
M E M O R A N D U M

DATE: November 12, 2010
TO: City Council Members
FROM: Russell Weeks
RE: Proposed Ordinance: Commercial Solicitation (Panhandling Limits)
CC: Cindy Gust-Jenson, David Everitt, Ed Rutan, Chris Burbank, Frank Gray, DJ Baxter, Jennifer Bruno, Mary De La Mare-Schaefer, Bianca Shreeve, Boyd Ferguson, Bob Farrington, Gordon Hoskins, Gina Chamness, Skye Garcia, Jason Mathis, Carla Wiese

This memorandum pertains to a proposed ordinance that would limit commercial solicitation (panhandling) in Salt Lake City. In particular, the proposed ordinance is intended to “impose specific time, place and manner restrictions on solicitation and associated conduct in certain limited circumstances,” including aggressive panhandling, panhandling “at locations or times deemed particularly threatening and dangerous, or ... in places where people are a ‘captive audience,’ and there is a wish to avoid or reduce a threat of inescapable confrontation.”¹

The penalty for conviction of violating the proposed ordinance would be a Class B misdemeanor punishable by a six-month term in jail, a \$1,000 fine or both.

The bulk of this memorandum is from a City Council staff memorandum dated October 7. The October 7 memorandum was prepared for a briefing by the Administration on the proposed ordinance on October 12. However, that briefing was postponed until November 16 the same day as the scheduled public hearing. The briefing tentatively is scheduled to be held in Room 326 of the City & County Building. The City Council will start the work session about 4:30 p.m. or immediately after the meeting of the Salt Lake City Redevelopment Agency Board of Directors (the City Council). The City Council on August 10 heard a briefing on the proposed ordinance from the City Attorney’s Office.

The proposed ordinance stems in part from a request by The Downtown Alliance to address complaints about aggressive panhandling in the City’s Central Business District. It may be considered a companion piece to the Downtown Alliance-led public campaign to redirect donations from panhandlers to social service agencies or charities. The campaign began in October 2009 and was the result of about two years of study by an Alliance committee.² The ordinance plus the Alliance program plus the City’s involvement in various aspects of addressing poverty might be viewed as a three-tiered approach to dealing with facets of economic dislocation.

The approach appears similar to a pattern outlined in *Panhandling*, a study guide published in 2002 by the U.S. Department of Justice Office of Community Policing Services. According to the study guide, “Most researchers and practitioners seem to agree that the enforcement of laws prohibiting panhandling plays only a part in controlling the problem. Public education to discourage people from giving money to panhandlers, informal social control, and adequate social services (especially alcohol and drug treatment) for panhandlers are the other essential components of an effective and comprehensive response.”³

NEW INFORMATION

Since the August briefing one new piece of information has been presented. In a letter to the City Council dated November 8, Gina Cornia, Executive Director of Utahns Against Hunger; Bill Tibbitts, Anti-Hunger Project Director for Crossroads Urban Center; and Professor Linda F. Smith of the S.J. Quinney College of Law, have proposed that the title of the proposed ordinance, “Commercial Solicitation,” and references to “commercial solicitation” throughout the proposed ordinance be replaced either by the words “aggressive panhandling” or “aggressive begging.”⁴

The letter indicates that “commercial solicitation is too close in name to the offenses, ‘sexual solicitation’ and ‘solicitation of prostitution’ and may be confused in other areas of Utah and other states – particularly when the criminal penalties for “commercial solicitation” and “sexual solicitation” are the same. “It is possible that people, particularly females, convicted of the offense “commercial solicitation” in Salt Lake City will be unfairly stigmatized as having been convicted of an offense involving prostitution if they travel to other parts of the country,” according to the letter.⁵

A review of the letter by the City Attorney’s Office indicates that the proposed ordinance defines “commercial solicitation” as including more conduct than aggressive behavior. The Attorney’s Office notes that the proposed time, place, and manner restrictions on all forms of commercial solicitation. The review contends that naming the proposed ordinance “aggressive panhandling” or aggressive begging” could mislead people into thinking the ordinance would cover less conduct than it actually would.

OPTIONS

- Adopt the proposed ordinance.
- Do not adopt the proposed ordinance.
- Amend the proposed ordinance.

POTENTIAL MOTIONS

- I move that the City Council adopt the ordinance enacting Chapter 11.70 of the Salt Lake City Code, relating to commercial solicitation.
- I move that the City Council consider the next item on the agenda.
- I move that the City Council adopt the ordinance enacting Chapter 11.70 of the Salt Lake City Code with the following amendments: That the words “commercial” and “solicitation” in the title and body of the ordinance be replaced by the words “aggressive,” and “panhandling” or “begging” where appropriate to be clear that the ordinance addresses enacting time, place and manner restrictions on conduct involving panhandling or begging and nothing else.

KEY POINTS

- The proposed ordinance would enact time, place, and manner restrictions on the practice of panhandling citywide.
- Nationally, restrictions on panhandling, particularly “aggressive panhandling” appear to be fairly common.
- Studies read by City Council staff indicate that laws restricting the practice of panhandling are most effective as part of a broader response to economic dislocation.

- The proposed ordinance is largely the result of two things: an effort by The Downtown Alliance to address the practice of panhandling downtown and the release of a draft ordinance by Mayor Ralph Becker’s Administration to obtain public comment on the content of the draft ordinance.

ISSUES/QUESTIONS FOR CONSIDERATION

- The proposed ordinance is supported by the Salt Lake Chamber, and, according to the Administration transmittal letter, the City’s Human Rights Commission.⁶
- The American Civil Liberties Union of Utah remains concerned about some aspects of the proposed ordinance, particularly the emphasis of commercial solicitation over charitable solicitation.⁷ The City Council may wish to hear a from the City Attorney’s Office about the distinction. Staff has outlined the Attorney’s Office’s response to some of the ACLU’s concerns further in this memorandum.
- Some who responded to the Administration’s request for public comment raised concerns about prohibited asking for money near “the entrance to a place of religious assembly.” Council Members may wish to ask about the reasons for the prohibition and whether entrance means a door, a gate, or a property line.
- Last summer, Police Chief Chris Burbank suspended enforcement of an ordinance that prohibits camping in public parks while the ordinance, and others, were reviewed. Has that review been finished, and what conclusions, if any, were reached?
- The U.S. Department of Justice study guide, *Panhandling*, notes that some cities have prohibited panhandling on private property – if the property owners post the property.⁸ Council Members might wish to consider including the prohibition in the proposed ordinances to address complaints about being approached by panhandlers in private parking lots.
- Is there a potential that the proposed ordinance would, as an unintended consequence, create a zone or zones where panhandlers congregate because the proposed ordinance, if adopted, would reduce the number of places available to panhandle?

DISCUSSION/BACKGROUND

In response to a City Council staff request last July about the number of complaints the Police Department had received over the last couple of years, the Department provided a table showing the number of complaints related to panhandling over the last three and one-half years.

Case Type	2007	2008	2009	2010
TRANSIENT PROBLEM	20	35	47	31
UNWANTED PERSON	88	98	127	79
Total	108	133	174	110

According to the study guide *Panhandling*, “Most complaints about panhandling are not formally registered with police.”⁹

A survey published in June 2009 by Certified Public Management for The Downtown Alliance said:

- Of 140 downtown businesses surveyed, 26 percent indicated that panhandling was a constant occurrence outside their places of business, and almost half indicated that that panhandling outside their place of business was at least a daily occurrence.¹⁰
- Of 100 people surveyed, 44.8 percent indicated they thought panhandling in Salt Lake City was a major problem, and 43.8 percent indicated they thought panhandling in Salt Lake City was a minor problem.
- Fifty percent of a focus group surveyed, indicated panhandling in Salt Lake City was a major problem, and 46.7 percent indicated panhandling in Salt Lake City was a minor problem.

Proposed Ordinance

The proposed ordinance is the result of revisions to an earlier draft ordinance that Mayor Ralph Becker’s Administration made available for public comment between July 29, 2009, and September 18, 2009, according to the Administration transmittal.

Definition: The main provisions of the proposed ordinance would define “commercial solicitation” as “any request made in person on a street, sidewalk, or public place, asking for an immediate donation of money or other thing of value, including the purchase of an item or service for an amount far exceeding its value, under circumstances where a reasonable person would understand that the purchase is a donation.”

The proposed ordinance excludes “passively standing or sitting with a sign or other indication that one is seeking donations without addressing the request to any specific person” from the definition.

The proposed ordinance also excludes activities regulated by *Salt Lake City Municipal Code* Chapter 5.64. That chapter is titled *Solicitation, Peddling and Sales Promotion Activities*. Chapter 5.64 regulates a variety of activities ranging from a prohibition of selling items on public streets from motorized vehicles or stands, to requiring door-to-door sales people to register with the Police Department and obtain a license, to requiring telephone solicitors to obtain a permit, to requiring mobile ice cream vendors to obtain business licenses.

Section 5.64.240 also requires people to obtain written permission from “the mayor or the mayor’s designee” to “peddle, sell or offer for sale any magazine subscriptions, goods, wares or merchandise whatsoever, in, upon or along any of the following streets:

1. South Temple Street from Second East Street to Fourth West Street
2. First South Street from Second East Street to Fourth West Street
3. Second South Street from Second East Street to Fourth West Street
4. Third South Street from Second East Street to Fourth West Street
5. Fourth South Street from Second East Street to Fourth West Street
6. State Street from North Temple Street to Ninth South Street
7. Main Street from North Temple Street to Ninth South Street”

The section also says, “and no license shall be granted to any person to peddle in, upon or along the said streets above described.”

It should be noted that Chapter 5.64 exempts from its provisions people and organizations “conducting religious solicitations” and “charitable solicitations which are registered with the Utah division of consumer protection as required by the Utah charitable solicitation act or its successor.”

Prohibited Conduct: In keeping within the Administration’s stated purpose of restricting the time, place, and manner in which people can seek donations from others, the proposed ordinance proposes the following regulations:

Time – The proposed ordinance would prohibit people whose acts meet the definition of commercial solicitation from asking for a donation “after sunset and before sunrise.”

Place – No one can ask for a donation within 10 feet of:

- A sidewalk café or any outside eating or dining establishment
- A line of people waiting to gain admission to a place, or vehicle, or waiting to purchase an item or admission ticket
- A food-dispensing street-vendor
- Any public transportation vehicle or public transportation facility, with the exception of airports
- A bus or train stop
- The entrance to a place of religious assembly
- Any automatic teller machine
- The entrance or exit to a building where an automatic teller machine is visible from the street

After the August 10 briefing City Council staff described the 10-foot limit as a series of cylinders throughout the downtown where people would be prohibited from panhandling. The City Attorney’s Office indicated the description was accurate and provided the following comments:

The ordinance would prohibit “commercial solicitation” inside of that cylinder. However, the definition of commercial solicitation excludes “passively standing or sitting with a sign . . . ,” so such activity within the 10-foot cylinder would not be banned by this ordinance. On the other hand, I think that, in addition to oral requests, commercial solicitation could also include certain non-passive uses of a sign, such as actively waving the sign in someone’s face, so that would be banned within the cylinder.

Except with respect to soliciting in public transportation vehicles or public transportation facilities, and with respect to aggressive commercial solicitation and the other time and manner restrictions in subsections three and four, the proposed ordinance does not regulate panhandling at all outside of the 10-foot cylinder.¹¹

It should be noted that Baltimore, Maryland, also uses a 10-foot limit to regulate some places where panhandling may not occur.

According to City Council staff research, Baltimore prohibits panhandling:

- In public places.
- At night, even if done passively by holding a sign.
- Within 10 feet of ATM machines.
- Of individuals who are waiting for public transit.
- Of people in vehicles stopped in traffic.

Manner – The proposed ordinance would prohibit people from asking for donations in any way that:

- Hinders either pedestrian or vehicle traffic including “any manner that intentionally and unreasonably causes a pedestrian or vehicle operator to take evasive action to avoid physical contact, or “that violates traffic regulations for pedestrians and vehicles.”
- Involves asking for a donation that involves conduct where:
 - The conduct is intended or is likely to cause a reasonable person to fear bodily harm to oneself or another, or damage to or loss of property, or otherwise be intimidated into giving money or any other thing of value
 - A person seeking a donation intentionally touches or causes physical contact with another person without that person’s consent
 - A person seeking a donation directs violent or threatening gestures toward someone by “blocking the path of the person solicited, or walking behind, ahead of, or alongside the person solicited, using profane or abusive language, by accosting or forcing oneself upon the company of another, by using any statement, gesture, or other communication that a reasonable person ... would perceive to be a threat, and by asking for a donation in a group of two or more people ages 14 or older.

To summarize, people would be regulated by the combination of time, place, and manner instead of one of the three components. For example, if someone is beyond the distance prohibitions, that person’s conduct still would be governed by time and manner restrictions.

In addition, Salt Lake City, as mentioned earlier in this memorandum appears to be following patterns outlined elsewhere. For example, Baltimore’s efforts to develop charitable contribution programs to encourage donations to help the homeless but discourage panhandling is similar to The Downtown Alliance’s programs that either are under way or proposed. Baltimore’s 10-year program to end homelessness by 2018 by bringing together businesses, non-profit agencies, citizens, and faith-based agencies appears comparable to Salt Lake City’s current efforts.

Response to Draft and Revised Ordinance

As indicated earlier in this memorandum, the proposed ordinance is a revised version of a draft the Administration published for public comment between July 29 and September 18, 2009. Sixty-one people or organizations submitted comments.¹² Based on those comments, the Administration made two revisions from the draft to the proposed ordinance. First, it dropped a section in which prohibited conduct included misrepresenting one’s status as a veteran of the one of the U.S. services, one’s physical ability, one’s status as a homeless person, and how much money one actually has on his or her person when asking for a donation. Second, the Administration shortened distance restrictions from 20 feet to 10 feet “to better balance the sense of security and safety with First Amendment concerns.”¹³

Clearly, most of the 61 comments submitted to the Administration support most of the original draft. However, here are some selected comments from those who responded that may bear some consideration:

Places of Religious Assembly

“Our forty plus years of work with Salt Lake’s religious communities lead us to believe that restricting begging at a house of worship is exactly the opposite of what most religious teachings emphasize. Is the religious community really asking the City to help defend it from the poor?” – Glenn Bailey, Executive Director, Crossroads Urban Center.

It should be noted that similar comments were submitted by two members of the Mount Tabor Lutheran Church at 175 South 700 East, and by the outreach coordinator of First United Methodist Church at 203 South 200 East.

Partially as a result of those comments, the City Attorney’s Office was asked to clarify whether “an entrance to a place of religious assembly” meant a door, a gate or a property line. The Attorney’s Office has suggested that the language said, “Within ten (10) feet of the entrance, from the public right of way, to a place of religious assembly.”

According to the Attorney’s Office, most places of religious assembly involve a parcel of land and a building on that land, and in most cases the building is more than 10 feet away from the property line. To get within 10 feet of the entrance would involve a trespass, so the proposed ordinance need not address it. However, a sidewalk or sidewalks may lead from the public right-of-way onto a walkway on the private religious property, and then leads to a building. The City could justify prohibiting solicitors from waiting within 10 feet of such a sidewalk “entrance” because it could be intimidating to parishioners to have to pass through a gantlet of solicitors to get onto the private walkway. Finally, if a fence surrounded the private property and included a gate, one could say the gate would be considered an entrance.

Commercial versus Charitable Solicitation

“We feel that the name of the proposed ordinance is misleading as to the nature of the expression it attempts to restrict. Your proposed ordinance purports to target ‘commercial solicitation.’ However, the Supreme Court of the United States has long recognized that charitable solicitations fall within a category of speech close to the heart of the First Amendment, distinguishable from ‘purely commercial speech.’ Commercial speech is ‘primarily concerned with providing information about the characteristics and costs of goods and services,’ and as such enjoys lesser First Amendment protection. Courts have recognized that “(b)eggars at times may communicate important political or social messages in their appeals for money, explaining their conditions related to veteran status, homelessness, unemployment and disability ... While some communities might wish all solicitors, beggars, and advocates of various causes be vanished from the streets, the First Amendment guarantees their right to be there, deliver their pitch and ask for support.” – Executive Director Karen McCreary and Staff Attorney Marina Lowe of the American Civil Liberties Union of Utah.

It should be noted that the ACLU’s recent comments on the proposed ordinance continue to voice the concern raised during the public comment period.

In response to the item, the Attorney’s Office indicates that the current ordinance draft extends First Amendment protection to commercial and charitable solicitation. Using the defined term “charitable solicitation” might mislead non-charitable solicitors into thinking that the ordinance does not apply to them, according to the Attorney’s Office.

Other Comments

Some comments echoed comments in the report *Homes Not Handcuffs: The Criminalization of Homelessness in U.S. Cities*. The report was published by The National Law Center on Homelessness & Poverty and The National Coalition for the Homeless in July 2009. According to the report:

Instead of criminalizing homelessness, local governments, business groups, and law enforcement officials should work with homeless people, providers, and advocates for solutions to prevent and end homelessness.

Cities should dedicate more resources to creating more affordable housing, permanent supportive housing, emergency shelters, and homeless services in general. To address street homelessness, cities should adopt or dedicate more resources to outreach programs, emergency shelter, and permanent supportive housing.¹⁴

Salt Lake City, through management of federal funds such as community development block grants, partnerships with groups such as The Road Home and the Salt Lake City Housing Authority, and through appropriation of general fund revenue, and through the Salt Lake City Redevelopment Agency, has long sought to meet demands for low-income and affordable housing and emergency shelters such as The Road Home.

For example, the City's budget for fiscal year 2011, which began July 1, includes about \$205,000 in general fund allocations for the Weigand Homeless Shelter, community emergency winter housing and Housing Authority transitional housing.

The Salt Lake Housing Authority this year bought a site at 1900 West North Temple with a 110 units of housing for veterans of the armed services. The housing replaces Valor House which the Housing Authority operated on the Veterans Administration Hospital campus. The Housing Authority plans to build another building holding roughly 60 units on the VA Hospital campus to house veterans who need extensive services such as drug and alcohol treatment and physical therapy that can be provided on site. The Sunrise apartments and the new Freedom Landing apartments would house veterans who no longer need as many services and want to live off the hospital campus.

In addition, Salt Lake City has participated in projects by The Road Home to house chronically homeless individuals through its Pathways Project and Palmer Court and The Road Home's main shelter on Rio Grande Street.

Panhandling laws

Homes not Handcuffs notes that in 235 cities throughout the nation surveyed for the report:

- 49 percent prohibit aggressive panhandling
- 47 percent of the cities prohibit begging in particular public places; 23 percent have citywide prohibitions
- 47 percent prohibit loitering in particular public areas; 19 percent prohibit loitering citywide.
- 33 percent prohibit camping in particular public places; 19 percent prohibit loitering citywide
- 30 percent prohibit sitting or lying in certain public places¹⁵

Panhandling, lists the following places that have enacted aggressive panhandling laws: the states of California and Hawaii, and the cities of Albuquerque, Atlanta, Baltimore, Cincinnati, Dallas, Minneapolis, San Francisco, Seattle, Tulsa, Oklahoma, and Washington, D.C.¹⁶

Some people who commented on the draft ordinance said laws already in the *City Code* that could be used to deter panhandling and public disorder. Below is a list of some City ordinances.

11.12.020: DISTURBING THE PEACE:

A. A person is guilty of disturbing the peace if such person:

1. Refuses to comply with the lawful order of the police to move from a public place;
2. Knowingly creates a hazardous condition;
3. Intending to cause inconvenience, annoyance or alarm, or recklessly creating a risk thereof:
 - a. Engages in fighting, violent, tumultuous or threatening behavior,
 - b. Uses words and/or does or makes any unreasonable act, gesture, or display that are intended to cause acts of violence or are inherently likely to cause a violent reaction by the person to whom the words or the act, gesture, or display are addressed and that, under the circumstances, create a clear and present danger of a breach of the peace or imminent threat of violence,
 - c. Makes unreasonably loud noises in a private place that can be heard in a public place,
 - d. Maliciously or willfully disturbs the peace or quiet of another or of any public place by making an unreasonably loud noise or by discharging firearms, or
 - e. Obstructs vehicular or pedestrian traffic, except as allowed pursuant to the provisions of *Title 3 Chapter 3.50* of this code.

11.12.060: DRINKING AND DRUNKENNESS IN PUBLIC PLACES:

A. It is unlawful to:

1. Drink liquor in a public building, park or stadium; or
2. Be under the influence of alcohol, a controlled substance, or any substance having the property of releasing toxic vapors to a degree that the person may endanger himself or herself or another, if such person is in a public place or in a private place where he/she unreasonably disturbs other persons.

B. A peace officer or magistrate may release from custody an individual arrested under this section, if he or she believes imprisonment is unnecessary for the protection of the individual or another; or a peace officer may take a person arrested under this section to a detoxification center or other special facility designated by the courts of Utah or by state law, as an alternative to jail incarceration for such offenses.

C. An offense under this section is a class C misdemeanor. (Ord. 88-86 § 60, 1986: prior code § 32-1-4)

11.12.065: UNLAWFULLY OPENING, POSSESSING OR CONSUMING AN ALCOHOLIC BEVERAGE IN A PUBLIC PLACE:

A. Unlawful To Have Open Containers Of Alcohol In Designated Areas: No person shall open, possess, or consume from an open bottle, can or other receptacle containing an alcoholic beverage in an unpermitted public place.

B. Definitions: As used in this section:

UNPERMITTED PUBLIC PLACE: 1. Any street, right of way, sidewalk, alley, publicly owned property or state or county road located within the Salt Lake City limits and which abuts upon: a) any county or city owned real property; b) any business required to have a Salt Lake City business license pursuant to *Title 5, Chapter 5.02* of this code;

- Boarded or abandoned commercial buildings;

- Vacant lots in areas zoned for commercial or manufacturing uses; or
- Any publicly owned building or publicly owned real property. "Unpermitted public place" shall not mean or include a premises or area identified in a license or permit issued by the city as authorizing the possession or consumption of alcohol, when there is conformance with the applicable license or permit restrictions; businesses specifically permitted under *Title 6* of this code; business licensed as home occupations as defined in title 21A of this code; or apartment houses as defined and licensed in accord with *Title 5, Chapter 5.14* of this code.

11.12.080: CAMPING AND SLEEPING ON PUBLIC GROUNDS:

A. It is unlawful for any person to camp, lodge, cook, make a fire or pitch a tent, fly, lean to, tarpaulin, umbrella or any other type of ground cover or shelter, or place sleeping bags, bedding or any other type of camping or sleeping equipment on any "public grounds", as defined in subsection B of this section, and it is unlawful for any person using or benefiting from the use of any of the foregoing items of shelter or camping or sleeping equipment to fail to remove the same from such public grounds for more than five (5) minutes after being requested to do so by any police officer or citizen.

B. For the purpose of this section, the term "public grounds" means any real property owned in whole or in part by the United States of America and its agencies, or the state of Utah or any of its political subdivisions, including Salt Lake City Corporation, upon which no camping or sleeping has been authorized by the owner, but excluding there from public streets and parks. (Prior code § 32-3-10)

14.20.100: LOITERING ON SIDEWALK:

It is unlawful for any person to remain standing, lying or sitting on any sidewalk for a longer period than two (2) minutes, in such manner as to obstruct the free passage of pedestrians thereon, or willfully to remain standing, lying or sitting thereon in said manner for more than one minute after being requested to move by any police officer, or willfully to remain on any sidewalk in such manner as to obstruct the free passage of any person or vehicle into or out of any property abutting upon said sidewalk or any property having access to such sidewalk. (Ord. 88-86 § 62, 1986: prior code § 38-3-9)

14.28.050: STANDING, LYING OR SITTING ON STREETS OR HIGHWAYS:

It is unlawful for any person to remain standing, lying or sitting on any street or highway in a manner which obstructs the free passage of vehicular or pedestrian traffic thereon, or which creates a hazard to any person, or to willfully remain on such street or highway in a manner which obstructs the free passage of any person or vehicle into or out of any property abutting upon such street or highway, or any property having access to such street or highway. (Prior code § 41-2-5)

14.28.060: CAMPING AND RELATED ACTIVITIES PROHIBITED:

It is unlawful for any person to camp, lodge, sleep, cook, make a fire or pitch a tent, fly, lean to, tarpaulin, umbrella, or any other type of ground cover or shelter, or place sleeping bags, bedding or any other type of camping or sleeping equipment upon any portion of a street, as defined in this title, as amended, or its successor, and it is unlawful for any person using or benefiting from the use of any of the foregoing shelter or camping or sleeping equipment to fail to remove the same from any such street for more than five (5) minutes after being requested to do so by any police officer or citizen. (Prior code § 41-2-6)

15.08.080: CAMPING:

- A. No person shall camp, lodge, or pitch a tent, fly, lean to, tarpaulin or any other type of camping equipment in any park or playground except:
1. In cases of local emergency as declared by the mayor of the city.
 2. Youth groups the majority of whose members' ages are at least eight (8) years of age, but no more than seventeen (17) years of age, under the following conditions:
 - a. The youth are accompanied by adult leaders in the ratio of two (2) adults for every ten (10) youth at all times while the youth are camping in a city park.
 - b. The youth group provides adequate police and fire security to ensure the safety of the campers and garbage removal and cleanup. The sponsor shall submit a plan along with an application for a special events permit to the city which shall be reviewed and approved by the public services department director, the fire and police chiefs, or their designees, who will forward a recommendation to the mayor as to whether or not the request for camping should be granted. Application for the special events permit shall be made directly to the special events coordinator who shall forward all accompanying information to the appropriate departments.
 - c. The youth group files a bond in the amount of ten thousand dollars (\$10,000.00) to compensate the city for any damage to the park caused by the youth group during their camping activities.
 - d. The youth group files a certificate of insurance in the aggregate amount of one million dollars (\$1,000,000.00), which names the city as an additional insured.
 - e. No camping is allowed in any one park for more than forty eight (48) continuous hours in any thirty (30) day period.
 - f. The youth group shall comply with all ordinances and park regulations relating to city parks.
 - g. No more than sixty (60) people shall be allowed to camp at one time.

It should be noted that some of the ordinances listed above are under review by Mayor Becker's Administration.

It also might be noted that, "Enforcing other laws panhandlers commonly violate – those regarding drinking in public, trespassing, disorderly conduct, etc. – can help control some aspects of the panhandling problem," according to the study guide, *Panhandling*.¹⁷

OTHER INFORMATION

Panhandling, provides the following profile of the average person engaged in the practice:

The typical profile of a panhandler that emerges from a number of studies is that of an unemployed, unmarried male in his 30s or 40s with substance abuse problems, few family ties, a high school education, and laborer's skills. ...

Some panhandlers have criminal records, but panhandlers are nearly as likely to have been crime victims as offenders. Some are transient, but most have been in their community for a long time.

Contrary to common belief, panhandlers and homeless people are not necessarily one and the same. Many studies have found that only a small percentage of homeless people panhandle, and only a small percentage of panhandlers are homeless. (The author notes that "at a minimum, most studies have found that few panhandlers routinely sleep outdoors at night.) ...

Most evidence confirms that panhandling is not lucrative, although some panhandlers clearly are able to subsist on a combination of panhandling money, government benefits, private charity, and money from odd jobs such as selling scavenged materials or plasma.¹⁸

The study also describes who typically is approached by panhandlers and who gives panhandlers money.

Many who get panhandled are people of “modest means,” according to the study. *Panhandling* cites estimates of between 10 percent and 60 percent of people approached by panhandlers give them money. Roughly half of all college students approached by panhandlers reported giving them money. “There is some evidence that women and minorities tend to give more freely to panhandlers,” and “panhandlers more commonly target women than men.” According to the study, “Conventioneers and tourists are good targets for panhandlers because they are already psychologically prepared to spend money.”¹⁹

According to the study, “Panhandling is more common in communities that provide a high level of social services to the needy, because the same citizens who support social services are also likely to give money directly to panhandlers; panhandlers are drawn to communities where both free social services and generous passers-by are plentiful.”²⁰

Nevertheless, the study goes on to say, “The state of the economy, at the local, regional and even national level, affects how much panhandling occurs. As the economy declines, panhandling increases. As government benefit programs become more restrictive, panhandling increases. ... The stronger the social bonds and social network on which indigent people can rely for emotional and financial support, the less likely they are to panhandle.”²¹

¹ Proposed ordinance, Page 2, paragraph 3

² Downtown Alliance news release, October 6, 2009

³ *Panhandling*, Michael Scott, 2002, Page 17

⁴ Letter, November 8, 2010, Gina Cornia, Linda F. Smith, Bill Tibbitts

⁵ Ibid.

⁶ Letter, Salt Lake Chamber, July 26, 2010

⁷ Letter, American Civil Liberties Union of Utah, July 27, 2010

⁸ Ibid. Page 22

⁹ Ibid. Page 13

¹⁰ Spare Change, Certified Public Management Task Force, June 2009, Page 26. (Please see attached graphic.)

¹¹ Electronic Mail, Boyd Ferguson, August 13, 2009.

¹² Commercial Solicitation Public Comment Summary, Matt Lyon, October 26, 2009, Page 2

¹³ Administration transmittal letter, June 10, 2010, Page 2

¹⁴ *Homes Not Handcuffs: The Criminalization of Homelessness in U.S. Cities*, The National Law Center on Homelessness & Poverty and The National Coalition for the Homeless, July 2009, Page 13

¹⁵ Ibid. Page 10

¹⁶ *Panhandling*, Michael Scott, 2002, Page 20

¹⁷ Ibid. Page 20

¹⁸ Ibid. Pages 5,6, and 10

¹⁹ Ibid. Pages 7 and 8

²⁰ Ibid. Page 8

²¹ Ibid, Page 11

November 8, 2010

Dear Salt Lake City Council:

The purpose of this letter is to recommend one very specific amendment to Mayor Becker's proposed ordinance limiting commercial solicitation. We have other philosophical and legal concerns with the ordinance but feel this specific problem is worth highlighting because we believe it is something Council Members will likely reach a consensus on, regardless of their positions on other parts of the ordinance.

Our specific concern is with the name of the offense. "Commercial solicitation" is too close in name to the offenses, "sexual solicitation" and "solicitation of prostitution". In Utah, "sexual solicitation" is a class B misdemeanor-- just like the proposed new offense of "commercial solicitation". It is possible that people, particularly females, convicted of the offense "commercial solicitation" in Salt Lake City will be unfairly stigmatized as having been convicted of an offense involving prostitution if they travel to other parts of the country.

Mayor Becker has made it very clear that his goal with this ordinance is to outlaw aggressive panhandling, not all panhandling. Why not simply rename the offense created by this ordinance something like "aggressive panhandling" or "aggressive begging"? A name like that would be more in accord with the Mayor's intent. It would also make the intent of the Council more clear for police officers who, in future years, cannot be expected to remember that the council was actually concerned with "aggressive panhandling" when it outlawed "commercial solicitation." The possibility of this offense being enforced in an unconstitutional way will be seriously diminished if the name of the offense is more clearly related to the behavior it is intended to discourage.

For this reason, we ask the Council to amend the ordinance so that all references to "commercial solicitation" are changed to something more clear like "aggressive panhandling" or "aggressive begging".

Sincerely,

Gina Cornia
Executive Director
Utahns Against Hunger

Linda F. Smith
Professor and Clinical Program Director
S. J. Quinney College of Law
University of Utah

Bill Tibbitts
Anti-Hunger Project Director
Crossroads Urban Center



AMERICAN CIVIL LIBERTIES UNION OF UTAH FOUNDATION, INC
355 NORTH 300 WEST, SALT LAKE CITY, UT 84103
(801) 521-9862 PHONE • (801) 532-2850 FAX
ACLU@ACLUUTAH.ORG • WWW.ACLUUTAH.ORG

Mayor Becker
Salt Lake City
mayor@slcgov.com

July 27, 2010

Re: Salt Lake City's Revised Proposed Commercial Solicitation Ordinance

Dear Mayor Becker,

The ACLU of Utah appreciates your recognition that the first proposed Commercial Solicitation Ordinance, submitted to the public for comment in 2009, was unworkable and likely unconstitutional. While we applaud your efforts to address the concerns we, and others, brought to your attention, the newly revised ordinance still suffers from many of the same flaws we addressed in our letter of September 18, 2009.

We stress again that despite the benign title of the ordinance, purporting to target "commercial solicitation," it is clear that the ordinance will restrict the ability of individuals in Salt Lake City to engage in First Amendment protected activity, including the right to request charitable solicitations.

While the revised ordinance removes the highly problematic section allowing for penalties if citizens are untruthful in soliciting charity, it still contains restrictions, albeit narrowed, on the locations where an individual can engage in First Amendment protected charitable solicitations.

From a legal perspective, a statute that limits the situs of expression based on the content of the message runs the risk of violating Utah's constitutional provisions regarding free speech, previously interpreted by the Utah Supreme Court as providing for **greater** protection than the federal counterpart.¹

As you may recall from our last communication on this topic, in March 2009, a judge in Oregon ruled that the city of Medford's similar anti-panhandling ordinance violated Article 1, Section 8, of the Oregon Constitution, which prohibits passing any law restricting freedom of speech.² The court concluded that the ordinance's

¹ See *Provo City Corp. v. Willden*, 768 P.2d 455, n. 2 Utah, 1989; see also *American Bush v. City of South Salt Lake*, 140 P.3d 1235, 1242 Utah, 2006.

² See *Volkart v. City of Medford*, No. 08-1030-E1 (Oregon Circuit Court March 19, 2009) (order granting summary judgment).

prohibition against “in-person requests” for “immediate donations” in certain locations was unconstitutional under the Oregon Constitution.³

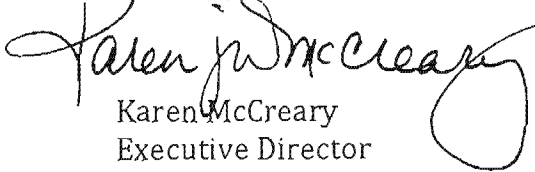
In Utah, it remains to be seen if an ordinance, such as your revised Commercial Solicitation Ordinance, which implicates free speech, will prove vulnerable to challenge under the similarly exacting Utah free expression standards.

Finally, we must reiterate that passing an ordinance like the Revised Commercial Solicitation Ordinance is likely to be difficult to enforce and may prove ineffective. Police and prosecutorial resources are scarce, targets of this type of ordinance are unlikely to have funds to pay fines or to appear in court and jails have limited space and are already overcrowded with serious offenders. Furthermore, this type of ordinance may invite selective enforcement on the part of law enforcement, whereby certain speakers are targeted because of an unpopular message, while other more established charities are free to solicit charity, even in violation of the letter of the ordinance.

We respectfully urge the city to consider alternatives to criminalizing charitable solicitation, and instead focus on more positive ways to increase social services to those members of our community who are in need.

Please feel free to contact us should you have any questions.

Sincerely,



Karen McCreary
Executive Director



Marina Lowe
Legislative & Policy Counsel

cc: Russell Weeks

³ *Id.*

October 6, 2009
FOR IMMEDIATE RELEASE

Contact: Danica Farley
Organization: Downtown Alliance
Phone: (801) 333-1105

End Panhandling: Campaign Kick Off

Salt Lake City- The Downtown Alliance today unveiled a new educational campaign designed to discourage donations to panhandlers and encourage donations to local social service organizations.

Mayor Ralph Becker (Salt Lake City), Jason Mathis (executive director of the Downtown Alliance), Bill Paulos (president of The Summit Group) and Jake Boyer (chair of the Salt Lake Chamber), addressed problems associated with panhandling and presented an educational campaign to discouraged panhandling.

“The campaign is multi-year and multi-faceted,” said Jason Mathis. “Commercial solicitors have a negative impact on businesses and aggressive panhandlers intimidate patrons, employees and visitors. They detract from a dynamic environment in the Central Business District, and complicate development efforts.”

The campaign includes an informative Web site, www.endpanhandling.com, public service announcements, and signage on TRAX and FrontRunner. Additional elements will be added in coming months. As the campaign evolves, The Downtown Alliance will incorporate ideas from the community of how to support shelters, not panhandlers.

Panhandling is not an issue unique to downtown or Salt Lake City—it is a problem in communities across the Wasatch Front and across the nation. In many cases panhandlers are not homeless and often use donations to fuel addictions and other self-destructive behaviors.

But every problem has a solution. Even small donations can help to create significant programs to help people in need. Social service organizations in Salt Lake City provide services for people who find themselves in need. In the Central Business District, these organizations include Catholic Community Services, Volunteers of America, The Road Home, and the 4th Street Clinic. Instead of giving spare change to panhandlers, this campaign encourages residents and visitors to donate money or time to local organizations that are dedicated to solving problems in our community.

The campaign was developed in coordination with local service providers and is based on research conducted by the Utah program for Certified Public Management, part of the State Department of Human Resource Management.

“We are grateful for the efforts of community leaders like Glen Watkins with Jones Waldo, Vasilios Priskos with InterNet Properties who led this campaign and for Bill Paulos with the Summit Group who donated all of the creative work,” said Mathis. “This is a team effort led by and for the community.”

The Downtown Alliance is dedicated to building a dynamic and diverse community that is the regional center for culture, commerce and entertainment. For more information, visit downtownslc.org.

###

Danica Farley | Public Relations | Downtown Alliance | danica@downtownslc.org | 801.333.1105



**Salt Lake
Chamber**
Utah's Business Leader™

175 E. University Blvd. (400 S.) Suite 600
Salt Lake City, Utah 84111
801.364.3631 • Fax 801.328.5098
www.slchamber.com

July 26, 2010

Salt Lake City Council
Council Chair J.T. Martin
451 South State Street, Room 304
P.O. Box 145476
Salt Lake City, Utah 84114-5476

Dear Council Chair Martin:

On behalf of the 6,100 member businesses we represent, the Salt Lake Chamber applauds Mayor Ralph Becker and the Salt Lake City Council for working together to find a solution to this ongoing issue. We appreciate Salt Lake City's efforts to address the challenges associated with panhandling in a principled and pragmatic way.

Salt Lake City is not alone in working to address the challenges raised by panhandlers. Many communities across the state and nation have attempted to put into effect time, place and manner restrictions on panhandling. The moderate and thoughtful approach submitted by the Mayor to the City Council balances multiple interests and codifies as illegal the threatening actions of aggressive panhandlers.

Many Salt Lake area businesses have identified panhandling as one of their primary concerns. Panhandling can deter customers from visiting a specific business, street or neighborhood. Panhandlers negatively impact Salt Lake's convention business and have been cited as a significant concern by convention delegates and meeting planners alike.

Panhandlers may also often divert funds from legitimate homeless service providers in an effort to fuel chemical addictions or other self destructive behaviors. Working with our strategic partner the Downtown Alliance, we have launched a panhandling education campaign that encourages concerned residents of the Salt Lake Valley to donate money to shelters and other homeless service providers.

The Salt Lake Chamber praises the work of these providers in helping to find solutions to these challenging problems. The Road Home, Catholic Community Services, the Fourth Street Clinic and Volunteers of America are just a few examples of the many organizations who work very hard every day to help disadvantaged people in our community. We also recently started working with the Salt Lake Mission to support *The Street News*, a newspaper written and sold by members of the homeless community. As a business organization, we recognize the real needs of vulnerable and homeless people in Utah. We are committed to working with the faith groups, nonprofits, charitable organizations and government agencies to help address these needs.

The Salt Lake Chamber also recognizes that panhandling is not the answer to meeting these needs. In many cases it exacerbates the problem for individuals and society. We urge the City Council to consider and implement Mayor Becker's recommendations regarding aggressive panhandling in Salt Lake City.

Sincerely,

Lane Beattie
President and CEO



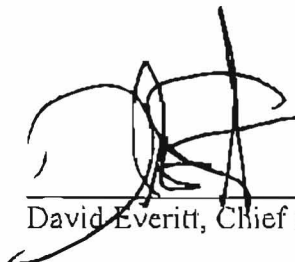
RALPH BECKER
MAYOR

SALT LAKE CITY CORPORATION

OFFICE OF THE MAYOR

CITY COUNCIL TRANSMITTAL

SCANNED TO: *mege*
SCANNED BY: *kege*
6/10/2010
RECEIVED
JUN 10 2010
BY: *kege*



David Everitt, Chief of Staff

Date Received: 06/10/2010
Date sent to Council: 06/15/2010

TO: Salt Lake City Council
JT Martin, Chair

DATE: June 10, 2010

FROM: David Everitt, Chief of Staff
(801) 535-7732

SUBJECT: Commercial Solicitation Ordinance

STAFF CONTACT: David Everitt, Chief of Staff

DOCUMENT TYPE: Ordinance

RECOMMENDATION: The Mayor recommends that the City Council adopt a Commercial Solicitation Ordinance.

BUDGET IMPACT: N/A

BACKGROUND/DISCUSSION: Salt Lake City Government has received a number of responses and complaints from the public regarding aggressive solicitation – an activity that fosters intimidation and precludes many from fully enjoying certain areas of the city. In an effort to promote a sense of safety and security for residents and visitors of Salt Lake City, this Commercial Solicitation Ordinance would prohibit aggressive panhandling, per the time, place and manner restrictions identified herein.

This Commercial Solicitation Ordinance compliments the business community's public education outreach regarding panhandling, which encourages residents to refer their charitable dollars to service providers who can direct funds specifically where they are needed.

PUBLIC PROCESS: From July 29 to September 18, 2009, the Mayor's Office solicited and received public comment on the proposed Commercial Solicitation Ordinance. Feedback came from businesses, individuals, organizations and members of the homeless community. Sixty-nine percent of respondents expressed support for the proposal, twenty-six percent of respondents opposed and 5% were neutral (see attached public comment section). During the public comment period the Mayor's Office hosted or attended meetings with stakeholders which



included: American Civil Liberties Union of Utah, Catholic Community Services, Crossroads Urban Center, Downtown Alliance, Fourth Street Clinic, the Salt Lake City Business Advisory Board and the Salt Lake City Human Rights Commission.

Based on the feedback received during the official comment period, and subsequently thereafter, several important changes to the draft Commercial Solicitation Ordinance were implemented. Concerns regarding the “false pretense” section of the original draft ordinance, meant to prohibit misrepresentation while panhandling, created a “burden of proof” on individuals to confirm their status (i.e. as a veteran or as homeless). Similarly, such a provision would be difficult to enforce. Because of these reasons, this section of the draft ordinance was omitted.

Additionally, all distance restrictions regarding commercial solicitation were reduced from twenty feet to 10 feet to better balance the sense of safety and security with First Amendment concerns.

After the implementation of these changes, the Salt Lake City Human Rights Commission has expressed their support for the ordinance, as they state it strikes a balance between these various community concerns. Their letter of support is also attached for your review.

SALT LAKE CITY ORDINANCE

No. _____ of 2010

(Commercial Solicitation)

An ordinance enacting Chapter 11.70 of the Salt Lake City Code, relating to commercial solicitation.

WHEREAS, the City Council intends in enacting this chapter to recognize free speech rights for all citizens while at the same time protecting the coexistent rights for all citizens to enjoy safe and convenient travel in public spaces free from intimidation, threats, and harassment that stem from certain types of abusive solicitation; and

WHEREAS, it has been observed that "requests for immediate payment of money create a strong potential for fraud or undue pressure, in part because of lack of time for reflection." *International Society for Krishna Consciousness v. Lee*, 505 U.S. 672 (1992) (concurrence by Justice Kennedy); and

WHEREAS, the City Council finds that there are numerous forms of solicitation that are not in and of themselves inherently threatening or aggressive, including non-vocal requests for a donation; carrying or displaying a sign requesting donations; shaking or jingling a cup of change; and ringing a bell in compliance with any applicable noise ordinance; and

WHEREAS, however, the City Council finds that there has been an increase in aggressive solicitation in the City, which threatens the security and privacy of both residents and visitors and may constitute harassment of such persons; and

WHEREAS, the City Council also finds that the presence of solicitors near banks or automatic teller machines in certain locations or at night can be especially threatening to persons; and

WHEREAS, the City Council finds that certain solicitation impedes the orderly flow of pedestrian and vehicular traffic that leads to concerns regarding traffic and public safety; and

WHEREAS, this chapter is not intended to impermissibly limit an individual's right to exercise free speech associated with solicitation; rather it aims to impose specific time, place, and manner restrictions on solicitation and associated conduct in certain limited circumstances; namely, aggressive solicitation, solicitation at locations or times deemed particularly threatening and dangerous, or soliciting in places where people are a "captive audience" and there is a wish to avoid or reduce a threat of inescapable confrontations; and

WHEREAS, in promulgating this chapter, the City Council seeks to impose regulations that are narrowly tailored to serve the aforementioned significant government interests.

Be it ordained by the City Council of Salt Lake City, Utah:

SECTION 1. That Chapter 11.70 of the Salt Lake City Code, relating to commercial solicitation be, and the same hereby is, enacted as follows:

11.70.010 Commercial Solicitation:

A. Definitions.

"Commercial solicitation" or "to commercially solicit" is any request made in person on a street, sidewalk, or public place, asking for an immediate donation of money

or other thing of value, including the purchase of an item or service for an amount far exceeding its value, under circumstances where a reasonable person would understand that the purchase is a donation. Commercial solicitation shall not include passively standing or sitting with a sign or other indication that one is seeking donations without addressing the request to any specific person, and does not refer to conduct regulated by chapter 5.64 of this code.

B. Prohibited Conduct

(1) Commercial solicitation in certain areas. It shall be unlawful for any person to commercially solicit when the person solicited is in any of the following places within the city:

- a. Inside or within ten (10) feet of a sidewalk cafe or any outside eating or dining establishment;
- b. At or within ten (10) feet of a line of people waiting to gain admission to a place or vehicle or waiting to purchase an item or admission ticket;
- c. At or within ten (10) feet of a food-dispensing street vendor;
- d. In any public transportation vehicle or public transportation facility, excluding airports;
- e. At or within ten (10) feet of a bus or train stop; or
- f. Within ten (10) feet of the entrance to a place of religious assembly.

(2) Money dispensing areas. It shall be unlawful to commercially solicit if the person making the solicitation knows or reasonably should know that the solicitation is occurring within ten (10) feet in any direction of an automated teller machine, including

within ten (10) feet in any direction of any entrance or exit to a building containing an automated teller machine that is visible from the street.

(3) **Particular manners.** The following manners of commercial solicitation are expressly prohibited, at any time and in any manner, because of the coercive nature of each:

a. Hindrance to traffic.

1. Commercially soliciting in any manner that serves to intentionally block, obstruct, or interfere with orderly flow of either vehicles or pedestrians.

2. Commercially soliciting in any manner that intentionally and unreasonably causes a pedestrian or vehicle operator to take evasive action to avoid physical contact.

3. Commercially soliciting in any manner that violates traffic regulations for pedestrians or vehicles.

b. Aggressive commercial solicitation. It shall be unlawful for any person to commercially solicit in an aggressive manner, including any of the following actions:

1. Approaching or speaking to a person, or following a person before, during or after commercial solicitation, if that conduct is intended or is likely to cause a reasonable person to fear bodily harm to oneself or to another, or damage to or loss of property or otherwise be intimidated into giving money or any other thing of value;

2. Intentionally touching or causing physical contact with another person without that person's consent in the course of commercial solicitation; or

3. Directing violent or threatening gestures toward the subject of the commercial solicitation:

(a) By blocking the path of the person solicited; or

(b) By following or walking behind, ahead of, or alongside the person solicited;

or

(c) By using profane or abusive language, either during the solicitation or following refusal; or

(d) By accosting or forcing oneself upon the company of another; or

(e) By any statement, gesture, or other communication that a reasonable person in the situation of the person solicited would perceive to be a threat; or

(f) By commercially soliciting in a group of two (2) or more persons fourteen (14) years of age or older.

(4) **Nighttime commercial solicitation.** It shall be unlawful for any person to commercially solicit after sunset and before sunrise.

C. Violation.

Violation of any provision of this chapter shall constitute a class B misdemeanor.

SECTION 2. That this ordinance shall take effect immediately upon the date of its first publication.

Passed by the City Council of Salt Lake City, Utah this _____ day of _____, 2010.

CHAIRPERSON

ATTEST:

CITY RECORDER

APPROVED AS TO FORM
Salt Lake City Attorney's Office
Date 6-3-10
By [Signature]

Transmitted to Mayor on _____.

Mayor's Action: _____ Approved. _____ Vetoed.

MAYOR

CITY RECORDER

(SEAL)

Bill No. _____ of 2010.

Published: _____.

HB_ATTU-#7038-v4-Ordinance_regulating_panhandling

SALT LAKE CITY ORDINANCE

No. _____ of 2010

(Commercial Solicitation)

An ordinance enacting Chapter [11.70](#) of the Salt Lake City Code, relating to commercial solicitation.

WHEREAS, the City Council intends in enacting this chapter to recognize free speech rights for all citizens while at the same time protecting the coexistent rights for all citizens to enjoy safe and convenient travel in public spaces free from intimidation, threats, and harassment that stem from certain types of abusive solicitation; and

WHEREAS, it has been observed that "requests for immediate payment of money create a strong potential for fraud or undue pressure, in part because of lack of time for reflection." *International Society for Krishna Consciousness v. Lee*, 505 U.S. 672 (1992) (concurrence by Justice Kennedy); and

WHEREAS, the City Council finds that there are numerous forms of solicitation that are not in and of themselves inherently threatening or aggressive, including non-vocal requests for a donation; carrying or displaying a sign requesting donations; shaking or jingling a cup of change; and ringing a bell in compliance with any applicable noise ordinance; and

WHEREAS, however, the City Council finds that there has been an increase in aggressive solicitation in the City, which threatens the security and privacy of both residents and visitors and may constitute harassment of such persons; and

WHEREAS, the City Council also finds that the presence of solicitors near banks or automatic teller machines in certain locations or at night can be especially threatening to persons; and

WHEREAS, the City Council finds that certain solicitation impedes the orderly flow of pedestrian and vehicular traffic that leads to concerns regarding traffic and public safety; and

WHEREAS, this chapter is not intended to impermissibly limit an individual's right to exercise free speech associated with solicitation; rather it aims to impose specific time, place, and manner restrictions on solicitation and associated conduct in certain limited circumstances; namely, aggressive solicitation, solicitation at locations or times deemed particularly threatening and dangerous, or soliciting in places where people are a "captive audience" and there is a wish to avoid or reduce a threat of inescapable confrontations; and

WHEREAS, in promulgating this chapter, the City Council seeks to impose regulations that are narrowly tailored to serve the aforementioned significant government interests.

Be it ordained by the City Council of Salt Lake City, Utah:

SECTION 1. That Chapter 11.70 of the Salt Lake City Code, relating to commercial solicitation be, and the same hereby is, enacted as follows:

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A. Definitions.

"Commercial solicitation" or "to commercially solicit" is any request made in person on a street, sidewalk, or public place, asking for an immediate donation of money

or other thing of value, including the purchase of an item or service for an amount far exceeding its value, under circumstances where a reasonable person would understand that the purchase is a donation. Commercial solicitation shall not include passively standing or sitting with a sign or other indication that one is seeking donations without addressing the request to any specific person, and does not refer to conduct regulated by chapter 25.64 of this code.

B. Prohibited Conduct

(1) Commercial solicitation in certain areas. It shall be unlawful for any person to commercially solicit when the person solicited is in any of the following places within the city:

- a. Inside or within ~~twenty ten~~ (21)0 feet of a sidewalk cafe or any outside eating or dining establishment;
- b. At or within ~~twenty ten~~ (21)0 feet of a line of people waiting to gain admission to a place or vehicle or waiting to purchase an item or admission ticket;
- c. At or within ~~twenty ten~~ (21)0 feet of a food-dispensing street vendor;
- d. In any public transportation vehicle or public transportation facility, excluding airports;
- e. At or within ~~twenty ten~~ (21)0 feet of a bus or train stop; or
- f. Within ~~twenty ten~~ (21)0 feet of the entrance to a place of religious assembly.

(2) Money dispensing areas. It shall be unlawful to commercially solicit if the person making the solicitation knows or reasonably should know that the solicitation is occurring within ~~twenty ten~~ (21)0 feet in any direction of an automated teller machine,

including within ~~twenty ten~~ (210) feet in any direction of any entrance or exit to a building containing an automated teller machine that is visible from the street.

(3) Particular manners. The following manners of commercial solicitation are expressly prohibited, at any time and in any manner, because of the coercive nature of each:

a. Hindrance to traffic.

1. Commercially soliciting in any manner that serves to intentionally block, obstruct, or interfere with orderly flow of either vehicles or pedestrians.
2. Commercially soliciting in any manner that intentionally and unreasonably causes a pedestrian or vehicle operator to take evasive action to avoid physical contact.
3. Commercially soliciting in any manner that violates traffic regulations for pedestrians or vehicles.

b. Aggressive commercial solicitation. It shall be unlawful for any person to commercially solicit in an aggressive manner, including any of the following actions:

1. Approaching or speaking to a person, or following a person before, during or after commercial solicitation, if that conduct is intended or is likely to cause a reasonable person to fear bodily harm to oneself or to another, or damage to or loss of property or otherwise be intimidated into giving money or any other thing of value;
2. Intentionally touching or causing physical contact with another person without that person's consent in the course of commercial solicitation; or
3. Directing violent or threatening gestures toward the subject of the commercial solicitation:
 - (a) By blocking the path of the person solicited; or

(b) By following or walking behind, ahead of, or alongside the person solicited;

or

(c) By using profane or abusive language, either during the solicitation or following refusal; or

(d) By accosting or forcing oneself upon the company of another; or

(e) By any statement, gesture, or other communication that a reasonable person in the situation of the person solicited would perceive to be a threat; or

(f) By commercially soliciting in a group of two (2) or more persons fourteen (14) years of age or older.

~~(4) False or misleading solicitation. It shall be unlawful for any person to knowingly make any false or misleading representation in the course of commercial solicitation.~~

~~False or misleading representations include, but are not limited to, the following:~~

~~a. Stating that the solicitor is from out of town and stranded when such is not true;~~

~~b. Stating or suggesting falsely that the solicitor is either a current or former member of the armed services;~~

~~c. Wearing or displaying an indication of physical disability when the solicitor does not suffer the disability indicated;~~

~~d. Use of any makeup or device to simulate a deformity;~~

~~e. Stating that the solicitor is homeless, when he or she is not;~~

~~f. Stating that the donation is needed to meet a specific need, when the solicitor already has sufficient funds to meet the need and does not disclose that fact; or~~

~~g. Stating that the donation is needed to meet a need that does not exist.~~

(54) **Nighttime commercial solicitation.** It shall be unlawful for any person to commercially solicit after sunset and before sunrise.

C. Violation.

Violation of any provision of this chapter shall constitute a class B misdemeanor. ~~[Input regarding enforcement options is encouraged and welcome.]~~

SECTION 2. That this ordinance shall take effect immediately upon the date of its first publication.

Passed by the City Council of Salt Lake City, Utah this _____ day of _____, 2010.

CHAIRPERSON

ATTEST:

~~CHIEF DEPUTY~~-CITY RECORDER

Transmitted to Mayor on _____.

Mayor's Action: _____ Approved. _____ Vetoed.

MAYOR

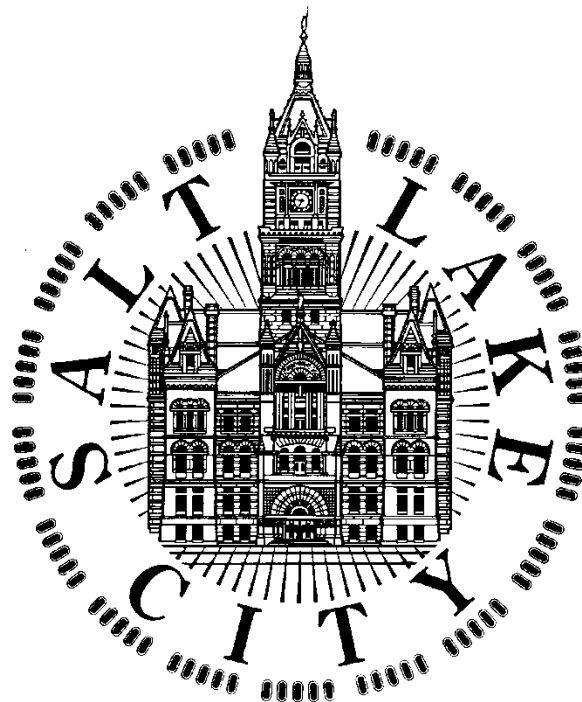
CITY RECORDER

(SEAL)

Bill No. _____ of 2010.
Published: _____.

Commercial Solicitation

Public Comment Summary



10/26/2009

Salt Lake City Corporation

Matt Lyon, Assistant to the Chief of Staff

On July 29, 2009, Salt Lake City released the proposed commercial solicitation ordinance for public comment and review. An email notice was sent to almost 100 stakeholders from various homeless and low income organizations. Comment was also solicited from Salt Lake City business organizations, community councils, and boards and commissions. The proposed ordinance was made available online at www.slcgov.com and covered extensively by multiple media outlets on numerous occasions. Although comments were accepted after the deadline, the official comment period ended on September 18, 2009.

In all, Salt Lake City received 61 unique comments, representing 6 organizations, regarding the proposed commercial solicitation ordinance. Comments were received from individuals, businesses, organizations, and a few (four) self-identified homeless individuals. The majority of comments, 70%, spoke in favor of the changes, 25% opposed the proposal, and 5% of the comments remained neutral or did not express a position.

	Number	Percentage
Support	42	68.9%
Oppose	16	26.2%
Neutral	3	4.9%
Total	61	100.0%

Copies of the emails and comments received can be seen below.

In addition to verbal and written comment, meetings were held with the following organization at their request:

- American Civil Liberties Union of Utah
- Business Advisory Board
- Catholic Community Services
- Crossroads Urban Center
- Downtown Alliance
- Fourth Street Clinic
- Salt Lake City Human Rights Commission

Public input varied. The below tables provide an overview of the types of comments received. The tables do not reflect the frequency of the comments or public input made.

- SUPPORT -

- Panhandling is not just a Downtown problem
- Panhandling negatively impacts the economy
- Panhandling discourages people from coming downtown
- Panhandling discourages tourism
- Panhandling creates a negative image of downtown Salt Lake City.
- Aggressive panhandling deters conventions from coming to Salt Lake City
- Some panhandlers are aggressive and threatening
- Panhandlers work in professional circuits
- Salt Lake City has a reputation of being a good place for panhandling
- Panhandlers do not pay taxes
- Panhandlers are not homeless
- Panhandling is an increasing problem in Salt Lake City
- The same panhandlers are seen day after day
- Panhandling creates feelings of unsafe environments
- Services are available for those truly in need
- Enforcement may be difficult
- Proper enforcement will be needed

Many comments support of the draft ordinance sought to add locations to the list where commercial solicitation was prohibited. These included:

- Business Entryways
- Entrances to Residential Buildings
- Freeway Onramps
- Vending Machines
- Gas Stations
- Grocery Stores
- Parking Lots

Additionally, a number of the comments expressed a desire for the ordinance to go further in restricting panhandling activity, including creating panhandling free zones, prohibiting people from holding signs and passive panhandling, and prohibiting people to panhandle with an animal.

- OPPOSE -

- Ordinance pushes the issue of homelessness “out of sight, out of mind”
- Ordinance will hurt an already needy community
- Salt Lake City has other laws which prohibit the aggressive behavior and address public safety concerns
- Ordinance will place additional pressure on homeless shelters
- Ordinance violates the 1st Amendment and other Constitutional provisions
- Ordinance discriminates against low income individuals
- The bad economy is making it hard to find work
- False pretenses provisions will lead to harassment of homeless people
- False pretenses provisions unfairly pushes burden of proof on to panhandlers
- Law enforcement are not trained to enforce the false pretenses section
- Panhandlers are in need of assistance
- People of different lifestyles is part of a vibrant community
- Discomfort is the fault of the person, not the panhandler
- Ordinance cannot be enforced
- Money from panhandling is a needed source of income
- Rights of homeless people are being eroded
- Panhandlers do not make much money
- Panhandling is a minor problem in comparison to other social issues
- Increase harassment of people who look indigent
- The term “Commercial Solicitation” is misleading
- Panhandlers will turn to more severe crime if they cannot panhandle
- Other alternatives exist to address issue of homelessness and poverty
- Anti-panhandling is a bad message given the current economic recession
- Is panhandling an increasing problem?
- Sidewalks are places for free speech and should be protected as such
- Time restrictions prohibiting panhandling between dusk and dawn are overly broad

A number of comments specifically opposed the provision that prohibited commercial solicitation outside of a church.

- NOTICE OF PUBLIC COMMENT -

EMAIL FROM: Matt Lyon, Assistant to the Chief of Staff
DATE: July 29, 2009
SUBJECT: Call for Comment – Commercial Solicitation Ordinance

Dear Salt Lake City Residents,

Aggressive panhandling and commercial solicitations are becoming more common in our City, especially in the Downtown and Sugarhouse areas. In response to concerns and comments from a number of businesses, tourism associations, individuals, and homeless providers, Salt Lake City is exploring additional methods for regulating commercial solicitations in public areas.

To be clear, the City is not interested in the outright prohibition of panhandling, commercial solicitations, or the free expression rights of individuals. Rather, we are working to address a specific type of behavior that makes people feel unsafe or threatened, prevents free access and movement of individuals, and discourages individuals from coming to Salt Lake City.

We are releasing a draft ordinance for public comment. The draft is intended to be a starting place for healthy dialogue and input. The draft is expected to change and evolve in response to feedback we receive over the next several weeks. We welcome and appreciate your comments.

Please submit your comments to mayor@slcgov.com by Friday, September 18, 2009.

Sincerely,

Ralph Becker
Salt Lake City Mayor

- EMAILS AND COMMENTS -

From: Barry Rose

Sent: Wednesday, July 29, 2009 2:32 PM

To: Mayor

Subject: FW: Call for Comment - Commercial Solicitation Ordinance

I would support the adoption of this ordinance and in fact would support a stricter version if possible to address the large number of these individuals that station themselves at street corners, off ramps, parking lot exits etc. It feels like harassment. Also, I would include proximity to liquor stores as an added deterrent to the individuals who position themselves near liquor stores and are clearly using the money collected for alcohol.

Thanks

Barry Rose

CTP

From: Barbara Sidener

Sent: Wednesday, July 29, 2009 12:10 PM

To: Mayor

Subject: panhandling

I would like to see an outright ban due to knowing full well the folks who are very well organized (at Smiths on 4th and 6th) and taking turns getting money from folks at the entrance and exit, have funds and are using others money for ????? Not acceptable and I am happy to assist them in getting benefits if needed. My guess will be they are well benefited (funds, social security, food stamps, housing, bus passes, food banks, free meals, free clothes) Thanks, Barb

From: Michael Brough

Sent: Wednesday, July 29, 2009 12:09 PM

To: Mayor

Cc: Ellen Reddick

Subject: Panhandling ordinance

I have reviewed the attached draft and I believe that it is well crafted and addresses a very critical and growing problem in our city. I would suggest that under "B - Prohibited Conduct" that another subsection or two be added as follows:

g. Within 20 feet of any outdoor vending machine or fuel dispensing equipment (i.e. fueling stations, self serve car washes, etc).

h. On or within 20 feet of any entrance to any privately owned property that services the public in general, including parking areas.

It is very threatening to have someone approach while the driver is either alone or has passengers (especially when the passengers are disabled, elderly or small children) sitting inside the unlocked vehicle and the driver is outside the vehicle while fueling the car. The driver is preoccupied with the fueling, likely has a credit card out, and when approached in the confined area between the car and

the pump, must be concerned about his or her own safety, the safety of his or her credit card, and more importantly the safety and vulnerability of the passengers sitting in the stationary vehicle which cannot be driven during the period of refueling. The driver is literally trapped with the responsibility for the fueling vehicle and for the passengers and he/she cannot walk away or avoid the panhandler. This situation occurs frequently to me at the Chevron located at the intersection of 13th East and 2100 South in SLC, for example. The panhandlers stand at various points surrounding the property and approach the drivers at different islands as the drivers exit their vehicles to begin fueling. It is unnerving and threatening because you cannot get away from them. They stand right there at the pump with you and while they are not approaching one driver as a group, there are multiple panhandlers on the property approaching different drivers and vehicles.

Thanks for considering these additional circumstances in the proposed ordinance.

Michael R. Brough

Senior Vice President / Corporate Banking Group
Zions First National Bank - Mail code UT-ZB02-0321

From: carol oldshield

Sent: Wednesday, July 29, 2009 2:50 PM

To: Mayor

Subject: commercial solicitation ordinance

I like the wording and intent of the document. There was obviously a lot of thought that went into the drafting of this ordinance.

Thank you,

Carol Oldshield RN/ QI

Fourth Street Clinic

From: Byron Gibbs

Sent: Wednesday, July 29, 2009 4:53 PM

To: Mayor

Subject: Proposed anti-solicitation ordinance

I believe your agenda has this inherent flaw:

'We don't necessarily discriminate. We simply exclude certain types of people.'

Byron Gibbs

Salt Lake City

From: Anne Milliken

Sent: Wednesday, July 29, 2009 5:02 PM

To: Mayor

Subject: Panhandling ordinance

I sit on the board of the Fourth Street Clinic which provides health for the homeless in Salt Lake City.

While I feel the ordinance intent is fair and an attempt to keep our society civilized , our city safe , businesses thriving, citizens from being frightened etc...I wonder if there has been input from homeless folks (with healthy mental state of mind)?

The reason I ask if there has been input from this section of our town is that for this ordinance to work, it seems to me, you need the healthy part of the homeless community to buy into this ordinance. To ask for their feedback is a productive way of “seeing” and engaging them as individuals who are a part of our community.

I understand this is not going to be easy and will require extra hours of work. However, it seems the “right thing to do” if you have not already done it.

Thank you,
Anne Milliken

From: Susan Keene
Sent: Thursday, July 30, 2009 10:10 AM
To: Mayor
Subject: commercial Solicitation Ordinance

Your Honor,

My opinions do not reflect Valley Mental Health or the Forensic Unit or the CATS program. I am a therapist who has experience in working with homeless persons, over the past 20 years. It has not been my primary focus but many of my regular clients are homeless.

I read the proposed ordinance. **The portion that intends to protect people from unwanted aggressive panhandling looks very well crafted. It will be fairly easy for everyone to understand.**

The section that spells out what the beggar can and cannot claim regarding homelessness, veteran status, disability status is not really needed and seems to me to be punitive in nature. We know that many of the people who are panhandling are probably lying, but certainly citizens need to practice some caution, and this is an area the city does not have to intrude upon, in my opinion. I think that dropping that portion of the ordinance will make it easier to enforce. A justice court will not need to investigate whether the cardboard sign reflected the truth. I'm sure our prosecutors and judges have enough to deal with; if the defendant asked for counsel in the case then we have even higher administrative cost.

Thanks for the opportunity to express my opinions.

Susan Keene, LCSW

From: Richard Hillier
Sent: Thursday, July 30, 2009 5:02 PM
To: Mayor
Subject: Re: Commercial Solicitation Ordinance

I think the Ordinance is comprehensive and much needed, but I would like to see how it will be or could be enforced.

Thank you,

Richard Hillier

From: Holman, William (F)
Sent: Friday, July 31, 2009 2:22 PM
To: Mayor
Cc: Steere, Jared (F); Carla Wiese; Willie, Greg
Subject: Panhandling Ordinance

Mr. Mayor,

I miss Salt Lake City and my direct association with you and your office now that I work in Provo, and now that I am only indirectly involved with our Salt Lake hotels (Courtyard and Residence Inn). I received notice that you are accepting public comment regarding the commercial solicitation ordinance. I have a few thoughts:

* I imagine the panhandling ordinance does not address panhandling on private property because it is covered by the trespassing affidavit. Am I correct to assume? Can we include a reminder that it is unlawful to solicit on or from private property (i.e. parking lots or landscape)? What about solicitation from the park strips (area between street and sidewalk)?

* I think the presence of animals during a solicitation needs addressed in the panhandling ordinance. I have had guests of the Residence Inn panhandled by individuals with dogs and it is very intimidating. I.e. We had a woman with babe in arms approached by a man with a pit-bull on a rope. Not fun!

I am glad something is finally being attempted to address panhandling. It is unwelcoming and threatening to both visitors to Salt Lake City and the staff that accommodate them.

Thank you for all you do,
Arthur Holman

From: Kent Gibson
Sent: Friday, July 31, 2009 11:25 AM
To: Mayor
Cc: Carla Wiese
Subject: Panhandling Ordinance

Dear Matt Lyon,

In my 27 years of working in the downtown area, I have seen the city endeavor to gently deal with this subject. During that time, I have observed that the situation is becoming severe and the panhandlers are more organized. It is intriguing to know that the city is able to regulate money flow in most areas, but this situation. It appears that several individuals are engaged in an active business enterprise in the heart of the city on public right of ways totally unregulated. The enterprise is the selling of self-worth. Individuals will for a price sell improved self-worth by allowing a payment to help a perceived need.

This unregulated business activity pays no taxes, provides limited services, and is damaging to other regulated businesses functioning in the downtown area. It also potentially diverts large sums of money away from service organizations established to help families and individuals with significant needs.

I believe that the ordinance should ban the business practice of solicitation or severely regulate and tax the activity. The business activity should be separated from the occasional request of an individual or family who desperately needs a little help.

Concerning the subject of violation, I personally believe that individuals who violate the ordinance should help to defray the cost of enforcement and more importantly be required to provide 100 to 200 hours of community service to the various service organizations that are helping families and individuals with significant needs.

Sincerely,
Kent Gibson

From: Quilter, Carole

Sent: Monday, August 03, 2009 1:37 PM

To: Mayor

Subject: FW: Call for Comment - Commercial Solicitation Ordinance

Importance: High

Hello,

This was forwarded to me. I think it looks great. Enforcement will definitely be the hard part. Educating the public is key. If someone is in real need, there are many resources available to them. We have a handout titled Salt Lake Area Homeless Resource List that I have Gallivan on-site security give to anyone who asks for money. Either they are grateful for the info or they leave.

Also, I believe there is a typo in the paragraph below, found on page 2 paragraph 3. It looks like it should read "flow of pedestrian" not "flow or pedestrian".

WHEREAS, the City Council finds that certain solicitation impedes the orderly flow or pedestrian and vehicular traffic that leads to concerns regarding traffic and public safety; and

Good luck!

Thanks for asking for input.

Sincerely,

Carole Quilter

Maintenance Supervisor

Gallivan Center

From: Maxfield Family

Sent: Thursday, August 06, 2009 9:18 AM

To: info@downtownslc.org

Cc: lbeattie@sallakechamber.org; Mayor; afalk@desnews.com

Subject: Panhandling

I read with interest the article in this morning's Deseret News regarding a proposed ordinance to restrict panhandling. I also read the comments posted on the Deseret News website. Most of the comments related to giving to charity but not giving to panhandlers.

I work in downtown and pass by the same panhandlers time and time again. I usually do not give to them, but I do make generous contributions to charitable organizations. I spoke with some of these panhandlers and told them that I would not give them money, but I would say "Hi" to them when I see them.

I have an idea that has been in my mind for a long time, but I have never acted on it. Reading today's article has caused me to propose my idea to the Downtown Alliance. Here is my idea:

Have the Downtown Alliance print business cards and create collection jars (or locked boxes). These would be dispersed throughout the businesses, restaurants, theaters, Salt Palace, Gateway, Salt Lake Temple, etc. The business cards would read something like.

"I have made a contribution in your behalf through the Downtown Alliance ??? Program. I do not give money to panhandlers, but please know that my contribution will assist you though one of the many organizations that assist people with needs. The following is a list of organizations that can help assist you with meals, medical care, dental care, finding work, ????,????.

"Provide a list of community organizations address, phone number, email etc."

The wording on the card could change, but you get the idea. The jar (or a sign next to the jar) would ask people to contribute money to the Downtown Alliance rather than giving to panhandlers. They can take a card if they contribute to the jar. (Even if they did not contribute to the jar and took a card, they would be helping the panhandling situation by giving a card to the panhandlers.)

The cards would be located beside the collection jars. I know that hundreds of people would cheerfully contribute a dollar or more in the jar and cheerfully give a panhandler the card. Within a few weeks, if everyone only gave cards to the panhandlers, the panhandlers would start disappearing. The Downtown Alliance would also be able to collect a great deal of money that could then be donated to the various organizations that help people in need.

I know that this may create a short-term litter problem as panhandlers throw the cards on the ground. This would only be a short term problem, and would disappear as the panhandlers disappear. As soon as the panhandlers get a few cards, they would also stop accepting more cards. I hope this idea has merit and will be considered. If the panhandlers disappear, then the City may not need to pass an ordinance.

Kind regards,
Brent Maxfield
Salt Lake City resident

From: I. Brown Zundel
Sent: Thursday, August 06, 2009 8:29 AM
To: Mayor
Subject: Restricting Panhandling

Dear Mayor and staff,

Thank you so very much for taking on this delicate issue. My wife and I walk around town for a hour every day and have seen many of the same people panhandling for the last 7 years. They block sidewalk traffic, lie about their reasons for doing so, and take advantage of the good nature of tourists and others unaware of their scam!

So, anything that can be done is certainly an improvement. Everyday I take plastic sacks to pick up trash on our walk and there are lots of cigarette packs and empty liquor bottles left behind by this population on a routine basis. They also smoke at will at Trax platforms and become quite nasty when the no-smoking signs are pointed out to them.

Thank you,
Brown Zundel

<http://www.deseretnews.com/article/705321532/SL-proposing-ordinance-to-restrict-panhandling.html>

From: Judith Huff
Sent: Thursday, August 06, 2009 11:54 AM
To: Mayor
Subject: Panhandling in Salt Lake City

Dear Mayor & Staff,

The panhandling in downtown Salt Lake City and especially Temple Square is out of hand. There is one panhandler that swears at people for not giving him something. They step in front of you while you are walking; they put their stuff on the sidewalk 12-18 inches in front of them so you have to walk around them. If they are so desperate why are they spending money on cigarettes. I wouldn't give any panhandler a penny if they smoked.

A survey was done in the West Palm Beach area a number of years ago that found panhandlers made hundreds of dollars a day. The money they got never had taxes paid on it and they lived in a very nice houses or apartments.

Panhandlers cause loss of money to the city and store operators because tourists avoid where the panhandlers are.

I look forward to seeing and hearing what the city can do about getting rid of the panhandlers.
Judith P Huff

From: Ginger Riggs
Sent: Thursday, August 06, 2009 1:11 PM
To: Mayor
Subject: Panhandling

Thank you so much for considering this law regarding panhandling.
I live downtown and see the same people all the time.
Those who are in real need rarely panhandle.

Thanks again,
Ginger Riggs

From: Gerald Wilcox
Sent: Thursday, August 06, 2009 3:43 PM
To: Mayor
Subject: Restricting pan handling.

Thank you, thank you. This is a real big problem. Being right down town, we see the same people day in day out. The faces are most always the same, although occasionally we will see a new face, but only for a couple days, then they are gone.

We try to help the "new ones", as we know there are people who need a helping hand.

Gerald Wilcox

From: Judith A. Kay
Sent: Thursday, August 06, 2009 6:16 PM
To: Mayor
Subject: Panhandling

Good move to support the panhandling ordinance. It's an eye sore on our beautiful downtown. They are there for years on end.

One lady has been there for at least three or four years. One day she answered her cell phone (from her backpack) and told the person on the other end that she had made \$75 already (it was not quite noon).

The other lady accepted money from a woman with five small children (each on handed a dollar bill to her). Probably hard earned, needed money for her own family.

Please don't change your mind on your support of this ordinance and be sure that it can be enforced.

Judy Kay

From: Martin Baron
Sent: Thursday, August 06, 2009 5:25 PM
To: Mayor
Subject: Thank you.

As a downtown resident I am grateful for the new initiative by our Mayor to curb the scams being perpetrated downtown by so called "Pan handlers" I understand that people get down on there luck sometimes & as a whole I believe we are a generous city as a people. However Salt lake has gotten a reputation from Vegas to Chicago as a place of refuge for scammers claiming to be something they are not.

Good job Mayor Becker!

Regards,

Mr & Mrs Baron

From: John L. Udseth
Sent: Friday, August 07, 2009 9:22 AM
To: Mayor
Subject: Panhandling

Mayor Becker,

I just wanted to respond to the Panhandling Issue. I work with Judge John Baxter and the Homeless Court Project, and live on 500 East across from Smiths Market Place a regular hangout for panhandlers, and they are even kind enough to use our dumpster as a rest-room.

The Panhandlers there are a professional circuit and none of them are homeless, in fact many drive brand new expensive vehicles. I actually have seen them run off homeless people in front of ZCMI and Crossroads mall when those were the locations of choice.

I see very few of the homeless people that we work with at the homeless court panhandling and we see even less in citations for associated offenses come into the court. There may be more at 200 E. Municipal court.

Another way to approach this issue is to work with the Utah Tax Commission and to determine how many of these folks have not filed a State Tax Return in the last few years, if I remember that is considered tax evasion, and I am willing to bet some owe thousands of dollars, which can help offset some of our deficit issues in the city, especially the professional panhandlers surrounding Smiths.

In addition to just being a nuisance, these folks leave trash laying around, and defecate in bushes or behind dumpsters and have already been trespassed from the properties that they stand in front of. From what I have seen, there is a higher percentage of professional panhandlers than homeless panhandlers in this city.

I am in support of this effort to take steps to curtail panhandling in the city.

Regards,

John L. Udseth
National V.I.T.A. Development Manager
The National Urban Technology Center, Inc.

From: Steve Berry
Sent: Friday, August 07, 2009 6:18 PM
To: Mayor
Subject: Panhandling ordinance

Mayor Becker,

I used to live in Tacoma Washington, that city had a huge panhandling problem, they passed an ordinance and last time I was up the they were not a problem.

here is what their ordinance is:

Panhandling is not allowed within 15 feet of the following places citywide: building entrances, ATMs, bus stops, parked cars, pay phones, gas stations, car washes, and outdoor cafes. It's not allowed at any time on buses. And you can't panhandle at intersections, freeway ramps, or in any way directed toward traffic. it's prohibited everywhere from dusk to dawn.

I live downtown and sometimes walk to work and usually I am asked 2 or 3 times and it is the same people day in and day out, I hope the city can pass a panhandling ordinance soon.

Sincerely,

Steve Berry

From: Stanford Nielson
Sent: Monday, August 10, 2009 10:50 AM
To: Mayor
Subject: Regarding the Panhandling Ordinance

I think the ordinance is great however I think you may have a problem with the constitutionality of the provision that prohibits solicitation after sunset and before sunrise.

I would think the free speech and free association provisions of the constitution would prohibit a somewhat arbitrary cutoff. It is O.K. to solicit at 8:00 p.m. but not at 8:01 pm? Also, when is sundown? The weather people know when the official time is but it is not what the layman thinks it is. I think sundown is when it is dark which is often up to an hour after the official sundown time of the weather service. Making a homeless person know this seems unreasonable. It also, in general, seems very arbitrary. Why not prohibit solicitation during the "lunch hour" or from 2:00 to 3:00. Again the answer is because these times are just arbitrary.

Also, how will the police who enforce this law know if someone is telling the truth? Will the police have to violate the privacy rights of a panhandler in order to make a determination of need? How do I prove that I don't have a home? The police will have to follow me at night to see where I go. It seems somewhat intrusive. Just a thought.

Also how do we protect the legitimate charities? I remember seeing the heart association who set up a "Jail Cell" in the food court of the Crossroads mall. They had "arrested" prominent persons in the community who were soliciting passersby for "bail" money (donations) to get them out of jail. That program would have violated this ordinance in several ways. Perhaps you could add a provision where legitimate organizations could register to solicit for a limited time (up to 3 days for 12 hours a day) at a specific location (food court) (city park) and thereby obtain an exemption.

Other than the above I think it is fairly good.

Stanford Nielson
Vice President
Zions Bank-Office of the President

On Aug 11, 2009, at 12:40 PM, David Rosenbloom wrote:

Bill,

Dave Rosenbloom here, it wasn't clear if you are the contact for this ord, but if you are, my thoughts are that this is going to further put pressure on Road Home and associated shelters as they take in people who were previously supporting themselves. Secondly, clearly if these people receive a ticket, they are not going to appear in court absent a warrant creating a further load on the system, one which is already strained at the JC, DC and jail levels; paperwork alone is a problem. Lastly, from a pure Fourth A perspective, this Ord will increase hassling of people who are and look indigent, and it doesn't seem at all clear that one can constitutionally prohibit one from holding a sign asking for donations; if it were then every non-profit would be at risk at x mas time, unless they were always on private property (most are as I understand it)

Sincerely,

Dave Rosenbloom, Esq.

From: Rusty Cannon

Sent: Tuesday, August 11, 2009 1:35 PM

To: Slcpd

Subject: loitering enforcement

I was wondering if somebody could tell me what the loitering laws are in downtown SLC?

I am getting very tired of the large gathering of vagrants/homeless individuals that gather every day on the planter boxes under the trees on the west side of the street on 4th South and Main. They are consistently noisy, intimidating, and disruptive. Something needs to be done to clear them out so that people can enjoy that section of downtown without feeling threatened or intimidated.

Please let me know what the police department can or cannot do to make this happen. Thanks.

Rusty Cannon

President and Chief Investment Officer

RKC Capital

From: Judy Reese

Sent: Thursday, August 13, 2009 8:44 AM

To: mayor@slc.gov

Cc: Sue Stahle; Ellen Reddick; Akerlow, Michael

Subject: Public Discussion Draft of Commercial Solicitation ordinance

Congratulations on an excellent proposal with regards to commercial solicitation/panhandling. I believe that your draft strikes the right balance between recognizing free speech while at the same time protecting citizens from feeling threatened or harassed as a result of unwanted contact by an individual soliciting money.

One comment that I would like to make, however. As one who parks downtown on a daily basis, there are times where I feel like I am a sitting duck as I pull into my parking place and am descended upon by individuals who happen to be close by as I pull into my parking space. I then must make the choice to either 1) not park my car in my designated spot, and circle the block until these individuals

leave, 2) sit in my car and hope they go away or 3) get out of my car and deal with the situation. I have had dealt with this issue personally on a number of occasions, and have also witnessed the same situation when guests of our Gastronomy restaurants park their cars in our lots, particularly in the morning when there are no valets present.

I am therefore curious if there is any way to add additional verbiage to the ordinance that deals with this issue. When I brought it up at the Business Advisory Board meeting yesterday, several others in the group nodded their heads in agreement, having been through the same experience.

The lots of which I am referencing are private lots owned by Gastronomy – I am unclear if that makes a differences versus a public parking lot.

Any feedback you could provide would be greatly appreciated. Again, thank you for a well drafted ordinance to deal with this problem.

Regards-

Judy Reese

Communications Director

From: Zachary Dwight
Sent: Friday, August 14, 2009 10:59 AM
To: Mayor
Subject: Panhandling ordinance

Please limit if not ban pan handling. I don't feel safe when a guy with needled up arms comes up 'needing gas money'. I'm originally from Washington state and if you don't stop it, homeless communities build up in parks (tents, fire pits, etc) and form panhandling rotations. Only recently has the state of Washington started tearing them down.

Zach Dwight

Database Analyst
Westminster College

From: Brad Hart
Sent: Friday, August 14, 2009 10:04 PM
To: Mayor
Subject: Comments regarding commercial solicitation/ panhandling ordinance

Hello,

I want to commend the city council for drafting this ordinance. I think it is well thought out and very timely, as the panhandling problems seem to be escalating.

This draft ordinance has my full support. As I read through it, every scenario I could think of regarding uncomfortable and threatening situations with panhandlers was addressed. I live very close to the North Temple corridor, a particularly bad area for this type of behavior.

I would like to suggest also prohibiting this behavior at freeway exits. 1300 South and 1300 East exits are plagued with phony homeless. I think it makes our city look trashy and definitely has a negative effect upon quality of life for the residents here.

I hope to see this ordinance passed and I hope it will have enough teeth to have a deterrent effect.

Thank you.

Brad Hart
150 N. 1000 W.
SLC, UT.

From: Doane, Kerry (Strategic Planner III)
Sent: Friday, August 14, 2009 5:03 PM
To: Mayor
Subject: Commercial Solicitation Ordinance

Dear Salt Lake City Mayor and City Council,

Thank you for the opportunity to comment on the proposed ordinance on commercial solicitations. I support the effort and have the following suggestions:

1. In Section 1A. Definitions – In my opinion the definition as proposed is confusing with regard to the “purchase of an item”. Is the intent to prohibit the sale of tickets or crafts or foods for the price a vendor can get? It may just be my own personal experience, but I have never understood buying something on the street to be purely a donation. If there are aggressive salespeople out there that I have not run into and the ordinance aims to restrict, then the definition ought say the “selling of an item or service for an amount far exceeding its value”. The phrase about a donation isn’t needed because it doesn’t matter what the purchaser thinks if the salesperson is being too aggressive.
2. Section 1C. Request for input on violations. I am not in law enforcement, but it does seem like this ordinance will be hard to enforce, especially verifying the truthfulness or lack thereof of claims made by solicitors. I would think some sort of hotline would need to be set up for the public to call to alert public safety officers of situations that fall under this ordinance. It could be part of the education campaign that encourages the public not to give to panhandlers. If solicitors who violate the ordinance are brought in at least once for a background check, those who make false claims could be exposed to the public by a webpage or pictures and fined if they are able to pay. Others can be referred to the social services and/or assigned some community service. If this process took a lot of time sitting

at a police station, it could be part of the consequence and would prevent the individual from waiting until an officer left before continuing the offending practice.

Respectfully,
Kerry Doane

From: I. Brown Zundel
Sent: Saturday, August 15, 2009 10:09 AM
To: Mayor
Subject: Please don't let the special interest groups deter you!

Dear Mayor,

The homeless problem in SLC is severe. We have an \$80 Million Library that effectively serves as a daytime homeless shelter. Other communities have established a "Hygiene" requirement for the use of similar facilities. There is no reason why SLC should not do the same. There are many young families that live in the city that will not take their small children to the Library because of the exposure to the "gangbangers" that smoke, promote drug use, and hang out at the entrance to the Library that is often filled with the Homeless. That is why I supported the Public Safety Complex on the Library Square as a potential deterrent to such activity,

With regard to Panhandling. I very much support your initiative to bring them under greater control. Once again, the actions of several dozen professional panhandlers impact the appearance, viability, and welcoming environment of the city to our "real" citizens and those thousands of visitors that come from all over the world to enjoy the unique features that SLC offers. Many of us make a significant contribution to the Church's and other organizations that insure that those who need food or shelter have what they need. The panhandlers are often looking for additional cash for drugs or alcohol. As we walk around town every day, we see the very same group of panhandlers at their regular spots. With their luggage bags, signs, cups, etc, they often take up a third

or more of the sidewalk space that is already crowded with regular foot traffic or they block the entrances to businesses or traffic exits. The "public forum" freedoms surely do not include a provision for them to be able to impede foot or vehicle traffic.

So, please continue in your attempt to regulate such behavior. I have often wondered how many of the homeless are Utah citizens in the classic sense. I used to take the State street bus from downtown to 3300 South several times a week. You would be amazed at the conversation that goes on there that has convinced me that there is a significant "Field of Dreams" context to our homeless population. Because SLC provides many benefits to the homeless population, the word is out and transients from all over the country flock here to take advantage of the services available to that population.

Thanks for addressing this most significant issue. You have the support of hundreds of my SLC citizen friends that are just like me [retired, financially secure, and with SLC ties that go back many generations].

Brown Zundel

<http://www.deseretnews.com/article/705323466/Homeless-advocates-ask-Becker-to-bag-begging-ban.html>

From: Gat, Liat
Sent: Wednesday, August 19, 2009 8:25 AM
To: Mayor
Subject: comments on solicitation ordinance
Hello,

I just read the proposed ordinance on solicitation and appreciate the intention of the ordinance. I was approached on my way into the building this morning and asked for a donation, as has happened many times before. I think this legislation is timely and appropriate, and respectful.

Thank you!

Liat Gat

Senior Secretary
Community & Economic Development Department
Salt Lake City Corporation

From: Koob, Doug (F)
Sent: Thursday, August 20, 2009 2:24 PM
To: Mayor
Subject:

I would like speak in support of this. We regularly have guest who express their concerns about the homeless and pan-handling. Something has to be done and this is a good start.

Douglas Koob
General Manager
Salt Lake Marriott City Center

CALL: Paul Cutrer
August 20, 2009

All of the panhandling keeps Paul from wanting to go downtown. Could the city possibly put up collection boxes near where people generally panhandle? The money these boxes collect would go to homeless shelters so that people could still give, but not be forced to give to a person who may spend the money on drugs or alcohol. They could have signs on them stating what they are for and why they are there.

CALL: David Aston
August 24, 2009

David used to be a street performer and he believes that panhandling (just standing begging for money) is perpetuating laziness.

Recently spoke with two different panhandlers on the street. The first travels with a group of other panhandlers who work a circuit from Salt Lake to Las Vegas and down to Arizona then back around. The second was living off of his military retirement and he only panhandles to make some extra not taxable income. Both men were doing this as a profession.

David's idea is that we make all panhandlers register with the city/police department in order to verify that they are needy and to make sure we are not allowing wanted criminals run a business on our streets. They are professionals so we should make them register the same as any business.

From: Sarah Thompson
Sent: Monday, August 24, 2009 4:05 PM
To: Mayor
Cc: Garrott, Luke
Subject: Panhandling ordinance

Dear Mayor Becker,

I am writing to let you know I strongly OPPOSE the proposed panhandling ordinance with the exception of the prohibition of panhandling around ATMs. I would not want a stranger to approach me while I was using an ATM.

Panhandlers have as much right to be on the streets as people using cafes, waiting in line for tickets, patronizing food stands etc. They are fellow human beings, not some other species with fewer rights.

My understanding is that interfering with traffic, assault, and harassment are already against the law. Why do we need yet another law? And I can't imagine how anyone would go about enforcing a law against lying. If you propose to do so, I think it should apply to everyone.

In my experience, the problem is rarely the panhandler him or herself, but rather the discomfort experienced by the person being solicited, whether due to guilt, inability to simply say no, or fear of people who live differently than they do. These problems simply cannot be solved by legislation.

Personally, I enjoy helping people in distress, and do not want my city government interfering with my right to speak or be spoken to by any person who believes he or she needs assistance.

Please withdraw this panhandling ordinance.

Thank you for your consideration.

Respectfully,

Sarah Thompson

From: Joy Dantine
Sent: Tuesday, August 25, 2009 12:38 PM
To: Mayor
Subject: Solicitation Compromise

May I suggest panhandlers be allowed to operate only at locations where people walk by versus where people have "no choice" but to come out or enter in to buildings.

Similar to smoke; stay 25' away from any access/exit - pedestrian or vehicular. Plus congested areas are more unsafe for everyone. Almost no one is intruded upon any more than other pedestrian traffic versus persons being trapped at access/exit points.

I like your style of conducting matters of a sensitive nature. I trust the City will make the right decision to best suit everyone.

Most sincerely,

D. Joy Dantine

From: Arthur Malia
Sent: Thursday, August 27, 2009 2:01 PM
To: Mayor
Subject: Panhandlers

Mayor Becker I am mailing you some information regarding U.S. Codes that prohibit the use of uniforms, medals or insignia by those who are not veterans. The information you will receive might help you weed out the phonies.

A veteran will have a DD 214 that is his discharge paper. Active Duty, Reservist and Retirees have picture ID's called DD form 2 followed by the branch of service.

DD form 2AF or DD form 2 AF Retired each ID is made out this way reflecting the individual's branch of service

Military dependents of active and retired personnel have a yellow card while active duty members have a green card and us retirees have a blue ID Card. Reservists have a pink ID card. I have never known any active duty or retired veterans panhandling. Most panhandlers claiming to be veterans have never even stepped into a recruiting office let alone spent time in the service.

This is from SSgt Arthur B. Malia (PhD), USAF Retired

From: DJ Bruhn
Sent: Monday, August 31, 2009 12:41 PM
To: Mayor
Subject: Pan Handling

Thank you so very much for taking on this delicate issue. I walk around town almost every day and have seen many of the same people panhandling for the last several years. They block sidewalk traffic, lie about their reasons for doing so, and take advantage of the good nature of tourists and others unaware of their scam! Some of them even act out violently when you refuse their requests. I don't always feel safe walking down the streets in the middle of the day due to some of these individuals.

Again Thank you!

DJ Bruhn

ZIONS SECURITIES

From: Joy Dantine
Sent: Wednesday, September 02, 2009 12:37 PM
To: Mayor
Subject: Solicitation/Panhandling Part II

In addition to initial comment dated August 25th, I request permission to suggest no solicitation at intersections for that delays action on vehicles proceeding past said intersection - and may result in injury to person(s) involved.

http://seattletimes.nwsourc.com/html/localnews/2008968918_webbeggarsbash01m.html

<http://www.thestar.com/News/article/245532>

<http://www.nbcchicago.com/news/local-beat/Slain-knife-wielder-idd-by-cops-55722407.html>

http://www.gjsentinel.com/news/content/news/stories/2009/08/17/081809_3A_medican_ordinance.html?cxtype=rss&cxsvc=7&cxcat=7

Most sincerely,

D. Joy Dantine

name : J A Carbine

Sent: Thursday, September 03, 2009 7:00 AM

Dear Mayor Becker,

You asked for input on the question of panhandling in the city. There are several persons who frequent downtown sites that have been there in excess of three yrs. I pass by three of these individuals four or more times a day, and see these people plying their trade on a daily basis. I witness soft-hearted individuals handing them money all the time. One who claims to be homeless lives in a house, rides the bus and comes to "work" clean every day. Another who claims to be in "poor health", seems to be able to stand on his feet for hours at a time and accept money. A third person claims that her insides are falling out, and needs money to support her two children. She lives out on North Temple, and is able to come to "work" every day and stand for hours begging for money. It is certain that all three pay no taxes, and it is evident that they don't intend to find work in some productive effort. Judging by the frequency of the acts of kindness on the part of passing individuals, they make a tidy living on the kindness of others, rather than earning a living through their own productive efforts. Their presence around important tourist attractions casts an impression of blight on the character of the city. Recent news stories have indicated that the plights of beggars are probably not genuine, and they are conducting a scam on the soft-hearted individuals who are their prey. If nothing can be done to curtail their activities, they should at least be directed away from certain areas where encounters with the public shed a poor light on Salt Lake City.

Sincerely,

J A Carbine
Salt Lake City

From: Shad | LUNAwebs.com

Sent: Thursday, September 03, 2009 8:27 AM

To: Mayor

Subject: commercial solicitation support

I support this ordinance which defines commercial solicitation.

My employees and myself have been verbally harassed many times in the few years we have worked downtown because we haven't given of our change.

I get solicited at least 2 times every day on my walk to my vehicle.

It would be nice to just be able to walk by without having to make an excuse for not helping someone out.

Often times - I don't have any change anyway, and when I say I don't have any change I'm ridiculed, sworn at and called names.

It does get a bit threatening not knowing what some of these people will do, because some are drugged out or drunk and are not in the proper frame of mind.

Although I support this ordinance - it will be no good without any enforcement of some type. A lot of these homeless folk (and I'm sorry for their state), choose to be where they are at because of worldly habits. They don't care if they break the law or get caught - so I'm curious how you'll enforce it to make citizens feel comfortable.

--



Shad Vick - CEO

From: Arthur Franks

Sent: Wednesday, September 09, 2009 2:25 PM

To: Mayor

Subject: Salt Lake City Ordinance regarding Commercial Solicitation

Concerns and recommendations:

1. Section "B" Prohibited Conduct Subsection 1.
 - a. Consider adding the 20 foot requirement to any business entrance in this section.
 - b. Strongly consider adding the 20 foot requirement to any residential entrance. Especially with the growing number of new units to the downtown area.
 - c. Consider increasing the distances shown in this section to 25 feet for all occurrences. (This matches county's clean air act distances for non smoking regulations)
2. Section "C" Enforcement
 - a. What is a victim to do when an event occurs?
 - b. Do they have to stay with the perpetrator until Officers arrive?
 - c. Will the Officer take the word of the victim or does the Officer have to witness the event as they do now in order to site the perpetrator?
3. When this request was sent to your office, from the Downtown Alliance, it was to have the entire Central Business District changed to a NO PAN HANDLING DISTRICT. This would have made the issue more defined and easier to enforce without victims being pressed into the process.
4. As it is written here, it along with it's new and desired changes will not be enforceable. This will continue to leave the public and the police department to go in circles and not improve the situation and the image of our great city.

Thanks for your consideration and I would be available for further discussion regarding this proposed ordinance. Remember I also live at 270 South Main Street and deal with this situation every day.

Arthur Franks
Director of Membership
EDCUtah

From: Maxfield Family
Sent: Monday, September 14, 2009 11:16 AM
To: Mayor
Subject: Commercial Solicitation Ordinance

To whom it may concern:

Section B(4) of the ordinance lists "False or misleading solicitation." I agree with these items. However, in A "Definitions," it states, "Commercial solicitation shall not include passively standing or sitting with a sign or other indication that one is seeking donations without addressing the request to any specific person, and does not refer to conduct regulated by ..."

Please change the ordinance so that these people passively standing or sitting must also follow the "False or misleading solicitation" requirements. The way I read the ordinance, these peoples signs do not fall under the ordinance because they have been excluded from the ordinance by definition.

I think that the ordinance should prohibit anyone with a sign from being near a cash dispensing machine, not just the "Commercial Solicitors." I get nervous if there is anyone loytering near a cash dispensing machine.

Brent Maxfield
Salt Lake City

From: Sue Stahle
Sent: Tuesday, September 15, 2009 9:56 AM
To: Lyon, Matt
Subject: Re: Call for Comment Reminder - Commercial Solicitation Ordinance

Great job Matt, I am satisfied with all the terminology.
Sue



SALT LAKE CITY
**Downtown
Alliance**

AN AFFILIATE OF THE SALT LAKE CHAMBER

September 15, 2009

Mayor Ralph Becker
Salt Lake City

Dear Mayor Becker:

The Downtown Alliance supports Salt Lake City's proposed commercial solicitation ordinance. On behalf of the 2,500 business and property owners we represent in the Central Business District, we applaud you and the Salt Lake City Council for taking a leadership role on this complex issue. We appreciate efforts to find legal solutions to the challenges posed by aggressive panhandling in our community.

The city's approach carefully balances important free speech protections with place, time and manner restrictions, limiting commercial solicitations and requiring accountability of panhandlers who request money on city streets. It is appropriate to ask panhandlers to verify claims they make regarding past military service or current housing resources. It is also appropriate to exclude commercial solicitation from the areas identified by the proposed ordinance.

Clearly, there are people in our community who have legitimate needs. There are also excellent social service organizations that work diligently every day to meet those needs. In the Central Business District, these organizations include Catholic Community Services, Volunteers of America, The Road Home, and the 4th Street Clinic. The Downtown Alliance encourages donations to legitimate organizations to help the homeless. We recognize a clear distinction between panhandlers who claim to be homeless and people in our community who truly find themselves in need. We discourage the business of panhandling.

Commercial solicitors have a negative impact on businesses. Aggressive panhandlers intimidate patrons, employees and visitors. They detract from a dynamic environment in the Central Business District, and discourage development. We recognize that the proposed ordinance will not solve all of the problems associated with commercial solicitations in the downtown area, but we think it sends an important message to panhandlers and to the public. We hope that it empowers residents and visitors to make good decisions about ways they can support legitimate charities in our community.

Panhandling is not an issue unique to downtown or Salt Lake City—it is a problem in communities across the Wasatch Front, and across the nation. We are grateful to live in a city where political leaders are fully engaged in this issue, and are willing to support public dialogue to find solutions to this ongoing problem. The Downtown Alliance commends Salt Lake City's political leaders for their efforts to build a more dynamic and welcoming capital city, and recognize this as an important step in continuing to build a Great American City.

Sincerely,

Jason Mathis
Executive Director

CC: Salt Lake City Council

From: Karen Silver
Sent: Tuesday, September 15, 2009 11:35 AM
To: Mayor; Karen Silver
Subject: solicitation

Following are comments on the proposed solicitation ordinance:

1. Why is the term "commercial" used in this context? Are people going to need a business license? Is this needed legal language? If it is not needed, it seems to me that just the word "solicitation" is enough.

2. In (3) Particular Manners I am wondering how b.1. will be enforced. Intent is hard to enforce. It seems like the language used later in the text about swearing, threatening, etc. would cover this.

Thank you for the opportunity to comment.

Karen Silver



Thursday, September 17, 2009

Dear Mayor Becker and the Salt Lake City Council,

Last night Crossroads Urban Center held a gathering of homeless people to collect comments on the draft of the city ordinance regarding panhandling. The enclosed letters were all written by low-income people who attended that meeting. Please carefully consider their comments as you work through this process. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Sarah H. Martindell".

Sarah Martindell, social justice advocate, Crossroads Urban Center
sarah@crossroads-u-c.org
801-364-7765, ext. 130

Executive Director
Glenn L. Bailey
Board Chairman
James Kris Koford

347 South 400 East
Salt Lake City, Utah 84111
ph: 801.364.7765
fax: 801.364.7228
www.crossroads-u-c.org

To Mayor Becker,

Please don't pass the bill on pan handling. Some of us are legitimately homeless and are not working yet. I fly a sign and don't ask out loud - where's our freedom of speech? Do you have a job for me? I'll do anything within reason - I'm over 50 and finding steady work isn't as easy as it used to be. Don't punish us all for the tactlessness of a few.

Thank you,
Heidi

I have recently become homeless, & am a direct individual that has been affected by the economy. Jobs are very difficult to obtain in this era & pushes me to ask others to help out in my time of need. Coming together as a community & more realistically a family you never want to see a fellow brother or sister go hungry & unsheltered. Asking for change is not a thing that we need to regulate when we have so many other issues at hand that need addressing. Such a minor thing as asking for help from another human being is not a crime. It is a time to give back to another that has fallen upon hard times & treat another as Jesus would. Christ says that we need to love one another not judge your fellow man. Are we not the state that has been blessed so immensely to be the hub of the latter day saints. Let us prove to other states & religions that we are abiding to Jesus's laws to love one another & help feed each others needs.

Dear Mayor Becker

I am a homeless man who lives in Salt Lake City, and I am very concerned about this parking ban you are trying to pass. This ban is very clearly aimed at discriminating against the homeless population. As a homeless man parking is nearly my main source of income, I have tried to get a job but at this time it's nearly impossible to get a job. So I ask you Mayor Becker to rethink this ban. Stop listening to your rich business owner who asks you to discriminate against us homeless people. I ask you instead to ask these rich businesses to hire us homeless more. I thank you for your time Mister Mayor.

Signed

Drew Tessing
a concerned citizen

Dear Mayor Becker

Even though I don't parkhandle myself,
I feel that as a homeless ~~person~~
person, our rights are being further
and further eroded.

This law proposal seems to be ~~just~~ ^{NOT}
another aspect of granting the police
agency to harass people in unfortunate
circumstances.

I believe this parkhandling ordinance
proposal is so controversial, that it
will ultimately embarrass you and your
office.

Jeff Williams

~~A law against panhandling~~

Panhandlers do NOT
make much money & crime
will go UP if panhandling
is illegal. If you
think an alley street or
grass or sidewalk is being
ritch try it... being homeless
& Not having \$ for a towel or
toothpaste

From: Bill Germundson
Sent: Friday, September 18, 2009 11:45 AM
To: Mayor
Subject: draft ordinance

The Honorable Ralph Becker
Salt Lake City Mayor's Office

September 17, 2009

Dear Mr. Mayor

I'm writing to ask that Section B.1.F. Of the Draft Ordinance of the Salt Lake City Code, relating to Commercial Solicitation is stricken entirely from the ordinance.

I was an Assistant Minister at Mt. Tabor Lutheran Church for several years. During that time I was able to reach out to help individuals who came to the church seeking assistance. As Christians we are bound to reach out a hand the needy and societies downtrodden.

Here is a case in point. An individual who you could call a "panhandler" came to the church. He was new to town, had no money, and was homeless. We found out this person was actually sleeping on the church property. With help and guidance from church members and the grace of God this person went on to become a church council leader and respected member of the church.

I believe Section B.1.F. of the ordinance would infringe on our ability to reach out and change lives through Christ and should be taken out.

Thanks you for your consideration.

Sincerely,

Bill Germundson
Member of Mount Tabor Lutheran Church.

The Honorable Ralph Becker
Salt Lake City Mayor's Office

September 17, 2009

Dear Mr. Mayor:

I have reviewed the Draft Ordinance of the Salt Lake City Code, relating to Commercial Solicitation. I have some concerns especially relating to Section B.1.f. *It shall be unlawful for any person to commercially solicit when the person solicited is within 20 feet of the entrance to a place of religious assembly.*

I am a member of Mount Tabor Lutheran Church located at 175 South and 700 East in Salt Lake City. It is not uncommon for people to approach church members outside our building or come to our door asking for help. This is not repugnant to our community. Quite to the contrary! We, as most religious assemblies do, see it as part of our Ministry to help people in need where we can. We don't see that it would be necessary for these people to make "non-verbal" requests for aid.

In particular, I have the following comments:

1. I assume that the violent and aggressive and otherwise dangerous activity mentioned in the Ordinance is already prohibited by other laws, ordinances or statutes. If not, perhaps we should criminalize such behaviors specifically, not poor people in general.
2. Our church has had persons such as are those that are referred to in the Ordinance who came to our doors seeking aid and then became members of our community.
3. **I would request that the entire Ordinance be reconsidered. At the very least it is my request that Section B.1.f. *Within twenty feet of the entrance to a place of religious assembly* be entirely stricken from the document as this part of the Ordinance in particular would make it more difficult to help the very people that we are bound by our religious beliefs to assist. Airports are excluded; I would expect that "Religious Assemblies" could be excluded as well.**

I, along with Brothers and Sisters in many "Religious Assemblies", would be glad to support any serious effort on the part of the Mayor and the Salt Lake City Council to constructively address the root causes of poverty in our City such as (but not limited to) **Food Insecurity** and **Lack of Low Income Housing** for it's residents.

Thank you for your time and consideration of these comments.

Sincerely,

Stephanie F. Wilson
Member of Mount Tabor Lutheran Church

From: Jessica and Scott Patton
Sent: Thursday, September 17, 2009 8:23 PM
To: Mayor
Cc: glenn@crossroads-u-c.org; fumc200@earthlink.net
Subject: panhandling ordinance

To whom it may concern:

My name is Scott Patton, Outreach Coordinator at First United Methodist Church located at 203 South 200 East in Salt Lake City. I am responding to a call for comment regarding the proposed panhandling ordinance. In the past decade I have experienced many people coming to our church who have been in need. Although at times I have felt uncomfortable (I have never been threatened) in attempting to address their needs, it is my calling and my

church's calling to help. As a Christian this ordinance is antithetical to me, in particular the provision banning panhandling near houses of worship. While the intent of some of the proposal would increase public safety (prohibiting panhandling near an ATM makes sense), I feel it only further marginalizes those suffering from poverty and sends the wrong message about our community. I also strongly disagree with the perception that many of those asking for money do so as an occupation. Almost all of those that come to our door asking for assistance have lost their way and are truly in need. I question if the police, their resources already stretched thin fighting crime, are going to have the ability to enforce this ordinance and determine with due process which panhandlers are telling the truth and which ones are not. Our city should be more focused and committed to helping those in need rather than passing laws which unfairly penalize them especially in these tough economic times. Please reconsider passing this ordinance. Thank you for your attention.

Respectfully,

Scott Patton

(801)583-3327



AMERICAN CIVIL LIBERTIES UNION OF UTAH FOUNDATION, INC
355 NORTH 300 WEST, SALT LAKE CITY, UT 84103
(801) 521-9862 PHONE • (801) 532-2850 FAX
ACLU@ACLUUTAH.ORG • WWW.ACLUUTAH.ORG

Mayor Ralph Becker
Office of the Mayor of Salt Lake City
PO Box 145474
Salt Lake City, UT 84114-5474
mayor@slcgov.com

September 18, 2009

Re: Salt Lake City's Proposed Commercial Solicitation Ordinance

Dear Mayor Becker:

The ACLU of Utah appreciates the opportunity to submit comments to you regarding your proposed "Commercial Solicitation Ordinance" (hereafter "the proposed ordinance"). Following is a compilation of our concerns, as well as our suggestions for alternatives.

I. CONCERNS WITH "COMMERCIAL SOLICITATION ORDINANCE"

A. Name of Ordinance is Misleading

We feel that the name of the proposed ordinance is misleading as to the nature of the expression it attempts to restrict. Your proposed ordinance purports to target "commercial solicitation." However, the Supreme Court of the United States has long recognized that charitable solicitations fall within a category of speech close to the heart of the First Amendment, distinguishable from "purely commercial speech." Commercial speech is "primarily concerned with providing information about the characteristics and costs of goods and services," and as such enjoys lesser first amendment protection.¹ Courts have recognized that "[b]eggars at times may communicate important political or social messages in their appeals for money, explaining their conditions related to veteran status, homelessness, unemployment and disability, to name a few....While some communities might wish all solicitors, beggars and advocates of various causes be vanished from the streets, the First Amendment guarantees their right to be there, deliver their pitch and ask for support."²

B. Activities Defined in Ordinance are Sufficiently Regulated Already

While the city's goals in enacting such a regulation may be laudable in its attempt to create a safer atmosphere for citizens, laws already exist which punish criminal activity on public streets

¹ See *Schaumburg*, 444 U.S. 620, 632 (1980) ("[C]haritable appeals for funds, on the street or door to door, involve a variety of speech interests ... that are within the protection of the First Amendment.").

² *Gresham v. Peterson*, 225 F.3d 899 (7th Cir. 2000).

including impeding traffic and menacing, disorderly conduct. As such, it is our position that the proposed ordinance is unnecessary.

C. Potential Constitutional Issues with Regards to Free Speech

While courts have issued mixed rulings regarding anti-panhandling ordinances, some more recent rulings indicate that courts have found similar ordinances to be unconstitutional under theories that state constitutions may provide greater free speech protection. In Utah, our Supreme Court has recognized that the free speech clause contained in the Utah Constitution is broader than that contained in the corresponding Federal clause, and so any regulation restricting speech may prove vulnerable to challenge under state law.

As you know, cities that have enacted similar anti-panhandling ordinances have been subject to legal challenges, on grounds that anti-panhandling ordinances violate the First Amendment to the Constitution as well as state constitutional provisions protecting free speech. Indeed, in the majority of cases where this issue is considered, courts have held that panhandling or solicitation for money is speech entitled to First Amendment protection.³ While courts have come to different conclusions regarding the constitutionality of anti-panhandling ordinances, several recent decisions have struck down similar laws as violating state free speech provisions under state constitutions.⁴

In March 2009, a judge in Oregon ruled that the city of Medford's anti-panhandling ordinance violated Article 1, Section 8, of the Oregon Constitution, which prohibits passing any law restricting freedom of speech.⁵ The court concluded that the ordinance's prohibition against "in-person requests" for "immediate donations" in certain locations was unconstitutional under the Oregon Constitution.⁶

While not yet tested as applied to charitable solicitation, Utah's constitutional provisions regarding free speech have been interpreted by the Utah Supreme Court as providing for

³ See *Henry v. Cincinnati*, 2005 WL 1198814 (S. D. Ohio 2005) (upholding ordinance as valid time, place, manner restriction, but recognizing that panhandling is a protected form of speech); *Smith v. City of Ft. Lauderdale*, 177 F.3d 954 (11th Cir. 1999) (upholding law but acknowledging that begging is a form of speech); *Blair v. Shanahan*, 919 F. Supp. 1361 (N.D. Cal. 1996) (striking down ordinance as unconstitutional); *Heathcott v. Las Vegas Metropolitan Police Officers*, No. CV-S-93-045 (D. Nev. Mar. 3, 1994) (striking down ordinance that prohibited all panhandling); *Loper v. New York City Police Department*, 999 F.2d 699 (2nd Cir. 1993) (striking down law and holding that begging constitutes expressive conduct or communicative activity for the purposes of First Amendment analysis); *Benefit v. Cambridge*, 424 Mass. 918 (1997) (striking down law as a violation of the First Amendment); *Ledford v. State*, 652 So.2d 1254 (Fla. Dist. Ct. App. 1995) (striking down statute that prohibited all begging).

⁴ See *Volkart v. City of Medford*, No. OB-1030-E1 (Oregon Circuit Court March 19, 2009) (order granting summary judgment); *Los Angeles Alliance For Survival v. Los Angeles*, 987 F. Supp. 819 (C.D. Cal. 1997).

⁵ *Volkart v. City of Medford*, No. OB-1030-E1 (Oregon Circuit Court March 19, 2009) (order granting summary judgment).

⁶ *Id.*

greater protection than the federal counterpart.⁷ As such, any ordinance passed which implicates free speech is necessarily vulnerable to challenge under the more exacting Utah standards.

The First Amendment is meant to protect many messages and varieties of speech that may be difficult and uncomfortable for the public to confront. It is important that all messages, with only the most reasonable of restrictions, are allowed to be shared in the increasingly rare true public spaces of our city. Regulations enacted to shield citizens from the ugly and painful truth of poverty are decidedly inappropriate, particularly in these hard economic times.

D. Practical Enforcement Difficulties

Anti-panhandling ordinances are difficult to enforce in a sustained manner over time, as police and prosecutorial resources are scarce, targets of this type of ordinance are unlikely to have funds to pay fines or to appear in court and jails have limited space and are already overcrowded with serious offenders. While on its face the proposed ordinance outlaws commercial solicitation in any form and by any individual, this type of ordinance can invite selective enforcement on the part of law enforcement; individual police officers may be inclined to allow solicitation by established charities, such as a group of firefighters or the Salvation Army but enforce the ordinance against a homeless war veteran, despite the fact that both are exercising the same First Amendment right.

Section B(4) of the proposed ordinance presents a particularly difficult enforcement scenario. Under this section of the proposed ordinance, police officers would be charged with spending valuable police time determining whether an individual is being truthful in soliciting charity. Pursuant to this provision, ostensibly police officers would be required to verify whether a war veteran requesting a donation had documentation to prove that he/she had served in a war, establish whether an indigent individual actually has funds, and determine whether a disabled person suffers a disability, among others. Surely Salt Lake City is better served when police officers devote their time to the investigation of serious crime.

E. Public Safety Concerns

There are serious practical consequences of passing such a regulation with regards to public safety. While few studies exist to establish the consequences of passing anti-panhandling ordinances, the experience of Toronto, Ontario in outlawing "squeegee workers" from 2000 to 2003 may prove instructive. During the 1990s, many homeless individuals derived income from cleaning windshields at public intersections.⁸ In 2000, the city of Toronto passed a statute prohibiting "squeegeeing" and other forms of active panhandling. Several years later, a survey of homeless youth was conducted to determine how these former "squeegee workers" now gain an income.⁹ The results indicated that many homeless youth had turned to far more dangerous

⁷ See *Provo City Corp. v. Willden*, 768 P.2d 455, 456, n. 2 (Utah 1989); see also *American Bush v. City of South Salt Lake*, 2006 UT 40 ¶21.

⁸ Ontario Safe Streets Act, 1999, S.O., ch.8 [Can.].

⁹ O'Grady, Bill and Carolyn Greene, *A Social and Economic Impact Study of the Ontario Safe Streets Act on Toronto Squeegee Cleaner*, Online Journal of Justice Studies 1 [1](2003).

and socially unacceptable behavior, including selling drugs, and participating in prostitution, in order to survive.¹⁰

Additionally, we expect that enforcement of this ordinance will be guided primarily by business owners demanding intervention by our city police department. Time spent confronting, citing, dispersing, arresting and detaining beggars is time that otherwise could be spent dealing with serious crime that actually threatens the safety – rather than simply the delicate sensitivities – of Salt Lake City residents. This ordinance will criminalize harmless panhandling activities as truly harmful activities associated with panhandling, such as obstructing traffic and physically threatening pedestrians, are already against the law. We prefer that our tax-funded police force be free to investigate more serious crimes that disrupt life in our city.

II. ALTERNATIVES TO INCREASED CRIMINALIZATION THROUGH REGULATION

While many localities have turned to criminalizing behavior in an effort to clean up city centers, it has become clear that *this approach alone is not effective in remedying the underlying problem*.¹¹ Those localities that have taken a more constructive approach to tackling the poverty, homelessness, mental illness, drug addiction and other problems that underlie the practice of panhandling, have enjoyed greater success.

For example, in Broward County, Fla., non-profit agencies have partnered with law enforcement to: inform individuals of social services available in the community; ensure access to bed and services; and successfully lobby the state for a detoxification program specifically for homeless people. Such community efforts, with contributions from law enforcement and social service agencies aim to resolve the roots of the problem of homelessness, rather than simply criminalize its more innocuous – though inconvenient – symptoms.

After anti-panhandling ordinance was enacted in Cincinnati, an outreach team made up of non-profit organizations and the Downtown Business Improvement District worked to help frequently -arrested panhandlers receive services such as job placement, mental health counseling and government benefits.

In Washington D.C., members of the Downtown D.C. Business Improvement District fund a day center to meet the needs of the homeless during the hours when shelters are closed. The facility serves up to 260 people a day with indoor seating, laundry, showers and a morning meal. Local service providers come regularly to the day center to provide medical, psychiatric, legal, substance abuse and employment services. Business owners finance the center through a 1-cent tax per square foot of property owned.

We appreciate that Salt Lake City has already made similar strides to end homelessness in our community. Unfortunately, we fear that the proposed ordinance will only serve to hamper these efforts.

¹⁰ *Id.*

¹¹ *CONSTRUCTIVE ALTERNATIVES TO CRIMINALIZATION*, viewed at <http://www.nationalhomeless.org/publications/crimreport/alternatives.html>

III. CONCLUSIVE RECOMMENDATIONS

It is our sincere belief that the proposed ordinance is unnecessary and infringes on protected speech activity. We recommend that the city not enact this regulation. Should the city nonetheless choose to enact regulation, it should do so in conjunction with social services to cure the causes underlying panhandling. Otherwise, a very vulnerable population of our city will be continually subjected to criminal prosecution for activities to which there are few actual alternatives.

The ACLU of Utah applauds the city's recent actions to make Salt Lake an open, diverse and welcome place to all as evidenced by the City's proposed non-discrimination ordinance. We hope that this sentiment will extend to these vulnerable members of our community as well, without regard to the appearance of these residents or the inconvenience they may appear to pose to others.

Please feel free to contact us should you have any questions.

Sincerely,



Karen McCreary
Executive Director



Marina Lowe
Staff Attorney

Cc: Members of Salt Lake City Council



September 18, 2009

Mayor Ralph Becker
City of Salt Lake City
451 S. State St., 3rd floor
Salt Lake City, Utah 84143

Dear Mayor Becker:

On behalf of the Board of Directors and staff of Crossroads Urban Center, a low income service provider in Salt Lake City since 1966, I urge you to abandon the proposed ordinance on "commercial solicitation" (panhandling) currently being circulated for public comment. Below are just some of the problems we see in attempting to regulate the free speech of people engaged in begging on the streets.

1. Any ordinance attempting to regulate free speech in such a manner is potentially unconstitutional regardless of how it's written. It's how the law is enforced that presents the major problem. We already have laws on the books to guard against aggressive solicitation such as blocking traffic or sidewalks, threatening behavior and extortion, and a variety of public nuisance ordinances. If the ordinance in question is passed, it will set up the unreasonable expectation that police officers will be putting an end to panhandling. The police, however, will not have any additional resources and should be understandably reluctant to divert the precious resources they do have from gang activity, robbery, and actual assault. In the event an officer does choose to enforce this ordinance, the manner in which the enforcement occurs will become the main issue. Legal action against the City will certainly result in many cases. This ordinance just isn't necessary.
2. Our forty plus years of work with Salt Lake's religious communities lead us to believe that restricting begging at a house of worship is exactly the opposite of what most religious teachings emphasize. Is the religious community really asking the City to help defend it from the poor?
3. There could not be a worse message for the City to send the public during the current recession. With the ranks of the unemployed swelling, access to public assistance such as General Assistance being cut off, and more and more people exhausting the unemployment benefits that they may have access to, why would Salt Lake City choose to respond by outlawing begging? Surely the message that would be sent by this type of ordinance is callous at best. The criminalization of poverty doesn't solve anything. It simply indicates that we are more focused on perception than reality.

Executive Director
Glen L. Bailey
Board Chairman
James Eric Kaforn

307 South 600 East
Salt Lake City, Utah 84111
ph: 801.361.7765
fax: 801.361.7278
www.crossroadsuc.org

4. Many people on the street, especially beggars, really are desperately poor. Despite the perception that panhandlers are all well off people with comfortable lifestyles, our experience is that this simply isn't true. A lot of people you meet on the street are desperate for many different reasons. Individuals should decide if and when to give for themselves and not have it determined based on government restriction of free speech. We are attaching a University of Texas study on panhandling that indicates that most people begging on the street are truly in need. We encourage you to take a look at it.

5. The "anti lying" provision is troublesome and unworkable. Do we really expect the police to ascertain the veracity of people on the street? Do we really want to burden citizens with the requirement that prove they are homeless, poor, disabled, etc. just because they are desperate enough to resort to begging? How can this possibly occur without creating an enforcement situation ripe for abuse? Again, this type of regulation simply isn't necessary, yet alone worth the negative repercussions.

Taken together the provisions of the ordinance create a broad prohibition against begging, not the narrow restriction of "commercial speech" indicated in the preamble. The idea seems to be to list enough restricted areas to prohibit panhandling. If that doesn't work, we'll ask people to prove they're in need. If we applied the requirement to verify the truth of solicitations upfront to politicians, salesmen, lawyers, and others, it would be an unacceptable violation of free speech. Applied to beggars on the street, however, it's OK. Why?

The importance of free speech and the need to allow citizens to freely interact is essential. Free speech requires that each of us endure something sometime that makes us uncomfortable. It's the price we pay to live in a free society. It is neither appropriate nor wise to abandon this principle in regard to desperate people begging on our streets. Please reject this misguided ordinance.

Sincerely,



Glenn L. Bailey
Executive Director

Encl.



**DISABILITY
LAW
CENTER**
Utah's Protection and Advocacy Agency

Public Comment

September 18, 2009

Contact: Andrew Riggle
Public Policy Advocate

(801) 363-1347 or

ariggle@disabilitylawcenter.org

Mayor Ralph Becker
City and County Building
451 South State Street
Salt Lake City, Utah 84111

Proposed Ordinance Imposing Time, Place, and Manner Restrictions on Commercial Solicitation in Salt Lake City

The Disability Law Center (DLC) is a private, nonprofit organization designated as Utah's Protection and Advocacy agency. The DLC is federally mandated to enforce and strengthen laws that protect the opportunities, choices, and legal rights of Utahns with disabilities.

On July 23, 2009, Salt Lake City published a public discussion draft of a proposed ordinance imposing time, place, and manner restrictions on individuals engaging in activities related to commercial solicitation. The DLC is specifically concerned with sections 4(c) and (d) of the proposed ordinance. The language "wearing or displaying an indication of physical disability" and "use of any makeup or device to stimulate a deformity" is particularly problematic because:

- Disability exists and manifests in a myriad of forms. Some disabilities may be obvious; double amputations, for instance. However, a much larger proportion of disabilities are causally related to physical or mental conditions that are not visually apparent. To name just one current example, returning veterans who have sustained serious Traumatic Brain Injuries (TBI) may not bear the physical signs that would be obvious under casual observation by law enforcement personnel.
- The provision may have the effect of suggesting to law enforcement personnel that they need to challenge solicitors who appear to have some kind of disability. For example, an officer observing a solicitor in a wheelchair may believe it appropriate to demand medical proof or documentation, or attempt a field sobriety evaluation.
- As a result, solicitors with genuine disabilities may be unintentionally subjected to more invasive contact. Asking law enforcement to explore the perceived disabilities of solicitors will likely result in a disparate and discriminatory impact on people with genuine disabilities.



September 21, 2009

Different by Nature.

Mayor Ralph Becker
Mayor of Salt Lake City
City & County Building
P.O. Box 145474
Salt Lake City, UT 84114-5474

Dear Mayor Becker:

There are many things that make Salt Lake a great convention destination. Some of our greatest selling points include competitive hotel rates, normalized liquor laws, significant space at the Salt Palace Convention Center, stunning scenery and easy access to outdoor recreation. Unfortunately, aggressive panhandling in and around the Salt Palace Convention Center detracts from our attributes, creating a negative experience for convention attendees and making Salt Lake City more difficult to promote to meeting planners.

During large conventions, the Salt Palace can be surrounded by commercial solicitors, intimidating visitors and creating a hostile environment. During the recent Outdoor Retailer Trade Show in July, dozens of panhandlers converged on the convention district during the first day of the show. We received multiple complaints from the meeting planner. This situation seems to be getting worse, not better. And now is the time to aggressively address the problem. This ordinance will help to make Salt Lake City a more welcoming place for regional, national and international travelers.

The hospitality industry is one of the world's great economic drivers and provides jobs for some of the most disadvantaged workers in our community. The behavior of Salt Lake City's aggressive panhandlers threatens the livelihood of hundreds of city workers – many of whom are on the bottom rung of our community's economic ladder. Fewer conventions and visitors to our downtown mean fewer hotel rooms to maintain, meals to prepare and jobs for many low wage employees. Rampant panhandling in the convention district may have the unfortunate side effect of limiting opportunities for people working to overcome homelessness. This ordinance will help to stop inappropriate aggressive commercial solicitations downtown.

Because we have seen the results, first hand, of aggressive panhandling in the convention district, we support Salt Lake City's efforts to regulate commercial solicitations. The city has gone to great lengths to ensure that the proposed ordinance is fair and constitutional. On behalf of the entire hospitality community, we endorse your administration's efforts and encourage the City Council to move quickly to adopt this important ordinance.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Beck", written over a horizontal line.

Scott Beck
President and CEO
Salt Lake Convention & Visitors Bureau

Salt Lake Convention
& Visitors Bureau

90 South West Temple
Salt Lake City, Utah 84101
Telephone 801.534.4900
www.VisitSaltLake.com

September 18, 2009

Mayor Ralph Becker
P.O. Box 145474
Salt Lake City, UT 84114

Dear Mayor Becker,

Thank you for the opportunity to comment on the proposed Ordinance on Commercial Solicitation. After a careful reading, I have written my objections below:

In the preamble, in the first paragraph beginning, "WHEREAS...":

What is meant by the term "abusive solicitation"? It conjures up images of panhandlers using brass knuckles (the realm of the criminal code). Did you mean "aggressive solicitation"?

The Salt Lake City Code already has two chapters that put time, manner, and place restrictions on first amendment rights on sidewalk space: chapter 14.36 (Newsracks) and chapter 14.38 (Sidewalk Entertainers and Artists). Both use identical language to articulate the government interest at stake: "The city has an obligation to the general public to ensure reasonably unobstructed passage over the public ways in a clean, safe and orderly manner"¹. Did you consider using this same articulation in the present ordinance instead of the new and more verbose clause that begins, "...while at the same time protecting the coexistent rights...?"

In the preamble, in the third paragraph beginning, "WHEREAS...":

Why is "including many vocal requests for a donation" omitted from the list of forms of solicitation that are not in and of themselves inherently threatening or aggressive? Certainly, I am not threatened by the majority vocal requests.

In the preamble, in the fourth paragraph beginning, "WHEREAS...":

I take issue with the claim that "...the City Council finds that there has been an increase in aggressive solicitation in the City...". I made a formal request to the Mayor's Office for "...copies of the facts or studies or reports or whatever information has been used to justify..."² this statement. I received copies (very promptly and professionally) of fifteen citizen complaints (fourteen emails and one letter) and the following explanation:

"I've tried to track down documentation from other departments, but have not heard back and didn't want to keep you waiting. I did learn that the police do not track "commercial solicitation" complaints.

Although we could get those numbers, we would need to look through all the past police reports.....Finally, much of our experience comes from conversations with a number of businesses,

1. Salt Lake City Code, chapter 14.36.010 B and chapter 14.38.010 F

2. email sent by me to the Mayor's Office on Sept , 2009

organizations, and individuals in the area. Unfortunately, at least not that I could find, we don't have a strong record of phone and other verbal conversations which have been guiding our thought process."³

Of the citizen complaints I did receive, a few seem reasonable in tone; others are laden with stereotype or worse. With no independent study to investigate the claims made, no numbers, no base year established for comparisons, and much of the thought process occurring in off-the-record conversations, I feel all you can claim is something along the lines of, "...the City Council has received feedback that there has been an increase..."; or "... the City Council suspects there has been an increase...".

In the preamble, in the seventh paragraph beginning, "WHEREAS...":

In the list of limited circumstances that justify time, manner, and place restrictions, the fourth item is a repeat of the third item: "... and there is a wish to avoid or reduce a threat of inescapable confrontations..." is the same as "... soliciting in places where people are a 'captive audience' "

In section A (Definitions):

A typo occurs in this clause: "and does not refer to conduct regulated by chapter 2.64 of this code". Chapter 2.64 of the Salt Lake City Code is the section on city records. What section of the code did you intend to reference?

In section B, subheadings (1) and (2) [Place Restrictions]:

The place restrictions of section B. (1) ostensibly target soliciting in places where people are a captive audience. But the last restriction, which prohibits soliciting "within twenty (20) feet of the entrance to a place of religious assembly", seems incongruent with the rest: there is nothing to prevent a person solicited outside a place of worship from walking away or going inside. Its inclusion, of course, invites cynical speculation: are we prohibiting panhandling from places where we prefer to ponder our own holiness?

I find item (d), which prohibits soliciting "... in any public transportation vehicle or public transportation facility, excluding airports", to be ironic since it is the inverse of the logic from the Supreme Court ruling cited in the preamble.⁴ In that ruling, airports were found to be the LEAST sacrosanct forum for speech among the public transportation spaces. Why the reversal? Why the exemption of airports from your restrictions?

In section B, subheading (3) [Manner Restrictions]:

What is meant in the first sentence when it is written, "the following manners of commercial solicitation are expressly prohibited, at any time and any manner. ..."? The subject-verb-prepositional phrase construct of "... manners... prohibited... in any manner" doesn't make sense. Did you mean the second "manner" to be "place"?

3. email received by me from the Mayor's Office on Sept 9, 2009

4. *International Society for Krishna Consciousness v. Lee*, 505 U. S. 672 (1992) 683 Opinion of the Court

In section B, section (3) a. [Hindrance to Traffic]:

"Expressly prohibit[ing] [solicitation], at any time and any [place]"⁵ if it "interfere[s] with orderly flow of either vehicles or pedestrians"⁵ doesn't sufficiently acknowledge that public sidewalks are not simply people moving machines, but also quintessential public forums where expression, debate, protest, and solicitation can often be expected to disrupt the flow of pedestrians. This restriction is too strongly worded.

Two adverbs are used in sections (3) a. 1. and (3) a. 2. to measure if solicitation unacceptably hinders traffic: "intentionally" and "unreasonably". I find "intentionally" an unclear measure: disruption in the orderly flow of pedestrians is inherent in commercial solicitation, intentional or not. Consider Justice Rehnquist's observations:

"Solicitation requires action by those who would respond. The individual solicited must decide whether or not to contribute (which itself might involve reading the solicitor's literature or hearing his pitch), and then, having decided to do so, reach for a wallet, search it for money, write a check, or produce a credit card.¹⁷ [Pedestrians] who wish to avoid the solicitor may have to alter their paths, slowing both themselves and those around them. The result is that the normal flow of traffic is impeded."⁸

"Intentionally" should be eliminated; "unreasonably" alone is a better measure.

In section B, section (3) b. [Aggressive Commercial Solicitation]:

There is a major grammatical ambiguity in this sentence from section B. (3) b. (1):

"Approaching or speaking to a person, or following a person before, during or after commercial solicitation, if that conduct is intended or is likely to cause a reasonable person to fear bodily harm to oneself or to another, or damage to or loss of property or otherwise be intimidated into giving money or any other thing of value".

It is not grammatically clear if the modifying clause, which begins, "if that conduct is intended...", modifies all three verbs - approaching, speaking, and following - or just the last verb. Of course, the meaning changes dramatically, depending on which is the case.

In section B, section (3) b. 3. [Violent or Threatening Gestures]:

In the list of prohibited violent or threatening gestures, item (c) ["... profane and abusive language ..."] is completely contained within item (e) ["... any statement, gesture, or other communication that a reasonable person would perceive to be a threat."]. Item (c) should be eliminated: it is repetitive and unnecessarily enshrines the attitudes of the local religious hegemon.

I am not convinced that "... commercially soliciting in a group of two (2) or more persons"⁹ constitutes a violent or threatening gesture or amounts to aggressive manner. This restriction should be eliminated or modified by a clause that in essence says, "if done in a threatening way".

5. section B. (3). First sentence.

6. section B. (3) a. 1.

7. *Kokinda, supra*, at 734; see *Heffron*, 452 U. S., at 663 (Blackmun, J., concurring in part and dissenting in part)

8. *International Society for Krishna Consciousness v. Lee*, 505 U. S. 672 (1992) 683 Opinion of the Court

9. section B. (3) b. 3. (f)

In section B, subheading (4) [False or Misleading Solicitation]:

Honestly, this entire subheading is absurd. How do you possibly plan to enforce these restrictions? Either you would need a new police department rivaling the Schutzstaffel, whose only purpose would be to know the intimate life details of every panhandler in the city, then lie in wait for deception to occur; or you are planning to shift the burden of proof from the State to the panhandlers themselves, who at all times would need to carry ID; military ID; a doctor's certification of illness, deformity, or disability; a social worker's certification of true homelessness and specific need, and an accountant's certification of no funds - then produce them upon request! Both scenarios are preposterous. This whole subheading should be eliminated.

In section B, subheading (5) [Time Restrictions]:

Restricting "... any person [from] commercially solicit[ing] after sunset and before sunrise ..." no matter the manner, place, or purpose makes this ordinance overly broad. See my comments below, titled, "The ordinance is overly broad".

In section C (Violation):

Nothing will reveal how this ordinance will affect the soul of the city more than whether or not the planned enforcement is heavy-handed. Why is this not spelled out? I want to see another draft with proposed enforcement delineated and have a chance to comment.

The ordinance is overly broad

The biggest risk of unconstitutionality in this ordinance is that it is overly broad. Widening the scope from panhandling to any commercial solicitation - any person or group raising money or seeking donations on a street, sidewalk, or public space! - and including certain restrictions that target manners, times, or places that MIGHT be aggressive or threatening but aren't necessarily so,¹⁰ causes some really silly ramifications.

Consider that the following activities would now be illegal in Salt Lake City: a sidewalk lemonade stand run by more than two children; a car wash held by a cheerleading squad in a school parking lot, if staffed by more than two cheerleaders - that's one cheerleader to wash the car and one to hold the sign!; a PTA carnival held at an elementary school after dark; a PTA carnival held at an elementary school if more than two individuals are staffing the Fish Pond. In fact, you've outlawed any fundraising event at an elementary school, middle school, high school, state college or state university if held after dark or staffed by more than two people. And what about Halloween? Trick-or-treating is now prohibited on a street, sidewalk, or public space if done after dark; by more than two children together; by a parent accompanying more than a single child; by children claiming they are from out of town (i.e. extra-terrestrials, princesses, exotic beasts); by children using make-up or a device to simulate a deformity (i.e. witches' noses, animal whiskers, masks); or by children suggesting they are a member of the armed services (G.I. Joe is going to be huge this year).

10. section B. (3) b. 3. (f): "...commercially soliciting in a group of two (2) or more persons; section B. (5): "...commercially solicit[ing] after sunset and before sunrise."; section B. (4): False or misleading solicitation.

Obviously, these ramifications are ridiculous. If you can't eliminate or refine those restrictions that target times, places, and manners that MIGHT be aggressive or threatening but aren't necessarily so, then reduce the scope of the ordinance from commercial solicitation back to panhandling.

Does this ordinance have social wisdom?

I recognize the government's obligation "... to ensure reasonably unobstructed passage over the public ways in a clean, safe and orderly manner",¹¹ but no wisdom is in an initiative to simply move our social problems out of sight and out of mind. To be honest, I feel both motives at play in this ordinance at different times.¹² As you prepare further drafts, please clearly delineate in your mind the line that separates legitimately reducing aggressive or threatening behavior from coddling citizens who are simply annoyed or inconvenienced or bothered by the grit of a dynamic city. An insightful resolution to any aggressive panhandling problem we may face will not be reached by a gated community or any of its derivatives.

Thank you for reading,

Alan Staker

September 18, 2009

Mayor Ralph Becker
Salt Lake City

Dear Mayor Becker:

The Salt Lake Chamber applauds you and the Salt Lake City Council for addressing the issue of aggressive panhandling in our capital city and we support the proposed commercial solicitation ordinance.

Unfortunately, the kind and generous nature of many Utahns makes them a target for aggressive panhandlers. Many panhandlers are neither homeless nor destitute. They prey upon the charitable disposition of their fellow citizens both taking funds that would otherwise be donated to those who legitimately need help, damaging the friendly atmosphere in our capital city in the process.

While compassion for the less-fortunate members of our community is an essential element in policy decisions, the negative impact on the image of Salt Lake City and the accompanying economic impact must also be considered. Numerous social service organizations provide excellent care for the underprivileged in Salt Lake City and the Chamber emphasizes the need to give to legitimate organizations rather than panhandlers.

I commend you for your leadership in this important effort. Our capital city is important to all Utahns and your efforts to further enhance the welcoming atmosphere, particularly downtown, are greatly appreciated.

Sincerely,

Lane Beattie
President and CEO

From: Haley McLennan
Sent: Friday, September 25, 2009 2:43 PM
To: Mayor
Subject: City County Building Incident

Dear Mayor Becker,
I hope this email finds you well.

I am writing concerning an incident that just occurred at the City County building this afternoon (Sept. 25th) concerning a couple of transients and

myself. I went into the City County Building around 1:15 p.m., to obtain a business license.

I approached the building from the southeast corner, and crossed a pair of men sitting on the benches closest to the building. One of them spoke to me, and I didn't hear what he said because I was wearing headphones. I took my headphones off, and apologized, assuming that he had asked me for money. I didn't stop or slow down, and the other man sitting with him said to me, "You better be careful now..." I was disturbed to the point where I continued to check behind me to make sure they weren't going to follow me in the building.

I don't have a problem with homeless people, transients, or any of the number of people in our city who are suffering and publicly asking for help. I don't really care when people ask me for money on the street. I do care when they get aggressive and threatening. There is only so much you can do in controlling the behavior of people in a public space, but it is shameful that I cannot step foot on city property without being harassed. Allowing that kind of behavior to occur on your property reflects poorly upon your office as a administration that has been elected to maintain a level of public safety, as well as the City of Salt Lake.

In my visit to the City County Building today, I spent almost \$206.00 on a business license, and will spend thousands in paying taxes on this business. I have recently moved back to Salt Lake City, and am very happy to be home, and am so impressed with how this city has grown. Incidents like this scare and disappoint me, and make me think twice about wanting to permanently settle here and contribute to the city's economy.

I spoke with Julian **Tippits** from your office this afternoon, and I appreciate his sympathetic ear concerning this event. He requested that I email you, and he also explained the new laws that are have been discussed concerning policing solicitors. I know that you are extremely busy, and I sincerely appreciate how responsive your office has been to my complaint.

Best wishes,

Haley McLennan

Constituent called with the following: left no contact information:

Sugarhouse resident/does not shop there because there are too many aggressive panhandlers – want Mayor Becker not to just focus his efforts in downtown area – this resident does most of their shopping in Murray or other areas so sees SLC could be suffering economically.

From: John Marks
Sent: Sunday, October 11, 2009 8:29 PM
To: Mayor
Subject: Suggestion Re Controlling Panhandlers

Honorable Mayor Ralph Becker
Salt Lake City, UT

Dear Mayor Becker:

Congratulations on your efforts to regulate panhandlers. You realize that you cannot eliminate them entirely. However, if you are interested in a suggestion on a simple but effective solution to controlling panhandlers, you are invited to telephone or meet with me at your convenience. My suggestion is based on experience in 1947, a year following military discharge from WW II. Your secretary may arrange a mutual time.

Since you don't know me, for your information, I am a 48 year resident of Holladay, twenty years retired from Hercules [now ATK], 1985 recipient of Engineer of the Year award of Utah American Institute of Aeronautics and Astronautics, and of patents for novel rocket motor processes.

Sincerely,

John D. Marks



June 8, 2010

Mayor Ralph Becker
Office of the Mayor
City & County Building
451 South State Street
Salt Lake City, Utah 84111

Re: Proposed *Commercial Solicitation Ordinance*

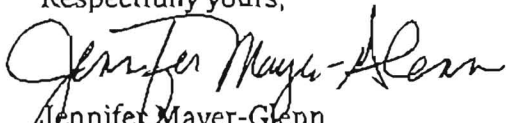
Dear Mayor Becker,

Thank you for working with the Salt Lake City Human Rights Commission in addressing many of our concerns with the proposed *Commercial Solicitation Ordinance*.

While the commission does not support criminalization of poverty, we recognize the perceived public safety concerns of aggressive pan handling. We believe that the proposed ordinance addresses those concerns in a balanced manner.

We sincerely appreciate the consideration you have given the Human Rights Commission in this process.

Respectfully yours,


Jennifer Mayer-Glenn
Chair
Human Rights Commission