



May 21, 2007

**TO:** Mayor and City Council

**FROM:** Mari E. Macomber, City Manager *MEM*

**SUBJECT:** Study Session – **May 21, 2007**

The City Council will convene in Study Session on **Tuesday, May 21, 2007 at 5:30 p.m.** in the **City Council Chamber of City Hall.**

The following are the agenda items for the Study Session.

- 1. DISCUSSION ON SMOKING BAN ORDINANCE**
- 2. REVIEW FUTURE STUDY SESSION TOPICS**
- 3. REVIEW NEWSLETTER – May 21, 2007**

**1. DISCUSSION ON SMOKING BAN ORDINANCE**

The City Council agreed to discuss the Ordinance banning smoking in certain public places. Two revisions were made to the Ordinance and presented to the City Council for consideration at the May 15 City Council meeting. The Council agreed to remove the item from the agenda to allow for further discussions on whether or not to include membership associations in the ban.

A letter was sent out to the Kirksville Country Club, NEMO Fair Association, El Kadir Shrine Club and Loyal Order of the Moose last week to let them know that the City Council was considering a change to the Ordinance that would remove the exemption of Membership Associations from the Ordinance. A copy of this letter is included in your packet. As of today, the only response received was from the Alan Daniels, Country Club Manager who stopped by and stated that he would pass the information on to the members. Mr. Daniels also asked that his feelings (not expressed by the members) be passed on to the City Council. "If you bring something before the voters and they approve it, then don't be changing it." Mr. Daniels further stated that he is a nonsmoker; and some members had expressed voting to make the facility nonsmoking to go along with the city, and then they decided not to. Mr. Daniels will notify the members.

The City Council has been discussing whether or not to remove the exemption previously provided membership associations in the Ordinance adopted by the City Council in April. Attached is that Ordinance showing the language that could be deleted to accomplish this change.

## **2. REVIEW FUTURE STUDY SESSION TOPICS**

I have included the list of Study Session Topics that were previously reviewed and approved by the City Council at the end of December 2006. This list included those items that either City Council or the City Manager had identified as issues to bring before the Council. I have separated the list into those topics already discussed by the City Council and those that are remaining.

I think it would be appropriate to make sure that the City Council is still in agreement with proceeding with Study Sessions to review and discuss these items. There may be other items that need to be added. By reviewing the list at this time does not eliminate the City Council's flexibility to discuss other issues as they come up, but it helps us to stay focused and to plan and prepare information that would be helpful for the City Council.

Included with the list are the Goals that were approved by the City Council for 2007.

## **3. REVIEW NEWSLETTER – MAY 21, 2007**

### **Attachments**

**Letter to Membership Associations – pgs – 3 - 4**

**Ordinance Changing Membership Association Exemption – pg 5 - 9**

**2007 Study Session Topics – pgs 11 – 12**

**2007 Council Goals – pgs 13 - 15**

May 15, 2007

Kirksville Country Club  
Attn. Alan Daniels  
P.O. Box 1050  
Kirksville, MO 63501

RE: Smoking Ban Ordinance and Membership Associations

Dear Alan,

The City Council recently asked the voters of Kirksville whether or not they supported a smoking ban in certain public places. These certain public places included bars and restaurants. Sixty-one percent of the voters supported the implementation of an ordinance to prohibit smoking.

On April 4, as the City Council was considering the passage of this Ordinance, business owners asked the City Council to “level the playing field”, by including those bars and restaurants operated by the not-for-profit organizations in town. The City Council took the request under advisement and approved the Ordinance, eliminating smoking in bars and restaurants, but exempting the impact of the Ordinance on Membership Associations.

The vote of the City Council was made by the former City Council who had spent many hours in meetings discussing this possible ordinance. Shortly after this decision, two new members were appointed to the City Council, who have been very interested in this issue. Because of this interest, the City Council chose to discuss the Smoking Ban Ordinance at its last Study Session. One issue that was discussed was whether or not to include the not-for-profit entities that operate bars, restaurants and banquet facilities. A majority of the City Council does wish to consider this change in the near future.

Since this is a change in direction from what had been promoted, both the City Council and I believed it important to inform you of this possible change in policy. The City Council will be meeting in a Study Session next Tuesday, May 22 at 5:30 p.m. in the City Council Chambers of City Hall to discuss this matter further.

Should you have any comments or questions please contact me at 627-1225 or email at [mmacomber@kirksvillecity.com](mailto:mmacomber@kirksvillecity.com). The City Council welcomes your input in this matter.

Sincerely,

Mari E. Macomber  
City Manager

BILL NO. \_\_\_\_\_  
\_\_\_\_\_

ORDINANCE

NO.

**AN ORDINANCE AMENDING CHAPTER 18, ARTICLE V – OFFENSES AGAINST PUBLIC HEALTH AND SAFETY - OF THE CITY CODE OF THE CITY OF KIRKSVILLE, MISSOURI, BY ADDING A SECTION ENTITLED “SMOKING PROHIBITED IN CERTAIN PUBLIC PLACES”.**

WHEREAS, on April 3, 2007, a majority of voters in the municipal election affirmatively voted in favor of a smoking ban in certain public places; and

WHEREAS, the smoking of tobacco is a form of air pollution, and is a danger to health, and a material public nuisance; and

WHEREAS, the City of Kirksville wishes to promote the public health and welfare of its citizens and community visitors by decreasing exposure to secondhand smoke caused from tobacco; and

WHEREAS, the City of Kirksville understands the health impact of second hand smoke in the workplace and wishes to protect employees where high exposure of second hand smoke exists; and

WHEREAS, the City Council of the City of Kirksville finds and declares that the purpose of this Ordinance is to protect the public health and welfare by prohibiting smoking in certain public places.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KIRKSVILLE, ADAIR COUNTY, MISSOURI, AS FOLLOWS:**

Section 1. That Chapter 18, Article V, of the Code of Ordinances of the City of Kirksville, Missouri, be amended to read as follows:

**Division 3. SMOKING PROHIBITED IN CERTAIN PUBLIC PLACES.**

**Section 18-88. Definitions.**

The following words, terms and phrases, when used in this Section, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning.

1. *Actively Passing* means to travel alongside, across, through or in front of a particular place or location while proceeding from one place or location to a different place or location.
2. *Amusement Place* means a building used for billiards, bowling or roller skating and other similar entertainment, open to the public.
3. *Banquet Facility* means a stand alone building when used primarily for private or public gatherings or entertainment.
4. *Bar* means an establishment that serves alcoholic beverages for consumption by guests on the premises, and all indoor and outdoor areas thereof, including but not limited to, taverns, nightclubs, cocktail lounges and cabarets.
5. *City Operated Facility* means any building located within the city limits of the city, which is owned, leased or under control of the city for providing city services.
6. *Control* means to exercise authority or influence over.
7. *Employee* means any person who performs services for an employer for compensation.
8. *Employer* means a person, partnership, association, corporation, trust, or other organized group of individuals, which utilizes the services of one (1) or more employees.
- ~~9. *Membership Association* means a private organization which;~~
  - ~~a. is organized primarily for the benefit of its members; and~~
  - ~~b. its members are required to pay dues; and~~
  - ~~c. is organized primarily as:~~
    - ~~1) a charitable or benevolent association; or~~
    - ~~2) a recreational association; or~~
    - ~~3) a fraternal association; or~~
    - ~~4) an athletic association; or~~
    - ~~5) a military veterans association; or~~
    - ~~6) a religious association; or~~
    - ~~7) a kindred association; and~~
  - ~~d. is a not for profit organization under the laws of the State of Missouri; and~~
  - ~~e. is managed and operated by a board consisting entirely of its members; and~~
  - ~~f. is not primarily engaged in the preparation and serving of alcoholic beverages by the drink and/or food.~~
10. *Owner* means a person, partnership, association, corporation, trust, or other organized group of individuals.
11. *Recreation Facility* means any public park, playground, recreation center or recreation area, whether it be improved or unimproved real property located within the city limits of the city, which is owned, leased or under control of the city for recreational purposes, including all indoor and outdoor areas.
12. *Restaurant* means an eating establishment thereof, and all indoor and outdoor areas thereof, including but not limited to, coffee shops, cafeterias,

sandwich stands, bed and breakfast establishments and private and public school cafeterias, which gives or offers for sale food to the public. The term "restaurant" shall include an attached bar.

13. *Smoking* means inhaling, exhaling, burning or possessing any lighted cigar, cigarette, pipe, weed, plant, or other tobacco product or possessing any lighted cigar, cigarette or pipe containing a combustible and burning substance other than tobacco.

### **Section 18-89. Prohibition of smoking.**

- i. Smoking is prohibited in all bars, city operated facilities, recreation facilities, restaurants, amusement places, bed and breakfasts and banquet facilities when employees are present and working at the banquet facility, ~~provided however, that smoking is not prohibited in facilities owned and/or operated by a membership association or under the control of a membership association if such facility is used primarily for its members.~~
- ii. Smoking is prohibited within a distance of ten feet (10') from entrances, operable windows or ventilation systems of areas where smoking is prohibited in Section 18-89a. This subsection shall not apply to persons who are actively passing by such entrance, operable window or ventilation system.
- iii. *Notwithstanding any other provision of this ordinance, an owner, operator, manager, or other person in control of an establishment, facility or outdoor area may declare that entire establishment, facility or outdoor area as a nonsmoking place. Smoking shall be prohibited in any place in which a sign conforming to the requirements of this ordinance is posted by an owner, operator, manager or other person in control of an establishment, facility or outdoor area.*

### **Section 18-90. Responsibilities of proprietors, owners and managers.**

- a. Any person(s) who owns, manages, operates, or otherwise has control of an area where smoking is prohibited by the provisions of Section 18-89a, shall not permit, cause, suffer or allow any person to violate the provisions of this ordinance in that place.
- b. It shall be an affirmative defense to an alleged violation of this subsection if the person who owns, manages, operates or otherwise controls a public place listed in Section 18-89a does the following:
  - 1. Immediately requests that the person in possession of lighted smoking materials extinguish the same; and
  - 2. If the lighted smoking materials are not extinguished, immediately requests that the person in possession of such lighted smoking materials

leave the area where smoking is prohibited by the provisions of this Ordinance; and

3. If the person in possession of such lighted smoking materials does not leave the area where smoking is prohibited by the provisions of this Ordinance, immediately notifies the City enforcement officers of the violation of Section 18-89a.

*4. The above shall only be an affirmative defense for the one who owns, manages, operates or otherwise controls a public space and shall have no implication for an individual violating this ordinance as expressed by Section 18-89.*

c. A person who owns, manages, operates, or otherwise has control of a public place listed in Section 18-89a shall clearly and conspicuously post “No Smoking” signs, or the international “No Smoking” symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it), near all entrances where smoking is prohibited by this Ordinance. Such signage shall consist of letters not less than one inch, (1”) in height.

#### **Section 18-91. Penalty for violation of this Ordinance.**

a. A person, who smokes in an area where smoking is prohibited by the provisions of this Ordinance, shall be guilty of an ordinance violation, punishable by:

1. A fine not less than one hundred dollars (\$100) for a first violation.
2. A fine not less than two hundred dollars (\$200) for a second violation within a period of twelve (12) consecutive months.
3. A fine in the amount of five hundred dollars (\$500) for a third or subsequent violation within a period of twelve (12) consecutive months, or by imprisonment for a period not exceeding ninety (90) days, or by both such fine and imprisonment.

b. Any person(s), who owns, manages, operates, or otherwise has control of an area where smoking is prohibited by the provisions of Section 18-89a, who fails to comply with the provisions of this Ordinance shall be guilty of an ordinance violation, punishable by:

1. A fine not less than one hundred dollars (\$100) for a first violation.
2. A fine not less than two hundred dollars (\$200) for a second violation within a period of twelve (12) consecutive months.
3. A fine in the amount of five hundred dollars (\$500) for a third or subsequent violation within a period of twelve (12) consecutive months, or by imprisonment for a period not exceeding ninety (90) days, or by both such fine and imprisonment.

- c. Each incident for which a violation of this Ordinance occurs shall be a separate and distinct violation.

**Section 18-92. Other applicable laws.**

- a. This Ordinance shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

**Section 18-93. Effective dates.**

- a. This Ordinance will become effective on July 1, 2007.

**Section 18-94. Enforcement of Ordinance.**

- a. The authority to administer the provisions of this Ordinance is vested with the City Manager and his/her duly authorized representatives.
- b. Whenever the need arises, the City Manager may call upon the police, fire and codes departments and other departments of the City to aid in the enforcement of the provisions of this Ordinance.
- c. Notice of the provisions of this Ordinance shall be given to all applicants who have applied for a business license in the City of Kirksville, Missouri.

Section 2. 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 amendments thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Code.

Passed by the City Council, and signed by the Mayor this \_\_\_\_\_ day of May, 2007.

\_\_\_\_\_  
Jeffrey B. Newton, Mayor

ATTEST:

\_\_\_\_\_  
Vickie Brumbaugh, City Clerk



## 2007 LIST OF CITY COUNCIL STUDY SESSION TOPICS

### TOPICS REVIEWED

Sesquicentennial Update  
Review Telecommunications Ordinance  
Meeting With Judge Herrin  
Review Carbon Monoxide Ordinance  
Review Smoking Ban Ordinance  
Rotary Park Master Plan  
Watershed Management Plan Update  
Review Changes to Liquor License Ordinance  
Review Hazel Creek Recommendations  
Capital Improvement Sales Tax Plan  
Convention Center/Sports Complex (postponed)  
Employee Handbook  
Downtown Projects  
MACC Update  
Community Services Summer Program Report  
Highway 63 Transportation Study  
Storm Drainage Report  
Fire Truck Specifications  
Smoking Ban Ordinance  
2007 Street Program

### REMAINING STUDY SESSION TOPICS

Sales Tax Holiday  
Watershed Update  
Capital Improvement Sales Tax Five Year Plan  
Water Treatment Plant Tour  
Wastewater Treatment Plant Tour  
Airport Update  
    Infrastructure Update  
    Essential Air Service  
    Policies and Procedures  
City Council Policy Review  
Review Status of Goals  
Water and Sewer Rate Study  
Update on Long Range Plans  
Review Status of Comprehensive Plan -  
Convention Center/Sports Complex – June 12  
Industrial Park Expansion - August

Annexation Plans - August  
Economic Development Projects outside of KREDI - September  
Update from KREDI - September  
Tourism Program Update - September  
2008 Planning Retreat - October  
    Goal Setting  
    Water Improvements  
    Wastewater Improvements  
    Transportation Sales Tax Program  
    Equipment Replacement  
2008 Budget Meetings – November/December

#### OTHER TOPICS

## **City of Kirksville'**

### **2007 GOALS**

#### **Economic Development – (Job Creation)**

- 1) **Continue to work with the Kirksville Regional Economic Development Incorporated (K-REDI) to market the community**
  - a) Staff support
  - b) Office space
  - c) Property Listings
  - d) Development of flyers, brochures, etc.
  - e) Data gathering for website
  - f) Maintenance of Community Profile
  - g) Airport services and improvements
- 2) **Continue to work with K-REDI on recruitment efforts as prospects are identified**
  - a) Identify incentives suitable for presentation to prospects using city resources
  - b) Prepare presentations under direction of Director Of Job Creation
  - c) Arrange details of meetings
  - d) Pursue state and federal incentives available for projects as recommended by KREDI and staff
- 3) **Work with new Innovation Center Board encouraging entrepreneurial ventures**
  - a) Work to develop bylaws and articles of incorporation that will work to promote job creation
  - b) Explore role of city in relation to available building space for use of Innovation Center activities that would serve as an incubator for start-up businesses
- 4) **Expand economic development efforts to include other areas of focus specific to the City's efforts, excluding industrial recruitment and tourism**
  - a) Work with local realtors, building owners to market available commercial buildings
  - b) Inventory existing businesses to determine gaps in services and work to attract franchising businesses to the community
  - c) Develop a low interest loan program that would provide funds to downtown building owners to improve the store fronts/facades of downtown businesses
  - d) Include in the City's airport layout plan locations for business development projects
  - e) Identify businesses ideal for location at the municipal airport and work to recruit these businesses

## **Quality of Life**

- 1) **Continue to identify infrastructure needs within existing areas of the City of Kirksville**
  - a) Quality of existing streets, water, sewer, storm drainage, and lighting
  - b) Identify future needs for each community park
  - c) Insure sub standard housing conditions are addressed as identified
- 2) **Continue to implement and enforce beautification efforts to promote community pride**
  - a) Work with Kirksville Image Campaign to encourage a focus on “Community Pride”
  - b) Implement a plan to maintain the downtown public spaces
  - c) Identify rights of ways that are the City’s responsibility to maintain
  - d) Enforce City property maintenance codes
  - e) Encourage community groups and citizens to adopt city streets for cleanup
  - f) Use loan repayment funds to provide low interest loans to qualifying home owners for housing renovations including roofs, windows, siding, etc.
- 3) **Sponsor community-wide events**
  - a) 150<sup>th</sup> Birthday Celebration
  - b) Red, White and Blue Festival
  - c) Friday Nights on the Square
  - d) Back to School Carnival

## **Fiscal Responsibility and Efficiency in Government**

- 1) **Long Range Planning**
  - a) Analyze costs compared to benefits for new projects or programs, as part of the research process
  - b) Develop long range plans of 5 years and 10 years plus for all city owned buildings and facilities
  - c) Develop revenue projections for each of the following funds: General, Capital Improvements, Transportation Sales Tax, Airport, Aquatic Center
- 2) **Staff Retention**
  - a) Provide orientation to all new employees including review of personnel benefits and job responsibilities
  - b) Complete performance assessments timely
  - c) Explore incentives for those individuals who perform beyond expectations
  - d) Continue recognition of work by City Manager providing small incentives
  - e) Minimize recruitment and training costs and lost productivity by increasing retention levels of employees through improved wages
  - f) Improve communications at all levels of the organization through newsletters, payroll stuffers, employee meetings, email correspondence, department meetings
- 3) **Build Partnerships**

- a) Continue the implementation of joint purchasing for office supplies and building maintenance supplies. Work to identify other possible internal purchases
- b) Explore with other governmental groups – i.e. school district, county, etc. on potential joint purchasing projects
- c) Explore technology enhancements that would allow citizens more access to City services online such as bill payments, permit purchasing, license renewals
- d) Reinitiate partnership meetings with Adair County Commission, Kirksville R-III and Truman State University
- e) Identify other partnerships, hosting meetings to identify shared goals and agendas
- f) Continue to foster strong relations with existing community partners – Chamber of Commerce, Kirksville Arts Association, KDIC, KBSA, service clubs and other organizations
- g) Continue to work with State and Federal partners on shared goals and agendas – DNR, MDC, MoDOT, FAA, and state and local representatives
- h) Build partnerships with citizens on shared issues of concern

## **Protect City Owned Assets**

### **1) Asset Inventory**

- a) Determine what are the City's assets – people, property, equipment, services, etc.
- b) Analyze the overall value of experience and training that is currently in place for city positions
- c) Determine the effectiveness of establishing a city-wide Inventory system to track all city-owned property
- d) Secure engineering firms to complete a Wastewater Facility Plan Update
- e) Secure an engineering firm to work with the City on future Airport projects

### **2) Asset Protection**

- a) Complete a survey of peer cities including list of services provided to determine how we compare
- b) Continue to implement and update long-range plans for capital assets – water, sewer, streets, buildings, parks and airport
- c) Prepare a comprehensive document that includes the five-year plans for water, sewer and streets, incorporate the long range plans of the City's Comprehensive Plan into this document
- d) Develop long-range plans for public buildings, parks and airports
- e) Determine costs of long-range plans, calculate costs and outline funding plans to support efforts

### **3) Community Pride**

- a) Develop a consistent format for each Department Manager responsible for developing long range plans to include projects, costs, funding sources and timelines

- b) Communicate capital plans to the citizens through the Kirksville Connection and hosted public venues
- c) Communicate this information to the general public through City Council meetings, Commission Meetings – ATC and LPRC, and through press releases and public venues