THE VIABILITY OF LEASING PROPERTY AT SPRING AND PINE STREETS FOR POLICE SERVICES DURING CONSTRUCTION OF NEW CITY HALL;

11. CITY COUNCIL: HELP INITIATE AN INTER-AGENCY TASK FORCE TO COORDINATE EFFORTS TO ADDRESS PROBLEMS DISCUSSED IN THIS REPORT;

12. CITY COUNCIL: DISCOURAGE OPERATION OF PUB, BAR OR TAVERN IN AREA OF SPRING AND PINE STREETS;

13. CITY COUNCIL: FORM A COMMITTEE TO EXPLORE THE FEASIBILITY AND POSSIBLE BENEFITS OF CONTRACTING OUT FOR POLICE SERVICES FOR NEVADA CITY;

14. CITY COUNCIL: DELEGATE RESPONSIBILITY TO POLICE CHIEF TO MONITOR, COORDINATE, AND DIRECT CONTRACTED ANIMAL CONTROL SERVICES.

15. CITY COUNCIL: REQUEST THE ASSISTANCE OF THE DEPARTMENT OF SOCIAL SERVICES TO INSTITUTE PROGRAM TO IDENTIFY AND PROVIDE ASSISTANCE TO THOSE IN NEED.

16. COMMITTEE: RECONVENE IN MARCH OF 2000 TO REVIEW PROGRESS TOWARDS IMPLEMENTATION OF RECOMMENDATIONS.

CONCLUSION

Beginning in the summer of 1996 and continuing for the next several months, a series of informal meetings were held at the request of some downtown merchants to address public behavior issues affecting the City of Nevada City. City officials, merchants and chamber of commerce representatives participated in the discussions. After these discussions the open container ordinance was ratified with little opposition and Measure C was adopted but subsequently defeated by the voters.

The current committee includes new individuals visiting the same old problem, as well as some of the same individuals who participated in the 1996-1997 meetings and who were involved in the debate surrounding Measure C.

This committee has spent considerable time and effort in going beyond identifying the problem. Countless hours have been expended by each committee member in gathering information, interviewing individuals and identifying workable measures which the committee members believe, if implemented, will have a significant impact on the problems currently experienced by the community.

Committee members who were participants in the past effort believe that the current committee's methodology and comprehensive fact-gathering approach will expand and

complement the work of the previous group, as well as help remedy the issues raised during the Measure C campaign.

Respectfully Submitted,

/S/
TERENCE BROUGHTON, CHAIRMAN

/S/
THOMAS A. COLEMAN

/S/
GREG COOK

/S/
STEVE COTTRELL

/S/
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