

**CITY COUNCIL WORK SESSION
CITY OF RAMSEY
ANOKA COUNTY
STATE OF MINNESOTA**

The Ramsey City Council conducted a City Council Work Session on Tuesday, November 25, 2014, at the Ramsey Municipal Center, 7550 Sunwood Drive NW, Ramsey, Minnesota.

Members Present: Mayor Sarah Strommen
Councilmember Jill Johns
Councilmember Mark Kuzma
Councilmember John LeTourneau
Councilmember Chris Riley

Members Absent: Councilmember Randy Backous
Councilmember Jason Tossey

Also Present: City Administrator Kurtis Ulrich
Police Captain Jeff Katers
Public Works Superintendent Grant Riemer
Human Resources Manager Colleen Lasher
City Clerk Jo Ann Thieling
City Attorney Joe Langel

1. CALL TO ORDER

Mayor Strommen called the City Council Work Session to order at 5:36 p.m.

2. TOPICS FOR DISCUSSION

2.01: Review Survey Information Relating to an Ordinance Licensing Massage Establishments and Massage Therapists

City Administrator Ulrich stated the last time this was discussed, the Council directed staff to conduct a survey of massage establishments in Ramsey. Two responses were received and are within the meeting packet as well as a streamlined ordinance. He noted that City Attorney Langel and Police Captain Katers are present to answer the Council's questions related to the ordinance and/or enforcement.

City Attorney Langel stated of 20 surveys sent out there was a low response with only two surveys being returned and neither indicated strong objections to the draft ordinance or offered guidance. He stated this topic is in the same position as on September 9, 2014, related to whether the Council supported moving the ordinance forward. City Attorney Langel reviewed the language revisions made to streamline the process and asked if the Council would like additional revisions prior to formal consideration.

Mayor Strommen asked if City Attorney Langel and the Police Department are comfortable with the language of the ordinance to assure it meets the Council's concerns and can be enforced without over reaching.

City Attorney Langel explained if the establishment is forced to give certain information, those who are creative with their license will be reluctant to provide that information and obtain a license. He stated he would like to see the ordinance language that was removed to be reinserted including the requirement to provide past addresses as it would aid the Police Department in tracking the establishment, deterring illicit acts, and enforcing the ordinance.

Police Captain Katers concurred and stated any tool available for enforcement is a benefit to the Police Department and ultimately the community. He stated there is an issue with massage therapist establishments in Ramsey and the Police Department has worked with the Anoka County Sheriff's Department to do undercover work and address issues raised by neighboring businesses. The intent is to assure the businesses are operating legally and the City has the tools needed for enforcement. Police Captain Katers explained that because there is a lack of State law regulating these establishments, it is left to counties and cities to have such an ordinance. Police Captain Katers agreed that address history, similar to other applications, is important as it relates to past criminal practices and shows the Police Department whether the business is being run by someone in the metro area, outside of the metro area, operates additional establishments, or only a single establishment.

Councilmember Riley stated having an ordinance in place is very important, which staff has made clear. He stated he has also heard that the five-year history of addresses should be re-inserted into the ordinance as it is recommended by the City Attorney and Police Department. Councilmember Riley stated he does not want the language to over reach and be unfriendly to business as this ordinance will create a hurdle that illicit establishments may not even attempt to hurdle. He felt it contained language to allow good businesses to exist while keeping out illegal activity.

Councilmember Kuzma stated he found the survey spoke volumes, due to the non-response, as being a vote of support for the ordinance. He stated if there had been a lot of objection, those business owners would have shown up in force at tonight's meeting. Councilmember Kuzma supported adding the requirement for address history.

The consensus of the Council was to add the requirement for address history.

Councilmember LeTourneau asked if Item 8, relating to training and educational casework, is needed and what is the extended value.

City Attorney Langel advised that provision was taken from other licensing ordinances and is basically to expose if an establishment hires an untrained therapist that is not providing massage therapy. In addition, when it is required to set forth their training, it works towards a deterrent effect.

Councilmember LeTourneau stated a person could still get the application and a license even if the training is not related.

City Attorney Langel stated that is correct if everything else is in play but it would provide information that could be used against an establishment if activity not related to massage therapy occurs at the establishment. In addition, it is a defense for the therapist who is properly trained to bolster their application and defense they may have to someone claiming they are not providing massage therapy. City Attorney Langel stated, however, that provision is not as important as other requirements. He referenced the following provision requiring professional information on employees because in a business license, law enforcement will want to know who is working there in the capacity of a massage therapist.

Police Captain Katers explained that language will avoid a situation where employees are shifted from one location to another, which the Police Department has seen occur with larger illegal operations when one location is cited for a violation.

Councilmember LeTourneau asked if it is the responsibility of the license holder to report new employees in order to maintain the license, which would make it more complicated in who is monitoring that information.

City Attorney Langel stated it is the owner's responsibility to monitor their establishment and provide the City with information when there is a new employee. He explained that should there be a raid and it is found there are employees working at that establishment who are not listed on the license, it is another means to enforce.

Councilmember Riley stated it was his understanding that requiring both the establishment and masseuse to be licensed would address that problem. He felt requiring a business to keep a list of employees would be burdensome and he does not know of another business that is required to do that. In addition, he is concerned with the City monitoring that information.

City Attorney Langel clarified that language is to target the business, not the individual. He stated if the business owner is having a large turn over, that is an indicator that there may be other activity occurring at the establishment. He stated if illegal activity is occurring, the City wants that type of 'hook' in the ordinance language. In addition, Anoka County wants to assure there is a mechanism to close the business, not just cite the therapist.

Councilmember Johns asked if the individual as well as business licenses would be posted or on file for inspections.

Mayor Strommen stated that may be an item to include on a checklist for inspection.

City Clerk Thieling explained that the only time the City has asked for prior addresses is for background checks on pawnbrokers, peddlers/solicitors license, and liquor licenses. But, constant updates are not required on any of those licenses. She stated the City renews licenses yearly and at that point, it is asked who is the manager and the owner, but not the names of employees.

Councilmember LeTourneau asked how that licensing for the individual employee would be enforced and if there is requirement for the establishment owner to have on file the licensing credentials of the individual therapists.

City Attorney Langel reviewed the language of Section 26-858.b, saying the establishment cannot hire an employee who does not have a current license. He explained that there is no language that requires the owner to constantly update the City but if law enforcement conducts a raid and finds employees who are not properly licensed, it is a violation of this section that can be grounds for revocation of the business license.

Mayor Strommen asked if that language is sufficient or deficient for enforcement.

City Attorney Langel explained that clause i. was stricken so providing an original list of therapists is not required when the establishment opens. But, the requirement remains that the establishment hire only therapists with a current license. He stated it is true that this is not the norm to regulate businesses but the problem with prostitution does not regularly occur in normal types of business. City Attorney Langel referenced the point made by Councilmember Kuzma that most of the 20 surveyed do not have ‘heartburn’ over this ordinance or find it to be overly onerous.

Mayor Strommen stated if this was her business, she would want a process to establish her business as being legitimate and separation from illicit businesses.

Councilmember Johns noted that on Page 14, Requirements, the language requires the establishment to post its license as well as each therapist’s license in such location the public can readily view.

Mayor Strommen asked the Council if it finds the current language to be sufficient relating to licensing.

After review of the ordinance, City Attorney Langel advised that language was stricken requiring each business to notify the City Clerk within 10 days when an employee is changed. But, a restriction remains that the establishment cannot retain a therapist without a license.

Mayor Strommen noted that since the licenses have to be posted, in theory, the list of employees is known. She stated her question is more the application so the City can check out the credentials on the original list of employees.

Councilmember Kuzma stated without being too restrictive, it seems that other establishments don’t have a problem and once the ordinance is in place, the language can be ‘tweaked’ if found to be needed.

Councilmember Riley supported requiring posting of the establishment’s and individual employee’s licenses and he does not take the ‘survey silence’ by establishments to indicate their stance on the ordinance.

Councilmember Johns asked about a requirement for insurance in case a client is harmed.

City Attorney Langel explained that the public liability insurance portion of the ordinance was removed. He stated if included, this requirement would distinguish between legitimate and non-legitimate establishments. However, this requirement may not be required for other types of business licensing.

City Administrator Ulrich asked whether the City assumes any liability by licensing massage therapists as being qualified to do their job and having a background check.

City Attorney Langel stated typically not because simple issuance of a license is not liability on the part of the City and no different from when a City issues a liquor license to a bar that violates the law, or with electrical or building inspections when something is missed. He advised this is not an issue.

Councilmember Riley stated he thinks all reputable businesses should have insurance but he does not think the City should be involved with requiring the insurance. He noted it is not required of other businesses so he would not want to go any further than just inquiring if they have insurance.

City Clerk Thieling stated it is asked on all applications whether they have liability insurance, but it is not required.

Mayor Strommen suggested that question be added to the application.

The consensus of the Council was to add a question to the application asking whether the establishment has insurance.

Councilmember Riley stated the Council has done a job it was 'forced' to do and asked if the City should attempt to push licensing of these establishments to the County or State as the City does not license other professions.

Mayor Strommen asked if the League of Minnesota Cities had taken up this topic to address whether the licensing requirement should be pushed to the County.

City Attorney Langel stated he is unsure why the State is silent on the issue of licensing these types of establishments as prostitution is against State law.

Councilmember Riley asked if the topic should be raised with the City's political delegation.

City Administrator Ulrich stated he will first raise the topic with the League to get additional information.

Mayor Strommen thanked staff who worked to refine this ordinance language.

The consensus of the Council was to direct staff to prepare an ordinance licensing massage establishments and massage therapists for introduction in December and adoption in January.

2.02: Discussion Regarding 2015-2016 Union Contract Negotiations for AFSCME, LELS-Patrol and LELS-Sergeants (Closed to the Public)

2.03: Discussion Regarding the Annual Performance Review of the City Administrator, an Individual who is subject to the City Council's Authority (Closed to the Public)

Human Resources Manager Lasher advised that under Minnesota Statutes, Section 13D.03, the meeting can move into Closed Session to discuss labor negotiations strategy for the City's three union contracts and under Minnesota Statutes, Section 13D.05, Subd.3a, the meeting can move into Closed Session to evaluate the performance of an individual who is subject to the City Council's authority.

Motion by Councilmember LeTourneau, seconded by Councilmember Riley, to move to Closed Session to discuss union contract negotiations and evaluate the performance of City Administrator Ulrich, an individual who is subject to the City Council's authority.

Motion carried. Voting Yes: Mayor Strommen, Councilmembers LeTourneau, Riley, Johns, and Kuzma. Voting No: None. Absent: Councilmembers Backous and Tossey.

The City Council moved into a Closed Session at 6:12 p.m. and reconvened in Work Session at 6:54 p.m.

3. TOPICS FOR FUTURE DISCUSSION

Noted.

4. MAYOR / COUNCIL / STAFF INPUT

None

5. ADJOURNMENT

Mayor Strommen declared the Work Session of the City Council adjourned at 6:54 p.m.

Respectfully submitted,

Kurtis G. Ulrich
City Administrator

ATTEST:

Jo Ann M. Thieling
City Clerk

Drafted by Carla Wirth
TimeSaver Off Site Secretarial, Inc.