Minutes Taken: July 18, 2018
Minutes Approved: August 7, 2018

As per Governing Body Rule 8.10, Committee Chair Brendan Jensen approved the minutes.

Location: Topeka Police Department, 320 S. Kansas Ave., LEC Classroom A
Date: July 18, 2018
Time: 3:00 p.m.

Attendance
Committee members Deputy Mayor Brendan Jensen, Councilmember Michael Lesser, Lieutenant Aaron Jones (TPD), Chief Craig Duke (TFD), Bill Persinger (Valeo), Barry Feaker (Topeka Rescue Mission), Brian Cole (SNCO DOC).
Absent: Councilmember Michael Padilla, excused

1) Call to Order/Introductions
Meeting was called to order by Deputy Mayor Brendan Jensen. Committee members introduced themselves.

2) Approval of Minutes
Barry Feaker made a motion to approve the minutes from the July 9, 2018 meeting. Brian Cole seconded the motion. Minutes were approved.

3) Discussion by Committee
Major topics included:
- Brian Cole reminding all that the topic is a public safety concern. Limiting distractions, of any kind, in congested areas will help to keep people safe. And the issue of panhandling is a separate issue. Mr. Cole made the recommendation to focus the meeting toward clearing up congested intersections.
- Councilmember Lesser wanted to add that the data gathered to measure where accidents occur should be the focus and not finding relevance in the specific causes of those accidents.
- Deputy Mayor Jensen stated the goal of the ordinance is to prevent accidents and injuries between vehicles and pedestrians, or vehicle collisions. A significant fallout will occur with this ordinance in that there are a number of individuals who participate in their constitutional right to panhandle. Deputy Mayor Jensen suggested looking at the
proposed ordinance as it stands and if the committee agrees on the language within the ordinance, the next focus would be on how to mitigate the challenge of individuals who are panhandling.

- Luther Ganieany considered discussion about the number of accidents that was brought up at the July 9th meeting and one clear issue coming from this will be a constitutional one. The framework must be narrowly tailored to further a compelling government interest. The government interest is where there is potential for an issue. There is still a chance that the City would be sued, and could lose that lawsuit. The committee’s compelling government interest in this ordinance is public safety. The legal issue is whether or not proof must be provided. That is not something that can be known until a potential case would occur. Some discussion was had between committee members and Mr. Ganieany to clarify the various legalities. Mr. Ganieany then showed a video that highlighted an alternative program to address the issue of panhandling in the City of Albuquerque, New Mexico. (The link to this video can be found at the bottom of the minutes). Video feedback included:

  - Mr. Ganieany noted that this alternative program not only collected panhandlers for the day to do work, but it also took an educational approach for the public, letting them know where their donation money is spent.
  - Deputy Mayor Jensen inquired if the program was successful because it was already in place, or if we thought something similar might be successful in our city.
  - Reverend Barry Feaker appreciated the idea presented in the video and noted some of the infrastructure that is currently set up in the city. Reverend Feaker would prefer to start the program prior to putting the ordinance into place.
  - Deputy Mayor Jensen clarified that the Governing Body initially sent this ordinance to the Special Committee because there was a feeling that there would be a need for both, an ordinance as well as a program, and not just passing the ordinance.

- There was some back and forth discussion between committee members as to if the ordinance should be passed first or begin the program first.
- Bill Persinger inquired if there was a way to separate the ordinance into various phases which would allow for a phase one to be implemented sixty (60) days after passing the ordinance followed by a second and third phase being implemented after some of the programs are better established.
- Brian Cole noted that there is an inmate work program, and is able to attest to the success of offering work to someone who is currently without a job. Mr. Cole was concerned with some of the insurance and worker’s compensation restrictions that may apply to the City doing a program such as this as well as if having panhandlers perform some of
the same type of work as the inmate crews. Overall, Mr. Cole was interested in finding out more as to this opportunity.

- Bill Persinger suggested having a private for-profit business step in to assist this effort or perhaps a private non-profit organization to have public/private partnership with the City.
- Deputy Mayor Jensen noted that having some more information would be helpful for a future meeting. However, would like to see if the committee could come to an agreement on passing the ordinance as it stands at this point.
- Mr. Persinger noted that he would feel more comfortable having more information and input from the community prior to passing the ordinance. Mr. Persinger appreciates the ordinance as it is written, however would like to have a program in place prior to putting the ordinance into effect.
- The committee held more conversation regarding the order of the ordinance and the program. The committee discussed placing one in action prior to the other, having both occur simultaneously, and having the ordinance go into place however limiting the penalty portion for an amount of time allowing the program and public education piece to develop.
- Deputy Mayor Jensen inquired with Reverend Feaker as to how quickly he felt the program portion could begin. Reverend Feaker felt that the program could possibly begin as early as the end of 2018, however more likely 2019. Reverend Feaker also noted that having adequate shelter in place would be necessary, reminding committee members that the Rescue Mission has standards that not everyone wants to or can follow. Additional shelter would need to be made available.
- Bill Persinger echoed Reverend Feaker’s comments noting that the program could easily be successful if there were enough resources and enough will.
- Deputy Mayor Jensen inquired with Luther Ganieany about the possibility of introducing the ordinance and having it go into effect immediately however the citation aspect being held for a determined and noted period of time. Mr. Ganieany noted that the only risk of going forward with this would be that there would be no consequence.
- There was further discussion from the committee members regarding potential set-backs including mental/behavioral health, any background check processes, public education and pushing that information out so that the programs can be funded adequately, traffic issues.
- Fire Chief Duke inquired with Mr. Ganieany as to what the likelihood would be of panhandlers simply moving the intersection or location to continue their behavior. Mr. Ganieany noted that individuals would be legally allowed to move. If a program got started and signs for the general public were posted around the city, not only those listed intersections, it would help to educate, encourage and then enforce the ordinance.
- Councilmember Lesser provided an example of San Francisco where secured donation boxes are set up all over the town and commercials are played asking people to make their donation in those boxes rather than handing money to an individual directly. The boxes note the many organizations which split the money to help people in need.
- Chief Duke elaborated on his initial question to ask about the possibility in requiring some sort of registration or permit to allow them to ask for donations. This would include the fire departments that participate in the MDA Boot campaign, as well as panhandlers, or other group.
- Mr. Persinger inquired as to the difference between being legally allowed to offer a service, such as selling hot dogs and doing an activity at an intersection such as washing windows. Deputy Mayor Jensen elaborated that the ordinance would be content neutral in regard to the activity. Anything that would be distracting to drivers in the listed intersections would be illegal.
- Chief Duke inquired as to what some options would be to allow the firefighters to continue collecting donations annually for the MDA drive. Councilmember Lesser suggested setting up alternative locations in a similar way that the Salvation Army sets up their kettle collections and the Girl Scouts set up cookie locations. Deputy Mayor Jensen suggested adding a requirement that participants in activities within these noted areas would need to have a high visibility uniform of sorts. Mr. Ganieany noted that the City’s liability risk would be lower with that requirement versus a requiring a permit, however would not likely be practical for everyone to abide by as it would require pre-planning. The problem with this requirement is that an activity such as panhandling is considered freedom of speech under the constitution and there cannot be a requirement of pre-planning for this right.
- Councilmember Lesser reminded the committee that there are potentially more than just the two participants at risk with no ordinance. Not only the driver and person on the street, but also the driver(s) behind them not realizing the car in front is coming to an immediate stop thus causing an accident.
- Deputy Mayor Jensen suggested looking at the ordinance at this meeting, excluding the implementation timeline, and talk about the program that would be brought forth alongside of the ordinance at the next committee meeting, giving time for the committee members to do some research and have something substantial to provide the Governing Body when the committee makes its final report.
- Reverend Feaker inquired as to if there is enough of a public safety concern to warrant an ordinance. If the answer is yes, then move forward with the program and the ordinance. If the answer is no, he suggested that the ordinance without adequate understanding of those individuals that would be effected would not be wise. Luther Ganieany noted that the ordinance began by identifying the top ten accident locations that included pedestrians and vehicles. There is an issue of distracted
drivers. The ordinance would recognize that there is an issue with distracted drivers at busy pedestrian intersections. There is a split from how the court would view this information, and there is no prediction as to which direction the court would view the ordinance on a specific situation.

- Bill Persinger inquired if the City Manager’s office would be responsible for putting together some of the program’s logistics. Deputy Mayor Jensen noted that the topic would be something that was addressed at the next committee meeting.
- Deputy Mayor Jensen suggested three phases to be completed by the time the committee makes a final report to the Governing Body:
  - Approval of the language of the ordinance
  - Introduction of the program
  - How to phase in the program in with the ordinance
- Reverend Feaker made a motion to accept these three phases. Brian Cole seconded the motion. The motion passed 7:0.
- Deputy Mayor Jensen charged the committee members to bring ideas regarding a program to help with panhandling, as well as the resources that would be needed to accomplish the program.

4) Public Comment
James Smith, private citizen, suggested a few ideas to the committee regarding ways to educate the public on which intersections were dangerous, as well as the general inherent danger of panhandling. Mr. Smith also suggested requiring panhandlers who wanted to be a permanent profession, to be required to have a Peddler’s license in the way the City requires individuals at the Farmer’s Market or others to do. Mr. Smith also suggested building some sort of tiny house community to go along with the work program being suggested by the committee as an option for individuals to retreat to following a day’s work.

5) Set Future Meeting Date(s)
To Be Determined

6) Adjourn
Deputy Mayor Jensen adjourned the meeting.

Link to TED Talks video presented at meeting can be found at:
https://www.ted.com/talks/richard_j_berry_a_practical_way_to_help_the_homeless_find_work_and_safety#t-728108

Video from the meeting can be found at: https://youtu.be/oaeL8EbUYdY