

Tax or fee? Pastors push back against city's 'annual registration fee'

by [Tim Townsend](#)

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EAST ST. LOUIS, Ill. (RNS) After the city's director of emergency services delivered an opening prayer, the City Council took up some standard issues -- maintenance of a traffic light, filling in a pot hole.

But eventually the council members got around to Item 8E -- the reason City Hall was filled with pastors on a Thursday night.

On its face, Item 8E -- an amendment to an ordinance requiring safety inspections for businesses -- seems like standard City Council fare.

In reality, it touches on one of the most fundamental and contentious aspects of American democracy: the separation of church and state. And it has pitted the pastors in one of the most church-packed cities in the country against a municipal government whose council members sit in their pews on Sundays.

At issue was a new \$100 "annual registration fee" that the city imposed on churches and nonprofits. Most of the fee will go toward building safety and fire inspections, and \$25 toward administration costs.

But East St. Louis pastors say Mayor Alvin Parks is playing a game of semantics, using the word "fee" where "tax" is more accurate.

They say they only learned about the new fee when they began receiving letters from the city, warning that the churches would be turned over to a collection agency if they didn't pay. Nonpayment, the letter said, "may reflect negatively on your

credit record, lien on property and other remedies that the State of Illinois allows."

Those building new churches pay fees for licenses and permits, just like anyone else putting up a new structure. But churches and nonprofits don't pay taxes.

The traditional argument for that position has been that the organizations provide the community with services -- propelled by their religious obligations and beliefs -- and save a municipality tax money that would have gone toward those services.

The Rev. Jerome Rogers of Shining Light Missionary Baptist Church pointed out at the City Council meeting that the churches of East St. Louis do a lot of good in the community -- from teaching computer classes and resume writing classes to cleaning up dilapidated properties.

Church-state separation advocates say by demanding payment of churches for city services, and levying fines for nonpayment (and potentially putting a church in jeopardy of shutting its doors), a municipality would be entangling itself in church affairs.

In the 1970s, the U.S. Supreme Court ruled that freeing houses of worship from paying taxes "restricts the fiscal relationship between church and state, and tends to complement and reinforce the desired separation insulating each from the other."

In 2010, the town of Mission, Kan., attempted to levy a "transportation utility fee" -- also called a "driveway tax" -- on churches to fund road work. A Baptist church and a Catholic church sued, arguing the town was breaking the law by disguising a tax as a fee.

Sarah Barringer Gordon, a constitutional law professor and professor of history at the University of Pennsylvania, said the idea of tax exemptions for religious institutions has evolved over the last two centuries "into something more and more generous."

Today, she said, it's tempting for municipalities to try and revert back to older taxing philosophies in a bad economy.

"Smaller jurisdictions with budget problems, in times of crisis, naturally look to nonprofits and the vast majority of those are going to be churches," Gordon said.

In East St. Louis, the mayor said churches and nonprofits had never previously been charged a fee for fire safety inspections "because typically churches don't pay taxes."

"We didn't want to tax the churches; we're still not," he said. "It's a fee to recoup our costs for providing safety and services to the churches."

At the meeting, the mayor allowed pastors to vent their frustrations.

"Why you want to tax God's house?" one pastor boomed at Parks. "Churches are struggling. This is a low blow."

"I see the condition of the city and it hurts my heart," said yet another. "But to come after the church -- that's not right."

Then Parks unveiled what he called "a solution": The ordinance would be revised to allow churches and nonprofits to self-inspect their buildings.

Pastors could elect not to pay the city fee, but would still have to hire their own certified inspector and provide annual documentation to the city that their buildings were safe. Their first inspection, he told them, would have to be completed no later than June 30.

"If you don't want to pay, don't pay," Parks told the pastors. "But one thing we can't get away from is that churches and all buildings need to be inspected annually."

A pastor asked how much it would cost to train a member of his congregation to get the proper building inspection certification. Somewhere between \$500 and \$1,000, he was told. But even such inspections would not satisfy safety standards, Fire Chief Jason Blackmon told the pastor.

"I didn't want to say this earlier," Parks told the pastors. "But it's so much easier to just have the city do it."

The council members seemed wounded by some of the barbs thrown their way.

"I'm getting the feeling that people don't think we pray," said Councilwoman Emeka Jackson-Hicks. "I pray. And I take it personal when we're assassinated like this. We are the flock and we desire care, too."

The mayor insisted the fee is not a money grab. He said the best-case scenario is that all 140 churches pay \$100 for a total of \$14,000.

"That doesn't even pay one person's salary," he said. "It's not about the money. It's about the safety."

The council adopted the mayor's compromise and moved the pastors' first deadline to Sept. 30.

(Tim Townsend writes for the St. Louis Post-Dispatch.)