

**Public Safety Committee Meeting  
December 5, 2012**

The **Public Safety Committee** met Wednesday, December 5, 2012, at 6:00 pm in the City Hall Conference Room. Present were Committee Chairperson John Uden and Committee Members Sue Galbraith, Duane Andrews and Mark Ahner. Also present were Mayor C.A. Grenz, Police Chief Doug Colombik and Committee Recorder Connie Watts.

**REVIEW POSSIBLE AMENDMENTS TO ARTERIAL STREETS IN ORDINANCE NO. 1231**

Chairperson Uden said this item had been through this Committee before going to first reading at the last Council meeting, where no changes were proposed.

Committee Member Ahner added that it is before this Committee again because of the requirements of Ordinance 1208, which requires all ordinances must go to committee after the first reading and before the second reading and final adoption.

\*\* Committee Member Ahner moved to recommend approval of Ordinance 1231, seconded by Committee Member Andrews and, on roll call vote, passed unanimously, 4-0.

**CITIZEN REQUEST**

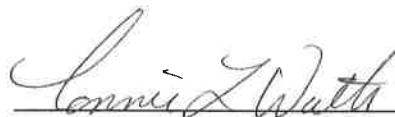
Committee Member Ahner noted that he had been approached by a citizen about "jake brakes." He asked that individual to call Chairperson Uden so the issue could be placed on a future Safety Committee meeting agenda.


**ADJOURNMENT**

\*\* *Having no more business before the Committee, Committee Member Ahner moved to adjourn, seconded by Committee Member Uden and passed unanimously. The meeting was adjourned at 6:10 p.m.*

Respectfully Submitted:

Public Safety Committee Chairperson:

  
\_\_\_\_\_  
Connie L. Watts, Recorder

  
\_\_\_\_\_  
Chairperson John Uden

**PUBLIC SAFETY COMMITTEE  
AGENDA**

**DATE:**           **Wednesday, December 5, 2012**

**Time:**           **6:00 PM**

**PLACE:**         **City Hall Conference Room**

**AGENDA:**

- 1) Roll Call**
- 2) Review possible amendments to arterial streets in Ordinance No. 1231 .**
- 3) Citizen Request.**
- 4) Adjournment.**

**Public comment on any public matter that is not on the agenda of this meeting can be presented under "Request of Citizens" provided it is within the jurisdiction of the City to address. :Public comment will be entered into the minutes of this meeting. The City Council cannot take any action on the matter unless notice of the matter has been made on an agenda and an opportunity for public comment has been allowed on the matter. Public matter does not include contested cases and other adjudicative proceedings.**

## ORDINANCE NO. 1231

AN ORDINANCE AMENDING SECTION 22-2(2) OF THE CODE OF ORDINANCES OF THE CITY OF MILES CITY, MONTANA TO PROVIDE A DEFINITION AND DESIGNATION OF ARTERIAL STREETS WITHIN THE CITY OF MILES CITY.

BE IT ORDAINED by the City Council of the City of Miles City, Montana as follows:

Section 1. Section 22-2(2) of the Code of Ordinances of the City of Miles City, Montana is amended to read as follows:

“(2) Streets and roadway areas.

a. Arterial Street means any of the following designated streets:

- (1) North 7th Street from its intersection with ~~Main~~ Street. to its intersection with ~~Incoln~~ Street.
- (2) Tatro Street from its intersection with North 7th Street to its intersection with Woodbury Street and continuing with Milwaukee Street from its intersection with Woodbury Street to its intersection with North Montana Avenue. (Garfield School – South Side)
- (3) Woodbury Street from its intersection with Leighton Boulevard to its intersection with Roberts Street. (Garfield School – West Side)
- (4) North Montana Avenue from its intersection with Main Street to its intersection with Jackson Street. (Triangle Park – East Side)  
(Sacred Heart School – West Side)
- (5) Leighton Boulevard from its intersection with North ~~Sewell~~ Avenue to ~~the point it merges~~ with Washington Street and continuing with Washington Street to its intersection with North ~~5th~~ Street. (No jurisdiction east of N. Sewell Ave.)  
(Triangle Park – North Side)  
(Sacred Heart School – South Side)
- (6) North 5th Street from its intersection with Main Street to its intersection with Marion Street.
- (7) North 9th Street from its intersection with Main Street to its intersection with Washington Street. (Washington School – West Side)
- (8) North 10th Street from its intersection with Main Street to its intersection with Washington Street. (Washington School – East Side)
- (9) Palmer Street from its intersection with North 7th Street to its intersection with North Montana Avenue. (Washington School – South Side)
- (10) Orr Street from its intersection with North 7th Street to its intersection with Leighton Boulevard. (Washington School – North Side)

- (11) Pleasant Street from its intersection with North 7th Street to its intersection with North Montana Street.
- (12) North Strevell Avenue from its intersection with Main Street to its intersection with ~~Valley Drive East/US Highway 12~~ (Jefferson School – West Side)
- (13) North Stacy Avenue from its intersection with Main Street to its intersection with Leighton Boulevard. (Jefferson School – East Side)
- (14) South Winchester Avenue from its intersection with Main Street and merging with South Cale Avenue continuing to its intersection with Wilson Street. (Wibaux Park – East Side)  
(Highland Park School – West Side)
- (15) South Strevell Avenue from its intersection with Main Street to its intersection with Balsam Drive. (Wibaux Park – West Side)
- (16) Wilson Street from its intersection with South Haynes Avenue to its intersection with South Strevell Ave.
- (17) ~~South Wibaux Park Drive and North Wibaux Park Drive from their intersection~~ with South Winchester Avenue to ~~their intersection~~ with South Strevell Avenue. (Wibaux Park – South Side)  
(Wibaux Park – North Side)
- (18) Fort Street from its intersection with South Montana Avenue to its intersection with South Strevell Avenue. (CCDHS – South Side)  
(Lincoln School – North Side)
- (19) South 10th Street from its intersection with Main Street to the point it merges with Pearl Street and continuing to Pearl Street's intersection with South Strevell Avenue. (Lincoln School – South Side)  
(Pre School – South Side)
- (20) South 8th Street from its intersection with Main Street to the point it merges with Stower Street and continuing ~~East of Stower Street~~ to its intersection with ~~Michel Street~~. (Highland Park School – North Side)  
(3100 Stower Street – Blind Corner)  
(Large amount of vehicle & pedestrian traffic)  
(Future Restricted Zone)
- (21) Tompy Street from its intersection with South Montana Avenue to its intersection with South Haynes Avenue.
- (22) ~~Central~~ Street from its intersection with South Montana Avenue to its intersection with South Haynes Avenue. (Highland Park School – South Side)
- (23) South Lake Avenue from its intersection with Main Street to its intersection with ~~Tompy~~ Street. (CCDHS – East Side)  
(Lincoln School – West Side)
- (24) South Center Avenue from its intersection with Main Street to its intersection with ~~Tompy~~ Street. (CCDHS – West Side)  
(Pre School – East Side)
- (25) South Montana Avenue from its intersection with South Center Avenue to its intersection with Tompy Street.

(26) South 5th Street from its intersection with Main Street to its intersection with Pacific Avenue. (Riverside Park – East Side)

(27) South 4th Street from its intersection with Main Street, inclusive of the service road through Riverside Park, to its intersection with Eagle Avenue. (Riverside Park – Inside Park)

(28) Yellowstone Avenue from its intersection with South 10th Street to its intersection with Neu-Vu Avenue

(29) Pacific Avenue from its intersection with South 8th Street to its intersection with the Tongue River Bridge.

(30) Atlantic Avenue from its intersection with South 10th Street to its intersection with Neu-Vu Avenue.

(31) Bridge Street from its intersection with South 5th Street to its intersection with South Montana Avenue and then northerly on South Montana Avenue to its intersection with Main Street. (Senior Citizen Center – South Side)

(32) Main Street from its intersection with the Tongue River Bridge to its intersection with South Haynes Avenue.

(33) South Haynes Avenue from its intersection with Main Street (No jurisdiction on N. Haynes Avenue) to its intersection with Interstate Highway 94.

(34) The service road between the Oasis and Deaton Field from its intersection with Main Street to the point it merges with Sloan Road continuing south on Sloan Road to its intersection with Pacific Avenue.

(35) Dike Road from its intersection with Pacific Avenue to the point it merges with Wells Street and continuing on Wells Street to its intersection with U.S. Highway 59 North.

(36) U.S. Highway 59 North from its intersection with William Street continuing north to the south end of the Yellowstone River Bridge. (Kinsey Bus Stop Area) (Future Restricted Zone)

(37) South Sewell Avenue from its intersection with Main Street to its intersection with Bottelle Street. (Miles Comm. College – West Side) (One way Restricted Speed Zone)

(38) Dickinson Street from its intersection with South Montana Avenue to its intersection with South Moorhead Avenue. (Miles Comm. College – South Side)

b. *Controlled access highway* means every highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street or roadway.

c. *Crosswalk* means:



Doug Colombik &lt;dcolombik@milescity-mt.org&gt;

---

**School Zone speed limits**

3 messages

George Huss &lt;bhpc@midrivers.com&gt;

Mon, Oct 22, 2012 at 10:49 AM

To: Butch Grenz &lt;mayor@milescity-mt.org&gt;, procoattorney@rangeweb.net, Doug Colombik &lt;dcolombik@milescity-mt.org&gt;

Cc: ericabhpc@midrivers.com, Jana Mueller &lt;janabhpc@midrivers.com&gt;

Last week I was provided with a copy of a memorandum from City Judge Homme to Mayor Grenz concerning the Judge's dismissal of 2 DUIs where the initial stop was based upon exceeding the speed limit in a school zone. I am attaching a copy of that memorandum.

The memorandum incorrectly references 61-8-311 of MCA and references an amendment to it in 2011. The correct reference should be to 61-8-310, a copy of which I am attaching with the pertinent part highlighted in yellow. There was an amendment in 2011 to 61-8-310, but it did not affect the issue. It was a 2009 amendment that added the requirement that the signage state the penalty for violation. The Office of Public Defender attorney has apparently successfully raised this issue in the DUI prosecutions initially based upon exceeding the speed limit in a school zone.

However, even if the City were to change its signage in the school zones to state the penalty, there is still a basic problem with the speed limit in school zones in Miles City under §61-8-310. The initial sentence of that statute requires that the speed limit be set "...on the basis of an engineering and traffic investigation...". I don't believe there is a single school zone in Miles City where the speed limit was based upon an engineering and traffic investigation, and, if there is one, I don't believe the City could produce the engineering and traffic investigation that was the basis for the speed limit in that school zone.

I addressed this issue in 2007 in a memorandum to Mayor Whalen. I have attached a copy of that memorandum. This was also addressed in e-mails to Mayor Grenz in January and February of this year. See attached e-mail. To date, the Council has not acted further on this matter.

Pursuant to my recommendation, Mayor Grenz had me prepare an ordinance designating certain streets as arterial streets. That passed as Ordinance No. 1231. I am attaching a copy of that ordinance. 61-8-310(3) permits a local government to set speed limits on arterial streets and does not contain the prerequisite that those speeds be based upon an "engineering and traffic investigation". Therefore, it is my opinion that on arterial streets as designated by Ordinance No. 1231 the City Council can establish 15 m.p.h. zones. The City Council did do that on Pearl Street from Montana to Jordan. This is a 15 m.p.h. signed zone, not a school zone. If the Council were to designate other portions of these arterial streets, they would also be 15 mph signed zones, rather than school zones.

Erica Griffith has researched the judge's conclusion that the 2 DUIs be dismissed and we do not agree with that conclusion assuming that the police officer did not know the signage in the school zone was defective. We believe the "good faith" exception set forth in *US. v. Leon*, 468 U.S. 897 (1984) and *Arizona v. Evans* 514 U.S. 1 (1995) and adopted by the Montana Supreme Court in *City of Culbank v. Daniel Bird* 38 P3d 804, 307 Mont. 460 (2001) should have applied. The exclusionary rule is established to deter police misconduct. Here there was not police misconduct,