



CITY OF TOPEKA

CITY COUNCIL COMMITTEE
MEETING MINUTES

PUBLIC HEALTH & SAFETY COMMITTEE

CITY COUNCIL
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Location: Topeka Police Department, LEC Classroom A

Date: November 4, 2016

Time: 3:30 p.m.

Attendance

Committee members present: Sylvia Ortiz (Chair), Elaine Schwartz & Jeff Coen.
City staff members present: Mary Feighny (Legal), Luther Ganieany (Prosecution), and Russ Klumpp (TPD).

Call to Order

Meeting was called to order by Chairperson Sylvia Ortiz.

Approval of Minutes

Minutes of the September 1, 2016 meeting were approved.

Discussion Items

AN ORDINANCE introduced by City Manager Jim Colson, concerning merchant private police license regulations, amending City of Topeka Code Sections 5.90.010, 5.90.110, 5.90.120, 5.90.130, 5.90.140 and 5.90.170 and repealing original sections and repealing Section 5.90.050 in its entirety. Referred to committee on 6/14/2016.

Luther Ganieany explained what the amendments would do:

1. Take out any reference to fire arms regulations because state law now preempts cities from regulating firearms, including possession.
2. Amends the definition of 'conviction', to eliminate expungements, juvenile adjudications and diversions.
3. Changes timelines for felonies; will remove 'in the past 20 years' and instead ask if they have ever been convicted of a felony. For misdemeanors it would shorten the timeline to 10 years and would clarify the language of what kinds of misdemeanors are considered.

Councilmember Jeff Coen asked if the proposed amendments to this ordinance would allow for applicants who have been denied their license in the past, due to something they did in their youth, to now be approved. Luther stated that in 2014 there were 7 out of 364 applications that were denied. He believes that the proposed changes will allow for some applicants who were denied in the past to now be approved.

Councilmember Elaine Schwartz asked if this is why they are proposing changes to the ordinance; to make it easier for someone to get their merchant guard license.

Mary Feighny stated that, in light of the appeals from license denials, members of the Council had directed staff to propose changes to the ordinance that would address the harsh results that come from denying licensure because of offenses that occurred long ago and have been expunged, were the subject of a successfully completed diversion agreement or occurred when the applicant was a juvenile. Topeka is the only city in Kansas that includes expungements, diversions, and juvenile delinquent adjudications in its definition of 'conviction' so amending the definition would bring Topeka in line with other cities. The Council also has the option to stop issuing merchant guard licenses all together. Lenexa, Overland Park, Olathe & Lawrence do not license security guards.

Councilmember Coen asked what the fees are for merchant guard licensing. Mary Feighny stated that there is a \$30 license fee and a \$47 KBI Background Check fee.

Councilmember Schwartz asked if the cost of the licensing fees covers the cost of the staff that processes these applications. Captain Russ Klumpp stated that the fees only cover approximately 1/3 of the staff costs.

Councilmember Sylvia Ortiz asked why the city started doing this in the first place; is it necessary for the TPD to process the merchant guard licenses? Captain Klumpp stated that strategically it is good for the TPD to process these applications. Mary Feighny stated it is in a company's best interest to conduct thorough background checks on their employees because of the liability.

Councilmember Coen asked if changing the language in the ordinance would affect public safety. Captain Klumpp stated that applicants would still have to meet the requirements of their employer, and most applicants would not have been offered a diversion or expungement if their crime had been of a serious nature.

Councilmember Schwartz stated that Salina, Manhattan, Wichita and Kansas City are the only other cities in Kansas that require merchant guard licensing, so she is torn between whether Topeka should get out of the licensing business and leave it to the security companies. She is comfortable recommending the proposed ordinance so we are consistent with the cities that do licensing, but would like to study this more to determine if Topeka should even be in the merchant guard licensing business.

Councilmember Schwartz moved to approve adopting the ordinance referred to the Committee by the governing body. Councilmember Coen seconded the motion.

Luther Ganieany recommended that a definition for 'Crime of Violence' be added to the ordinance.

Councilmember Schwartz made a friendly amendment to the motion, to recommend defining 'Crime of Violence'. Councilmember Coen seconded the motion. Motion passed with a vote of 3-0.

Motion to approve adopting the ordinance referred to the Committee, as amended by the Committee, passed with a vote of 3-0.

Discussion on any other items before the Committee

None

Adjournment

The meeting was adjourned at 3:57 p.m.

Video recording of this meeting can be found at:

<https://www.youtube.com/watch?v=gOUZeMCFbU&feature=youtu.be>

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