

CITY COUNCIL STUDY SESSION

TO: Mayor and City Council
FROM: Mari E. Macomber, City Manager
SESSION DATE: August 5, 2013
TIME: 4:30 p.m.
PLACE: EDA Building – 315 S. Franklin

AGENDA:

- **AUDIT REPORT PRESENTATION**
- **DISCUSSION REGARDING A HUMAN RIGHTS ORDINANCE**
- **REVIEW COUNCIL NEWSLETTER – August 1, 2013**
- **REVIEW COUNCIL AGENDA**

AUDIT PRESENTATION

Each year the City contracts with an independent accounting firm to complete an audit of the City's financial statements in accordance with U.S. generally accepted auditing standards. As part of that process the auditors evaluate the City's internal controls, considering the policies and practices that we have in place as they relate to our financial statements.

As part of this year end process, the Finance Director prepares a comprehensive financial report. This report is the Comprehensive Annual Financial Report (CAFR). The CAFR is a thorough and detailed presentation of the City's financial condition. It's a report on the City's activities and balances for each fiscal year. The CAFR was established as local government's complete accounting record starting in the mid 1940s through the efforts of the Government Finance Officers Association (GFOA) and became mandatory by Federal requirement on all local governments in 1978. Unlike a budget, a CAFR is complete record of assets, investments and gross income from all sources of the City.

Each of you will be presented with the City's Comprehensive Annual Financial Report (CAFR) for the year ending December 2012. This report provides a 12 month representation of the City's financial activity. To view this document prior to Monday, please go to http://www.kirksvillegity.com/filestorage/72/122/2606/CAFR_2012.pdf.

The CAFR is prepared in conformance with generally accepted accounting principles and audited in accordance with generally accepted auditing standards by an independent firm of certified public accountants. The City contracted with audit firm, Hochschild, Bloom & Company from Chesterfield, MO, who began working with the City to complete the 2010 audit. On Monday, Mike Williams, a partner with Hochschild, Bloom & Company will be in attendance to discuss the audit and recommendations from the management letter. Katie Myers, Finance Director will be presenting the Council with the 2011 CAFR.

Once the City Council completes its review on Monday, the resulting CAFR will be presented to the GFOA, which conducts each year a review of applicant local government CAFRs and upon review awards their Certificate of Achievement Award for Excellence in Financial Reporting to those local governments that are in compliance with their CAFR accounting standards of preparation. The City, through the leadership of the Finance Director has been successfully recognized by GFOA for many years.

In addition, there is a second report that you will find on our website which is a Report on Federal Funds. All non-Federal entities that expend \$500,000 or more of Federal awards in a year are required to obtain an annual audit in accordance with the Single Audit Act Amendments of 1996. A single audit is intended to provide a cost-effective audit for non-Federal entities in that one audit is conducted in lieu of multiple audits of individual programs. To view this document prior to Monday, please go to http://www.kirksvillegov.com/filestorage/72/122/2606/Single_Audit_Report_2012.pdf

The City Council will have an opportunity to receive a report from our auditing firm Hochschild, Bloom & Company and review the various components of the CAFR with Finance Director Katie Myers.

DISCUSSION REGARDING A HUMAN RIGHTS ORDINANCE

At the July 15 Study Session, the City Council agreed to review and discuss whether or not a Human Rights ordinance would be considered. After hearing comments and concerns of the City Council, individuals in support of an ordinance made several changes in an effort to address those expressed concerns.

This draft was given to the City Council showing both the new and deleted language provided by supporters of the ordinance. Copies of this version will be available if the Council wishes to have another copy. The City Manager and City Attorney sat down with this draft and made some additional revisions. These changes include: adding back in "age" as one of the listed protected classes throughout the ordinance; the Administration section was moved to the front of the document; revised reference to the Human Rights Compliance Officer to be consistent throughout the ordinance (titles used in the ordinance were compliance officer, fair housing officer, human rights officer); removed language that unnecessary either because the authority is already required or authorized by other laws, or the language was redundant; and sections were renumbered to follow current city code.

The City Council is asked to discuss this issue and determine if you as a Council agree to move forward or not. Council members may decide that based on the changes made to the ordinance from its first version that there is sufficient interest to review the document in its entirety giving staff feedback on the draft ordinance.

At the conclusion of the Study Session the City Council will need to make sure that staff clearly understands the direction of the Council whether to proceed or cease discussions on this matter. If it is clear a majority of the Council is desirous of moving forward with the placement of the ordinance on a future Council Agenda, then there are a couple of options to consider because it is expected that there would be a larger crowd than what can be accommodated in the Council Chambers. That means that we will be looking at having either option possibly at Truman State University or AT Still

University. Option 1 – Hold a Special Council meeting to consider just this measure; or Option 2 – Place the item on the August 19 Regular City Council Agenda.

One issue that has been raised repeatedly on both sides of this issue is the cost to implement and administer this ordinance. The individual who will be assigned the position will be an upper level employee due to the nature of the job at hand. City staffing has not grown over the years while duties and responsibilities have therefore, if a matter is placed before the Human Rights Compliance Officer that time will reduce time spent elsewhere. There is no information on how many claims, if any at all will be filed. Therefore, there is no way to know what it will cost if a matter is turned over to the City Attorney's office other than the hourly cost of \$80; and an increased rate of \$100 if the matter requires litigation.

REVIEW COUNCIL NEWSLETTER – August 1, 2013

REVIEW COUNCIL AGENDA

Attachments

Audit Staff Report Katie Myers, Finance Director
Revised Human Rights Ordinance

KIRKSVILLE CITY COUNCIL STUDY SESSION ATTACHMENT

SUBJECT: Overview of 2012 Comprehensive Annual Financial Report

MEETING DATE: August 5, 2013

CITY DEPARTMENT: Finance

PREPARED BY: Katie Myers, Finance Director

Each year, the City undergoes a comprehensive audit of its financial records, financial statements and internal controls over financial reporting for the prior year. The ultimate goal is to achieve an “unqualified opinion” as a result of the audit, which states that the financial statements are presented fairly in all material aspects and that the statements conform to generally accepted accounting principles. The Comprehensive Annual Financial Report (CAFR) is the end product of the audit and not only represents the financial position of the City but also a dedication of many hours of City staff time. Audit preparation actually starts before year-end with the final product presented for auditor review in April. The audit team is generally on-site prior to year-end and then for a week in April examining City records, work papers and testing of processes. The City staff prepared the financial statements and the CAFR introduction, management discussion and analysis and statistical section. The auditors compile these financial statements, notes, supplementary information and City-prepared documents into one report, known as the CAFR. The CAFR is sent to the Government Finance Officers Association of the United States and Canada (GFOA) for review and evaluation of City eligibility for a Certificate of Achievement for Excellence in Financial Reporting award. The City has been the recipient of this prestigious award for the past 27 years.

The City solicited bids for auditing services in the fall of 2010. The auditing services were awarded to Hochschild, Bloom & Company LLP of Chesterfield, Missouri for a five year period, ending for the fiscal year end December 31, 2014. Mike Williams, a partner with Hochschild, Bloom & Company LLP, will be in attendance to review the results of the audit with the City Council, including the presentation of the CAFR, single audit report and the recommendations to management.

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE KIRKSVILLE CITY CODE BY ADDING A NEW CHAPTER ENTITLED HUMAN RELATIONS, TO INCLUDE THE HUMAN RIGHTS COMPLIANCE OFFICER, ADMINISTRATION, DISCRIMINATORY PRACTICES, AND REPEALING SECTIONS 13-18 AND 13-19 OF THE CITY CODE REGARDING FAIR HOUSING, AND PLACING A NEW FAIR HOUSING CODE WITHIN THE NEW CHAPTER 10.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KIRKSVILLE, MISSOURI.

Section 1. That Sections 13-18 and 13-19 Fair Housing of the Code of Ordinances of the City of Kirksville, Missouri, be repealed, and replaced with a new section as a part of the new Chapter 10 – HUMAN RELATIONS.

Section 2. That a new Chapter, entitled HUMAN RELATIONS is established to be numbered as 10, to read as follows:

ARTICLE I. IN GENERAL

ARTICLE II. HUMAN RIGHTS COMPLIANCE OFFICER

Sec. 10-32. Purpose.

The Human Rights Compliance Officer shall review and advise the council on ways to:

- (a) Work to eliminate discrimination based on age, ancestry, color, disability, economic status, gender, gender identity, marital status, national origin, race, religion and sexual orientation.
- (b) Promote responsiveness of government to concerns of all minority groups and others in the community that may be subject to bias or discrimination.
- (c) Provide an open and inviting forum for Kirksville residents who believe they are facing discriminatory practices or acts so that residents can share those experiences with the Human Rights Officer for advice and counsel.

Sec. 10-33. Records.

The Human Rights Officer shall keep a complete record of its activities and a journal of all of its meetings and proceedings in accordance with the State Sunshine Law.

Sec. 10-34. Powers and duties generally.

The Human Rights Compliance Officer shall have the powers and duties to:

- (a) Provide a forum for individuals who believe they have been victims of discrimination.
- (b) Advise the City Council on human rights issues.
- (c) Accept comments and concerns of citizens.
- (d) Present, upon request, informational programs and literature on human rights to schools, businesses, and other organizations.
- (e) To prepare and publish a written annual report describing the activities of the prior twelve (12) months by December 31 of each year.

ARTICLE III. ADMINISTRATION

10.35. Administration.

- a. There is hereby created a Human Rights Compliance Officer who shall be appointed by the city manager of the city.

b. Every complaint of a violation of this chapter shall be referred to the Human Relations Compliance Officer. The Human Relations Compliance Officer shall forthwith notify the person against whom the complaint is made. The identity of the aggrieved person shall be made known to the person against whom the complaint is made at the time. If the compliance officer, after investigation, finds there is no merit to the complaint, the same shall be dismissed. If the Human Relations Compliance Officer finds that there is merit in the complaint, in their opinion, then and in that event, the Human Relations Compliance Officer will endeavor to eliminate the alleged discriminatory practice by conference and conciliation.

c. If the Human Relations Compliance Officer is unable to eliminate the alleged discriminatory practice by a conference and conciliation, then and in that event, the compliance officer shall forward said complaint to the City Attorney for handling. The final determination of whether or not to prosecute on said complaint shall be left to the City Attorney.

d. If the commission is unable to eliminate the alleged discriminatory practice by a conference and conciliation or through the use of mediation, then and in that event, the compliance officer shall forward said complaint to the city attorney for handling. The final determination of whether or not to prosecute on said complaint shall be left to the city attorney.

(f) The Human Rights Officer shall enforce this ordinance in an unbiased and objective way, and shall review all complaints using the same standards and practices.

(g) The Human Rights Officer shall NOT have the power, authority or duty to compel businesses or organizations to document the sexual orientation or gender identify of employees or members.

(h) The Human Rights Officer shall NOT have the power, authority, or duty to expose the City of Kirksville to frivolous lawsuits.

(i) The Human Rights Officer shall NOT have the power, authority or duty to expand, or force the expansion of, the paid staff the City of Kirksville.

Sec. 10-36. Definitions.

(a) Definitions. For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meaning given herein, unless the context otherwise indicates:

Aggrieved person. Includes any person who claims to be a victim of discriminatory practices.

Code shall mean this chapter.

Disability. A physical or mental impairment which substantially limits one or more of a person's major life activities, being regarded as having such an impairment, or a record of having such an impairment, which with or without reasonable accommodation does not interfere with performing the job, utilizing the place of public accommodation, or occupying the dwelling in question. However, a person may be considered to have a disability if that person:

(1) Has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of, and is not currently addicted to, a controlled substance or has otherwise been rehabilitated successfully and is no longer engaging in such use and is not currently addicted;

(2) Is participating in a supervised rehabilitation program and is no longer engaging in

illegal use of controlled substances; or

(3) Is erroneously regarded as currently illegally using, or being addicted to, a controlled substance.

Discriminate. Means distinctions in treatment because of age, ancestry, color, disability, economic status, gender, gender identity, marital status, national origin, race, religion and sexual orientation of any person. Discriminatory housing practice shall mean an act that is unlawful under Article IV.

Dwelling shall mean any building, structure, or portion thereof located within the city, which is occupied as, or designed or intended for occupancy as, a residence by one (1) or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

Family includes a single individual.

Gender identity shall mean the gender-related identity, appearance, mannerisms or other gender-related characteristics of an individual, with or without regard to the individual's designated sex at birth. Handicap means a physical or mental impairment resulting in a disability unrelated to a person's ability to acquire, rent or maintain property.

Human Rights Officer shall mean the Human Rights Officer of the City of Kirksville, Missouri.

Person. Includes one (1) or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

Protected category. Age, ancestry, color, disability, economic status, gender, gender identity, marital status, national origin, race, religion and sexual orientation.

Sexual Orientation shall mean an individual's real or perceived heterosexuality, homosexuality or bisexuality.

ARTICLE IV. DISCRIMINATORY PRACTICES

Sec. 10-37. – Employment

It shall be unlawful:

(1) For an employer, because of any individual's protected category:

a. Fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to the individual's compensation, terms, conditions, or privileges of employment.

b. Limit, segregate or classify employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect the individual's status as an employee.

(2) For a labor organization, because of any individual's protected category:

a. Exclude or to expel such individual from its membership or to discriminate in any manner against any of its members or against any employer or any individual employed by an employer.

b. Limit, segregate or classify its membership, or to classify or fail or refuse to refer for employment any individual in any manner which would deprive or tend to deprive any individual of employment opportunities, or would limit such opportunities or otherwise adversely affect such individual's status as an employee or as an applicant for employment.

(3) For any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any individual in admission to, or employment in, any program established to provide apprenticeship or other training or retraining.

(4) Because of any individual's protected category:

a. For any employer or employment agency to print or circulate or cause to be printed or circulated, any statement, advertisement or publication, or to use any form of application for employment or to make any inquiry in connection with prospective employment, which expresses, directly or indirectly, any limitation, specification or discrimination, unless based upon a bona fide occupational qualification.

b. For an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, or to classify or refer for employment, any individual.

(5) For any employer, labor organization or employment agency to discharge, expel or otherwise discriminate against any individual because such individual has opposed any act, practice or course of conduct made unlawful, or filed a complaint, testified, or assisted in, any proceeding under this Chapter.

(6) For any person, whether an employer or employee or not, to aid, abet, incite, compel or coerce the doing of any of the acts made unlawful by this Chapter, or to attempt to do so.

(a) Notwithstanding any other provision of this Chapter, it shall not be unlawful for an employer to apply different standards of compensation, or different terms, conditions or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production or to employees in different locations; provided, that such differences or such systems are not the result of an intention or design to discriminate, and are not used to discriminate, because of any individual's protected category; nor shall it be unlawful for an employer to give and to act upon the results of any professionally developed ability test, provided that such test, its administration, or action upon the results thereof, is not designed, intended or used to discriminate because of any protected category.

(b) Nothing contained herein shall be interpreted to require any employer, employment agency, labor organization, or joint labor-management committee subject to this Chapter to grant preferential treatment to any individual or to any group because of such individual's or group's protected category on account of an imbalance which may exist with respect to the total number or percentage of individuals of any protected category employed by any employer, referred to or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to or employed in any apprenticeship or other training program, in comparison with the total number or percentage of individuals of such protected category in the city, or in the available work force in the city.

(c) Notwithstanding any other provision of this Chapter, it shall not be unlawful because of sex to differentiate in employment compensation, terms, conditions or privileges of employment between male and female employees if such differences are otherwise required or expressly permitted by the laws of the state, or by the provisions of Section 703 of the Federal Civil Rights Act of 1964, as amended, or by the provisions of section 6(d) of the Federal Fair Labor Standards Act of 1938, as amended; nor shall it be unlawful because of sex for an employer, pursuant to a pension, retirement, profit sharing, welfare or death benefit plan, to provide for the retirement of female employees at a younger age than male employees or to provide differences in annuity, death and survivors benefits between widows and widowers of employees.

(d) Notwithstanding any other provisions of this Chapter, it shall not be unlawful for any church or religious school or religious day care center to consider sexual orientation or gender identity in any hiring or employment action.

Sec. 10-38. - Fair housing.

The city council hereby declares it to be the public policy of the city to eliminate discrimination and safeguard the right of any person to sell, purchase, lease, rent or obtain real property without regard to age, ancestry, color, disability, economic status, gender, gender identity,

marital status, national origin, race, religion and sexual orientation. This article shall be deemed an exercise of the police powers of the city for protection of the public welfare, prosperity, health and peace of the citizens of Kirksville.

(1) Discriminatory practices. It shall be a discriminatory practice and a violation of this article for any person to:

a. Refuse to sell or rent after the making of the bona fide offer, or refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny a dwelling to any person because of age, ancestry, color, disability, economic status, gender, gender identity, marital status, national origin, race, religion and sexual orientation of any person.

b. Discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of age, ancestry, color, disability, economic status, gender, gender identity, marital status, national origin, race, religion and sexual orientation.

c. Make, print, or publish, or cause to be made, printed or published, any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on age, ancestry, color, disability, economic status, gender, gender identity, marital status, national origin, race, religion and sexual orientation or an intention to make any such preference, limitation, or discrimination.

d. Represent to any person because of age, ancestry, color, disability, economic status, gender, gender identity, marital status, national origin, race, religion and sexual orientation that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

e. For profit, to induce or attempt to induce, any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular age, ancestry, color, disability, economic status, gender, gender identity, marital status, national origin, race, religion and sexual orientation.

f. Bars discrimination in the sale or rental of dwellings on the basis of a disability, and requires the design and construction of new multifamily with four (4) or more units to meet certain federal adaptability and accessibility requirements.

g. Bars discrimination in the sale or rental of housing because a family has children, but exempts certain types of buildings that house older persons, e.g., section 202 Housing.

(2) Discrimination in the financing of a house. It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan to a person applying therefore for the purpose of purchasing, constructing, repairing, or maintaining a dwelling, or to discriminate against a person in the fixing of the amount or conditions of such loan, because of the age, ancestry, color, disability, economic status, gender, gender identity, marital status, national origin, race, religion and sexual orientation of such person or of any person associated with such person in connection with such financing.

(3) Exemptions. The provisions of this chapter and particularly section 10-49 hereof, shall not apply to the following:

a. A rental or leasing of a dwelling unit in a building which contains housing accommodations for not more than two (2) families living independently of each other, if the owner or members of the family reside in such a dwelling unit.

b. A rental or leasing to less than five (5) persons living in a dwelling unit by the owner, if the owner or members of the family reside therein.

c. Any single-family house sold or rented by an owner, provided that such house is sold or rented:

1. Without the use of sales or rental facilities or services of real estate brokers, agents, salesmen, or persons in the business of selling or renting dwellings; and

2. Without the publication, posting or mailing of any advertisement in violation of 10-38(1)(c) of this chapter; provided, however, that nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as is necessary to perfect or transfer the title, and that any such private individual owner does not own any interest in, nor is there owned or reserved on the person's behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of more than three (3) such single-family houses at any one (1) time.

d. For the purposes of section 10-38(3)c. a person shall be in the business of selling or renting dwellings if:

1. The person has, within the preceding twelve (12) months, participated as principal in three (3) or more transactions involving the sale or rental of any dwelling or any interest therein; or The person has, within the preceding twelve (12) months, participated as agent, other than in the sale of the person's own personal residence, in providing sales or rental facilities or sales or rental services in two (2) or more transactions involving the sale or rental of any dwelling or any interest therein; or

2. The person is the owner of any dwelling designed or intended for occupancy by, or occupied by, five (5) or more families.

Sec. 10-39. Discrimination in Public Accommodations Prohibited.

(a) All persons within the City of Kirksville are free and equal and shall be entitled to the following equal use and enjoyment within the City at any place of public accommodation without discrimination or segregation on account of age, ancestry, color, disability, economic status, gender, gender identity, marital status, national origin, race, religion and sexual orientation.

(b) It is an unlawful discriminatory practice for any person, directly or indirectly, to refuse, withhold from or deny any other person or attempt to refuse, withhold from or deny any other person any of the accommodations, advantages, facilities, services, or privileges made available in any place of public accommodation as defined in § 213.010, R.S.Mo., or segregate or discriminate against any such person and the use thereof on the grounds of age, ancestry, color, disability, economic status, gender, gender identity, marital status, national origin, race, religion and sexual orientation.

(c) The provisions of this Section shall not apply to a private club, place of accommodation owned by or operated on behalf of a religious corporation, association or society or other establishment which is not in fact open to the public, unless the facilities of such establishments are made available to the customers or patrons of a place of public accommodation as defined in § 213.010, R.S.Mo.

ARTICLE V. ENFORCEMENT

Sec. 10-40. - Enforcement.

(a) Any person convicted of a violation of this chapter shall be punished by a fine of not more than five hundred dollars (\$500.00).

(b) The city attorney, instead of filing a complaint and information in municipal court of said city, may, as an alternative remedy, seek to have the alleged discriminatory practices abated by an action for an injunction to be maintained in the appropriate circuit court of the State of Missouri.

Section 3. This ordinance shall become effective upon its passage.

Section 4. The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Kirksville, Missouri, as an addition or amendment thereto, and shall be appropriately re-numbered to conform to the uniform numbering system of the Code.

Passed by the City Council and signed by the Mayor of this _____ day of _____, 2013.

Richard L. Detweiler, Mayor

ATTEST:

Vickie Brumbaugh, City Clerk