

## **MINUTES OF THE MISSION FINANCE & ADMINISTRATION COMMITTEE**

October 3, 2018

The Mission Finance & Administration Committee met at Mission City Hall, Wednesday, October 3, 2018 at 7:25 p.m. The following committee members were present: Pat Quinn, Hillary Thomas, Arcie Rothrock, Nick Schlossmacher, Debbie Kring, and Sollie Flora. Absent: Kristin Inman and Ken Davis. Mayor Appletoft was also present. Councilmember Schlossmacher called the meeting to order at 6:50 p.m.

Also present were City Administrator Laura Smith, Assistant City Administrator Brian Scott, City Clerk Martha Sumrall, Chief Ben Hadley, Assistant to the City Administrator Emily Randel, and Public Works Superintendent Brent Morton.

### **Ordinance Authorizing Issuance of IRBs - The Gateway**

Ms. Smith stated that as part of the redevelopment agreement for The Gateway, the issuance of Industrial Revenue Bonds (IRBs) was contemplated. The IRBs would allow the developer to secure a sales tax exemption on certain construction materials and supplies. The City Council passed a resolution of intent to issue these bonds in June, and now an ordinance authorizing the issuance is required. The proposed ordinance authorizes the issuance of taxable IRBs for the project in an aggregate principal amount not to exceed \$214,258,589. The bonds are not a general obligation of the City and not backed by the full faith and credit of the City. The developer will be responsible for reimbursing all costs incurred by the City in connection with the IRBs. There was no discussion on this item.

Councilmember Quinn recommended that the ordinance authorizing the City of Mission to issue taxable Industrial Revenue Bonds (Aryeh Realty LLC Project), Series 2018 in a principal amount not to exceed \$214,258,589 for the purpose of providing funds to pay the cost of acquiring, purchasing, constructing, installing and equipping commercial facilities, including land, buildings, structures, improvements, fixtures, machinery and equipment; authorizing the City to enter into certain documents and actions in connection with the issuance of said bonds (sales tax exemption only) be forwarded for approval. All on the committee agreed. This will be considered under "Issuance of Notes and Bonds" on the City Council agenda.

### **Non-discrimination Ordinance**

Ms. Smith stated that this item is for discussion only tonight, but staff will be looking for direction following discussion. There will be an opportunity for public comments.

Councilmember Flora encouraged those interested to view the committee packet on Mission's website as it includes additional information. She stated that adoption of a non-discrimination ordinance (NDO) will provide uniform legal protection within the City of Mission prohibiting

discrimination in employment, housing and public accommodations on the basis of race, color, religion, national origin, sex, sexual orientation, gender identity, age, disability, marital status, familial status, or veteran status. Mission is not immune from anti-LGBT discrimination, and she stated that she was encouraged by some residents to bring this issue forward. She stated studies and first hand accounts show that LGBT individuals are frequently discriminated against resulting in higher rates of youth suicide and disparate poverty rates. State and Federal law fail to protect LGBT residents in Mission, and this coverage gap is why this issue is being introduced. She stated that recent studies show that the majority of people favor LGBT protections. Passage of this ordinance will ensure Mission is a community where the dignity of all is respected, and will be good for business. Most companies include protections in their policies. She noted there support of this ordinance by the five officers of the Mission Business Partnership. The packet also includes other letters of support from a variety of organizations and passing an NDO would reflect Mission's values. The City of Mission already protects their LGBT employees. Also included in the packet are letters of support from residents, and Councilmember Flora read several quotes from the letters provided. She stated that adopting a non-discrimination ordinance at this time would put Mission on the right side of history.

Councilmember Thomas thanked Councilmember Flora for her extensive research and she is excited to see Mission move forward with this. It will send a message that Mission is forward thinking and she supports this issue

Councilmember Schlossmacher stated that we need to work through the enforcement issues. Legally this makes sense, but we need to ensure fair enforcement. He asked if Roeland Park has had any enforcement issues with their ordinance. Councilmember Flora noted the letter from Mayor Kelly, Roeland Park, who stated they have not had any problems since their ordinance was passed in 2014. Councilmember Thomas stated that she feels we need to be proactive on this issue.

Councilmember Quinn asked why this is needed in Mission and why this is not regulated by the State and Federal governments. Councilmember Flora stated that she was approached by residents, and with the recent adoption laws passed by the State of Kansas this issues has come forward. She also stated that the Wyandotte County Unified Government recently passed a non-discrimination ordinance in May. Councilmember Flora feels Kansas is trending in the wrong direction on this issue (adoption law) and that what is good for an out-state city may not be good for Mission. She supports local control of this issue to reflect our local values.

Discussion by the committee continued on the following issues:

- Whether discrimination has been witnessed in Mission.
- The need to send a signal that we are a welcoming community with the ordinance serving as a deterrent to protect citizens.
- There is a group of citizens that are unprotected in Mission from discrimination in areas such as housing, business, etc.
- Whether there are LGBT protections at the State or Federal level. There are not.

- The need to iron out further details, particularly regarding enforcement. Legal guidance is needed.
- If this ordinance were to pass, don't infringe on others.
- Why we are not pushing the Federal government to put these protections in place. This is happening but do we want to wait for Federal legislation?
- Bring this issue up at the National League of Cities - Federal legislation would be across the board and consistent.
- States and other cities are adopting non-discrimination ordinances.

Councilmember Schlossmacher opened the floor to public comments. The following comments were made:

- Gail Robertson, Mission resident, stated that Kansas is an "at will" state which means an employee can be fired for no reason or any reason. She stated that she could be fired for her sexual orientation and when a non-discrimination ordinance is passed this creates protections. She provided examples of people being fired who are not in a protected class, and this ordinance would create a space where it is not "ok" to discriminate against LGBT individuals.
- Mary Pilcher Cook, Kansas Senator, provided copies of her testimony (attached) and stated that the adoption of a non-discrimination ordinance is a good intention, but is detrimental to religious liberty and economic growth. All people in Mission deserve to be recognized as valued members of the community and respected, but this ordinance will not provide uniform legal protection. She stated that she is not aware of any cases of unfair discrimination in a court of law that are making this claim. There are already non-discrimination laws that cover race, religion, sex, etc. but she feels sexual orientation/gender identity are behaviors and not immutable characteristics. She believes in the free market for businesses and feels the City should encourage this rather than adopting a non-discrimination ordinance. She also provided examples of religious and non-religious groups and whether she feels they would be impacted by this ordinance. Senator Pitcher-Cook stated that she represents the 10th District (Shawnee, Lake Quivira, etc.).
- Alex Welch, Mission resident, stated that she is a lifelong, devout Christian and takes issue with the statement that a non-discrimination ordinance would interfere with religious practices. She does not believe it would have any effect on praying and that firing someone for being gay is not a religious practice. The NDO would not shut down a business and it would give a "fair shot" to all. She feels it is important to separate these issues.
- Andy Sandler, Mission resident, stated that he supports the adoption of an NDO and provided the example of not waiting until a fire to install a smoke detector. He feels we need to be proactive and be in the forefront should discrimination occur. He stated that hate has no home in Mission and read his letter of support, which was included in the committee packet.

- Eric Teetsel, Lenexa resident and President & Executive Director of the Family Policy Alliance, thanked Council for their work and provided copies of his testimony (attached). He and his organization are opposed to the adoption of an NDO, stating that he appreciates Councilmember Flora's statement that "all people living and working in Mission deserve to be recognized as valued members of our community, worthy of our respect and fair treatment," but he feels this ordinance unnecessarily divides people along ideological lines. He referenced the case of Jack Phillips in Colorado (wedding cake issue) and a florist in Washington state. He does not believe this ordinance would be good for Mission or its reputation, and that it does not allow individuals to be free to live out their faith beyond the walls of their home or church. He stated that 90% of Fortune 500 companies already have non-discrimination policies in place, and if there are concerns in Mission they can be addressed through established Civil channels. He does not believe government should criminalize people for their faith.
- Jen Hill, Roeland Park resident and councilmember, thanked Council for taking this "brave step" to address this issue. She stated Mission can reach out to Roeland Park for assistance and feels that those saying this is persecution is out of fear for their faith. She is proud Roeland Park has addressed this issue and encouraged Mission to push forward. She asked all to remember the separation of church and state. Councilmember Quinn and Councilmember Schlossmacher asked if Roeland Park has had any discrimination complaints since adopting their ordinance, and she stated that they have not as this proactive movement ensures all are treated equally.
- Michael Ney, Mission resident, stated that he supports adoption of a non-discrimination ordinance and encouraged Council to consider the human side of this issue. He spoke of growing up in Louisburg, KS stating that he was scared to convey who he was due to bullying. As an adult in the working world he always has to second guess co-workers, etc. in revealing his personal life. He has been a resident of Mission for 3.5 years and loves the community. He stated that adoption of an NDO would convey the message that all are welcome in Mission and can be their full self. He encouraged passage of the ordinance so that others don't have to worry as he has. Councilmember Quinn stated he is sorry our country is like this and this ordinance would be a first step for Mission regarding this issue. Mr. Ney stated that the ordinance would send a great message to kids in our community.
- Caroline Dawson, Mission resident, stated that she wanted to clarify previous references to sexual identity and gender identity as behaviors. She stated that this is not how they are characterized by the American Psychiatric Association, and that gender identity is a sense of female/male/not either and sexual identity is a sense of who you are attracted to and not behaviors. She asked at what point a person knows what gender they are, and stated that gender is who you identify as. She stated that there is language in the ordinance that identifies other groups by behavior such as veteran status. She is supportive of adoption of a non-discrimination ordinance and feels this will go a long way to ensure Mission is on the right side of history. It will send a clear message to all that they are respected and stated that those who say this is an issue of faith do not speak for her.

- Andy Hyland, Mission resident, referred to his letter of support included in the committee packet, stating that he hopes everyone has read it as it expresses his opinion of the issue. He is in favor of adoption of an NDO and that it is fundamental to why he lives in Mission, which he feels is a welcoming community to all. He stated that Council has a hard job and he trusts they will listen to all who have spoken and do the job they were elected to do. He appreciates the work of Council and again stated he strongly supports adoption of a NDO.
- Debbie Jackson, Kansas City, Missouri resident, stated that she has a transgender child and advocates for transgender equality. She works with National Center for Transgender Equality in Washington, DC and stated that there are many court cases nationwide on the side of LGBT persons. She noted that veterans and married people have protections and these are based on behaviors. She provided information on court rulings in 2017 (8) and 2018 (11) in favor of LBGT persons. She stated that an ordinance is needed locally because some cases can take up to six years - a long time for people to have to defend themselves. She stated Council has the power to end the discussion here and now. She provided statistics from transgender people who were surveyed regarding loss of jobs, housing discrimination, mistreatment, etc. Councilmember Flora provided information on the 10th Circuit Court's ruling on recent cases, and Councilmember Kring asked if the National Center for Transgender Equality supports cities who adopt NDOs. Ms. Jackson stated that they do and are working at the Federal level for passage of legislation. Discussion continued on several recent court cases and their impact on this issue.
- Tony Blanck, Mission resident, stated that this is a contentious issue and thanked Council for bringing this up. He provided information on his background and his many experiences with discrimination. He questioned Senator Pilcher-Cook's religious protections. He loves Mission and told a story of a friend's marriage where he was discriminated against by being turned away from staying at the hotel with the other wedding party members, stating this is what can happen just based on who you choose to love. He stated that he didn't decide to be gay and encouraged support of an NDO in Mission.
- Jeff Harris, Westwood resident and councilmember, stated that he respects Mission taking on this challenging issue. He stated that sexual orientation and gender identity scientifically are not behaviors and that it has been proven decades ago that genetics leads to a person's sexual orientation and identity. He stated it is disrespectful to say that the core parts of a person's identity are choices. He provided a quote from Maya Angelou - "when someone tells you who they are, believe them the first time." He stated there has been a lot of discussion tonight and two themes underlie the different opinions: those that oppose the NDO want to retain their power, and those that support the NDO want to feel safe and treated that same as others, something they have not had in the past. He stated that as elected officials it is their responsibility to take care of people and treat all equally. Councilmember Schlossmacher asked if Westwood will be considering an NDO. He stated that they have not yet, but feels this issue is moving forward particularly since the Unified Government and Roeland Park have adopted NDO's, and

Prairie Village is discussing this. Councilmember Flora noted Prairie Village was unable to get a quorum at a recent meeting, but that Councilmember Inman and Councilmember Davis are absent from this meeting due to long-planned vacations.

- Kevin Fullerton, Mission resident and business owner, stated that he is the president of the Mission Business Partnership, but is not speaking on the organization's behalf. He echoed what Mr. Hyland said and stated that this is a very emotional issue but is the right thing to do. He does not feel this will hurt businesses, but rather will help them. He stated that when new businesses come to Mission, he talks to them and often asks what they like about the City. He always "sells" the city and stated that this would be hard to do if this ordinance is not adopted. He feels this ordinance will help bring business to Mission and help local businesses recruit employees.
- Alexis Penny, Mission resident, stated that she loves Mission for its small town feel and urban connection. She has lived all over the metro area and has chosen Mission. She stated that many tonight have spoken from the heart to support all residents. Some from the outside of Mission are opposed to this ordinance, but stressed that they don't live here. This is important to consider when listening to those who speak.

Councilmember Quinn stated we must decide if this ordinance is needed, and he feels this has been answered as a "yes." We must consider whether it infringes on others and, if not, it should be considered.

Councilmember Schlossmacher requested additional information on options for enforcement mechanisms. Dave Martin, City Attorney, stated that he recommends keeping the mechanisms simple and if Council would like to move forward with this issue, he can provide suggestions for a simple process. He discussed the addition of the term "contractor" to a draft ordinance stating it would not be substantive, and noting that if someone is working in Mission and a behavior occurs in our City, then we would enforce our ordinances. He stated that he does not see any prohibition legally with moving forward with this issue, he will gather additional information, and discussed court rulings associated with this issue.

Discussion also continued about the Colorado case regarding a business owner providing a wedding cake that would have gone against their religious beliefs, what issues have been addressed by the Supreme Court, and next steps for consideration of this issue. Ms. Smith stated that Council may want to engage other stakeholders in this discussion (business community, property owners, residents). Councilmember Quinn suggested that an action item be prepared for next month's committee meeting and if it needs to be continued for another month it can. Councilmember Flora recommended that information regarding discussion on this issue be included on our website so the public is aware. Mayor Appletoft asked if Council would like staff to draft an ordinance, and stated that we must do our due diligence on this issue, including thorough discussion. Councilmember Flora agreed that this should be an action item for the November committee meeting, and if it needs to be held over to the December meeting it can. Councilmember Schlossmacher recommended that we be proactive in including the business and property owners, and have a public forum on the issue. Councilmember Quinn

agreed and stated that a draft ordinance should be available for consideration with public discussion.

This item was for discussion only and will be considered as an action item at the November Finance & Administration Committee meeting.

#### **Other - Department Updates**

Ms. Smith stated that the Shawnee Mission Educational Foundation will hold their Annual Fall Breakfast on October 4th and several Councilmembers and staff will attend. Staff continues to work with the Roeland Court Homes Association regarding their parking lot and solutions seem to be moving forward.

Chief Hadley and Officer Caenan demonstrated the Police Department's new external vests. These are lighter in weight, can be removed easily when in the station (particularly in the summer to cool off), and allow officers to carry their equipment in a variety of pockets on the front of the vest. Officers will have the option to use their City provided funds for either the traditional vests or these new external vests. The City buys all the panels to ensure all are protected. Officer Caenan demonstrated how the vest is used, noting it easier to wear as it better distributes the weight of their equipment. Chief Hadley stated that several brands were tested before landing on this one. Discussion continued on the benefits of the external vest.

#### **Meeting Close**

There being no further business to come before the Committee, the meeting of the Finance and Administration Committee adjourned at 8:35 p.m.

Respectfully submitted,

Martha Sumrall  
City Clerk

City Council of Mission

October 3, 2018

**NDO – Oppose  
Prohibits Religious Liberty**

Mayor Appletoft and council members, thank you for the opportunity to testify in opposition to the proposed NDO. While this proposal may have good intentions, it will be detrimental to religious liberty and harmful to economic growth for the people, families and businesses in this community.

All people living and working in Mission deserve to be recognized as valued members of our community, worthy of our respect and fair treatment, but that is not what the proposed “NDO” is about. It will not provide uniform legal protection and instead will cause unjust discrimination where none existed before.

There is agreement that unfair discrimination causes harm to our society and I do not believe there are any Kansas statutes that allow such behavior. I am not aware of any cases in a court of law that are making this claim.

Please consider the human person, made in the image and likeness of God, cannot adequately be described by his or her sexual orientation. Everyone has challenges, with personal problems and difficulties, as well as talents, but it is offensive to reduce individuals to specific traits. This is the effect this proposal would have, and it would not only be harmful to a business practicing its religious liberty by unnecessary regulation and hurdles to jump, but it would be limiting and destructive to the human person you are seeking to protect.

There are all types of businesses that cater to different niches – to certain likes and dislikes. It is the foundation of our free market system. Businesses spring up or fail, based on how well they are meeting the demands of the consumer. This city council would do well to encourage this marketplace instead of looking at imposing demands that impede economic growth.

Thank you for the opportunity to testify in opposition to this change in city code. I strongly urge your vote against it.

State Senator Mary Pilcher-Cook



Mayor Appletoft, Members of the Council:

My name is Eric Teetsel and I'm President and Executive Director of Family Policy Alliance of Kansas. We represent thousands of individuals and families in Mission and across our state who share our desire to make Kansas the best place in America to live, work, and raise a family. I am here tonight to voice our opposition to the proposed ordinance relating to sexual orientation and gender identity presently before the council.

I believe the intentions of this ordinance are caring. I wholeheartedly endorse the opening line of the memo from Councilwoman Flora, who wrote: "All people living and working in Mission deserve to be recognized as valued members of our community, worthy of our respect and fair treatment." In fact, this principle is the reason I oppose the proposed ordinance. It brings disunity where this is unity. Far from affirming the beautiful tapestry of diversity among the citizens of Mission, the ordinance unnecessarily divides friends and neighbors along hotly-contested ideological lines.

We need look no further than our neighbor to the west for evidence of this sad fact. Colorado baker Jack Phillips was forced to pay large fines and lost much of his business because he declined to create a customized wedding cake for a same-sex ceremony in violation of his faith. Jack regularly made other items for his LGBTQ+ friends, yet he was punished for drawing a line at this point. The State of Colorado's punishment of Jack Phillips did not recognize him as a valued member of the community, worthy of respect and fair treatment, a fact that was confirmed by Justice Kennedy's majority opinion in the *Masterpiece Cakeshop* decision.

Another prominent example is florist Barronelle Stutzman in Washington. She had a longtime friend and customer who one day asked her to create floral designs for his same-sex wedding. Barronelle hugged him, referred him to another florist, and shared that she couldn't design flowers for his wedding against her faith. The state's law, very similar to the proposal before this council, was used to punish Barronelle for her beliefs. The law put friends at odds with one another, stepped in the way of real relationships, put a local business owner at risk of losing everything, and even gave government the power to turn a law-abiding grandmother and florist into someone deserving of punishment.

This isn't the way Mission operates. This isn't the reputation Mission wants. And, this isn't how Mission treats its small business owners.

Some have shared their opinion that this ordinance protects people of faith. However, this

TESTIMONY IN OPPOSITION TO MISSION NONDISCRIMINATION ORDINANCE



ordinance gives shallow nods to religious protections, while sending a strong message to anyone who doesn't work for a religious organization, or whose business has succeeded beyond a certain point, that they aren't free to live out their faith beyond the walls of their home or church.

Mission is and has always been known as a lovely, inviting place to raise a family and run a business. In fact, in her memo, Councilwoman Flora makes a compelling case that this ordinance is unnecessary because over 90 percent of Fortune 500 companies are already choosing to implement their own non-discrimination policies, including AT&T, U.S. Post Office, Entercom, and Cox Automotive, and others right here in Mission. If there are concerns about discrimination in Mission, they should be addressed through the civil channels already in place. If the citizens of Mission agree that a business is acting wrongly, that business won't be around for much longer.

This is not the time or place for the heavy hand of government, even the local government, to criminalize people of faith for living out their faith. So, we ask that you vote against this ordinance. Believe in the people of Mission—kind, warm, loving, and inviting people who are able to have different beliefs yet live and work together in peace.

Thank you.

Sincerely,

Eric Teetsel  
President & Executive Director  
Family Policy Alliance of Kansas

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