

**FINANCE AND ADMINISTRATION
COMMITTEE MEETING
COUNCIL CHAMBERS
MONDAY, April 13, 2009
6:00 P.M.**

The Finance and Administration Committee of the Merriam City Council met at 6:00 p.m. Monday, April 13, 2009. Councilmembers present included: Committee Chair, Bryan Burks, Councilmember Pam Bertocin, Councilmember Nancy Hupp and Councilmember Dan Leap arrived at 6:15 p.m. Staff present included Cindy Ehart, Finance Director; Phil Lammers, City Administrator; Bill Lietzke, Police Chief; and Juli Pinnick, City Clerk.

Finance Department – Cindy Ehart

1. Review of monthly financial report.

Finance Director Cindy Ehart presented the finance report for the month of March.

Administration Department- Phil Lammers

2. Consider approval of a Memorandum of Understanding for an Emergency Relocation Facility.

City Administrator Phil Lammers presented the background for this item.

The Johnson County Library located at Shawnee Mission Parkway and Antioch does not have a basement. It is the desire of the Johnson County Emergency Manager to determine a suitable facility to relocate library employees in case of an emergency. That safe area would be at Merriam City Hall.

Currently, city staff is redrafting our Emergency Preparedness Plan. While not yet complete, the plan identifies the basement of City Hall as a protected shelter in case of emergencies. There appears to be adequate room to shelter both county and city employees in the event of an impending disaster.

COUNCILMEMBER HUPP MOVED THAT THE FINANCE AND ADMINISTRATION COMMITTEE FORWARD TO THE FULL COUNCIL A RECOMMENDATION FOR APPROVAL OF A MEMORANDUM OF AGREEMENT FOR EMERGENCY RELOCATION FACILITY AND TO PLACE THIS ITEM ON THE CONSENT AGENDA. THE MOTION WAS UNANIMOUSLY APPROVED.

Administration Department- Juli Pinnick

3. Discussion regarding amending the Massage Therapy ordinance.

Juli Pinnick, City Clerk presented the background for this item. Two items were brought up at the last city council meeting by a massage business owner/therapist who does not qualify for either license under the new regulations. The first item relates to felony convictions disqualifying a person from obtaining a massage therapist license or from operating and managing a massage therapy business. Staff has come up with an amendment to the code which would allow licensing if the felony is over 5 years old and if the felony was not a serious person's crime. A serious person's crime is one that is a sex related offence or violence related. In addition, other crimes disqualifying an applicant are defined in the proposed amendment.

Councilmember Burks expressed his desire to include felony drug charges to the list of crimes that would prohibit someone from obtaining a Massage Therapist or Massage Business License.

Councilmember Hupp agreed with Councilmember Burks on adding the drug convictions to the list of convictions that would prohibit a license. She further commented that the felony convictions should be 10 years old before allowing someone to obtain a license for massage therapy.

Councilmember Bertoncin commented that this item came up because a particular massage business owner opened a business and invested heavily in it then the regulations went into effect and now disqualifies her. She further commented that she feels the proposed amendment regarding felony convictions is adequate and would still allow the therapist to obtain her license.

Councilmember Leap agreed with Councilmember Bertoncin's comments.

The other item related to the new regulations is the education hours required. The new regulations require all massage therapists to have 500 hours of coursework education related to massage therapy. The regulations allow a currently licensed therapist one year to complete the coursework if they do not have the qualifying hours. Staff has proposed a change to allow two years for coursework completion. The current regulation allows the therapist to continue working as a massage therapist while completing the 500 hours of coursework. The proposed two-year amortization for coursework completion would also allow for the therapist to continue working in the city while meeting the coursework requirement.

Councilmember Burks commented that looking at the surrounding cities ordinances the 500 hours is consistent with those other cities. He further added that the two-year allowance a reasonable grace period. He does not support grandfathering of therapists who do not have the education hours.

Councilmember Hupp agreed that the two year grace period is a fair compromise.

Councilmember Bertoncin also agreed that the two-year grace period is fair.

Councilmember Leap agreed that the two-year grace period is a step in the right direction. However, people that want to break the law or do things they shouldn't are going to do them no matter how much regulation there is. He added that there should be a clause to allow people who have been doing massage for a long time to continue.

A third issue was discovered by staff during implementation of the new massage therapy regulations. The regulations require all massage therapists and massage business owner/operators to submit to fingerprinting and a background check. The fingerprints are sent to the Kansas Bureau of Investigations (KBI) for processing the background checks. The KBI then charges the city \$30 for each fingerprinting sent in. Staff would recommend amending the Schedule of Fees to add a \$30 fingerprint/background fee for each person applying for a Massage Therapist and Massage Business License.

Discussion among the committee resulted in a consensus that the additional \$30 should be added to the Schedule of Fees to cover the cost of the background checks.

Tom Busch, attorney representing Kim Lawson, owner of Allure Sense Datum Massage, addressed the committee. Mr. Busch appeared at the March 27th City Council meeting addressing these two issues. Mr. Busch distributed a letter to the committee. Mr. Busch agreed that the proposed language related to felony convictions is a good compromise to the existing language in the ordinance. Mr. Busch pointed out that the City of Overland Park gives the Chief of Police some discretion related to convictions after a license has been issued and how that conviction could cause the license to be revoked. Mr. Busch suggested Merriam's ordinance language be amended to reflect similar language to allow the Police Chief to have some discretionary authority.

Mr. Busch further commented in regard to the education requirement. In his opinion a newly established business should have to meet the 500 hour requirement. However, there are other cities that grandfather existing businesses entirely without any additional requirements. Example being Overland Park Municipal Code section 5.50.500,(c). Mr. Busch feels that someone who has been practicing massage for a number of years and has all of those years of experience, should not be dismissed. The City of Leawood handled a grace period by allowing a period of three years to obtain the hours.

Mike Tripses, Stillwell, KS, an owner and member of Allure Sense Datum Massage, LLC. addressed the committee stating that he is heavily invested in the business as he is the primary investor in the business. This situation will deprive Ms. Lawson of

her ability to have a business in Merriam. Mr. Tripses further commented that he feels that the ordinance language singles out a particular type of business and feels that it is discriminatory, arbitrary and capricious, and may have to challenge it on that basis as he has an investment to protect.

Chairman Burks responded that the City Council is trying to address these issues and are attempting to do it fairly. All of the surrounding cities have language similar to Merriam's ordinance and there is a reason the language is similar regarding the education hours. That requirement is not meant to question Ms. Lawson skills or abilities, but as we try to work with an existing business there needs to be a point of compromise.

Councilmember Leap asked that the full council also address the hours of operation that were a concern of a massage therapist who previously addressed the council.

COUNCILMEMBER BURKS MOVED THAT THE FINANCE AND ADMINISTRATION FORWARD TO THE FULL COUNCIL NO RECOMMENDATION FOR APPROVAL OF PROPOSED LANGUAGE RELATED TO EDUCATION HOURS AND NO RECOMMENDATION ON THE LANGUAGE RELATED TO FELONY CONVICTIONS AND TO RECOMMEND CHANGES TO THE SCHEDULE OF FEES FOR A \$30 BACKGROUND FEE FOR ALL MASSAGE RELATED LICENSES. THE MOTION WAS UNANIMOUSLY APPROVED.

Police Department- Bill Lietzke

4. Consider approval of Byrne Memorial Justice Assistance Grant.

Police Chief Bill Lietzke presented the background for this item. The Police Department is seeking approval to apply for a grant worth approximately \$34,075. This money was made available upon the signing of the 2009 Recovery Act. The grant money will allow the police department to implement the Desk Officer Online Reporting system by Coplogic. This is an online reporting system that will allow citizens to file their own minor incident reports. Reports such as lost property, thefts, traffic complaints, crime tips and house watch requests can be handled online. These reports will then be transferred into the I-Leads records management system.

The grant does not require any matching funds by the City and the system will be hosted by Coplogic so there is no hardware to be purchased or rented. The grant extends over a two-year period. If it is found that the program is not effective during those two years then the program can be discontinued.

COUNCILMEMBER BERTONCIN MOVED THAT THE FINANCE AND ADMINISTRATION COMMITTEE FORWARD TO THE FULL COUNCIL A RECOMMENDATION FOR APPROVAL OF THE BYRNE MEMORIAL JUSTICE

ASSISTANCE GRANT AND TO PLACE THIS ITEM ON THE CONSENT AGENDA. THE MOTION WAS UNANIMOUSLY APPROVED.

5. Update regarding COPS Grant.

Police Chief Lietzke updated the committee on the COPS Grant. This grant will fund an additional officer for three years if the City keeps that officer on the force one year after the grant expires. While the grant will not pay for overtime or for the uniform; it would cost the City approximately \$6900 for three years. This includes overtime for three years and the cost of the uniform. The sooner the grant is submitted, the greater the chance for receiving the grant.

David Hustak, massage therapist, Bodywork by David, asked to address the committee regarding the hours of operation for massage therapy businesses. Mr. Hustak commented that he spoke previously to the City Council regarding the hours of operation. Disallowing any massages after 1:00 a.m. has affected his business as he has many clients that received late night massages due to their work schedules.

Chairman Burks responded that the massage issue has been discussed already this evening and thanked Mr. Hustak for his comments and encouraged him to attend the Regular City Council meeting on April 27th if he would like to address this issue further.

There being no further business to come before the committee, the committee adjourned at 7:07 p.m.

Respectfully submitted,



Juli Pinnick
City Clerk