BILL 2012-53

****** Third Reading ******

MEMO

To: Mayor & City Council

From: Corey Sloan, Chief of Police

Date: November 26, 2012

Re: Funeral protest prohibition

Issue:

In October 2012, the full Eighth (8th) Circuit U.S. Court of Appeals reversed a previous ruling of a three judge panel of the same court. The issue decided by the full Eighth (8th) Court of Appeals involved the case *Phelps-Roper v. The City of Manchester, MO*. Shirley Phelps-Roper, representing the Westboro Baptist Church, argued that limiting the location where a protest could be held violated their (Westboro Baptist Church) freedom of speech that is guaranteed to them by the U.S. Constitution.

The Eighth (8th) Circuit ruled that the City of Manchester could limit where protesters could be in relationship to a funeral service without violating the First Amendment of the U.S. Constitution. Eighth (8th) Circuit Judge Diana Murphy wrote the (City of Manchester) ordinance, "*survives First Amendment scrutiny because it serves a significant government interest, it is narrowly tailored, and it leaves open ample alternative channels for communication.*" The City of Manchester, MO ordinance allowed for funeral protests to occur but would not allow protesters to be closer to the service than 300 feet an hour before, during or an hour after any funeral service or burial.

The City of Cameron respects the unalienable rights that the U.S. Constitution affords to citizens especially as it relates to freedom of speech. However, we also respect the honor and dignity of a funeral service and what it represents to a grieving family. There must be a clearly delineated line for this to occur and the full Eighth (8th) Circuit Court of Appeals has defined that line as three-hundred feet with their ruling.

Recommendation:

Review, approve and have the Mayor sign the attached ordinance preventing funeral protests within 300 feet, an hour before, during or an hour after a funeral service at specified locations.

***Three readings are recommended by staff.

Bill 2012-53

AN ORDINANCE AUTHORIZING THE PROHIBITION OF FUNERAL PROTESTS THAT SERVES A SIGNIFICANT PUBLIC INTEREST, IS NARROWLY TAILORED AND ALLOWS FOR ALTERNATE CHANNELS OF COMMUNICATION FOR PROTESTERS BY ADDING SECTION 7-371 TO ARTICLE XII, IN PARADES AND PROCESSIONS, OF CHAPTER 7, MOTOR VEHICLES AND TRAFFIC, IN THE CAMERON CITY CODE

WHEREAS, the City of Cameron respects the rights of individual citizens and groups to exercise their constitutional right of free speech guaranteed to them under the U.S. Constitution; and

WHEREAS, a funeral service is a time of honor and remembrance, for grieving families and friends, and should be free of disruptions; and

WHEREAS, the full Eighth (8th) Circuit U.S. Court of Appeals has defined that any protest and/or protesters cannot be any closer than three-hundred (300) feet within one hour before, during or one hour after any funeral or burial.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Cameron, Clinton and DeKalb Counties, Missouri that section 7-371 is added to Article XII in Parades and Processions of Chapter 7, Motor Vehicles and Traffic, in the Cameron City Code as follows:

Section 7-371— Funeral Protests Prohibited, When – Citation of Law – Definition

A. Every citizen may freely speak, write, and publish the person's sentiments on all subjects, being responsible for the abuse of the right, but no person shall picket or engage in other protest activities, nor shall any association or corporation cause picketing or other protest activities to occur within three hundred (300) feet of any residence, cemetery, funeral home, church, synagogue, or other establishment during or within one (1) hour before, or one (1) hour after the conducting of any actual funeral or service at that place.

B. As used in this Section, "other protest activities" means any action that is disruptive or undertaken to disrupt or disturb a funeral or burial service.

C. As used in this Section, "funeral" and "burial service" mean the ceremonies and memorial services held in conjunction with the burial or cremation of the dead, but this Section does not apply to processions while they are in transit beyond any three hundred (300) foot zone that is established under subsection (A) above.

Third reading

Section 1. The Mayor is hereby authorized to sign the ordinance which is attached hereto and made a part hereof;

Section 2. The City Clerk is hereby directed to attest to the Mayor's signature;

Section 3. This Ordinance shall be in full force and effect from and after its passage.

Read the first time on this 3rd day of December 2012.
Read the second time on this 17th day of December 2012.
Read the third time on this 7th day of January 2013.

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Mayor Dennis M. Clark

ATTEST:

_____
City Clerk

Third reading