Location: Topeka Police Department, 320 S. Kansas Ave., LEC Classroom A
Date: July 9, 2018
Time: 3:00 p.m.

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

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

2) Election of Committee Chair
Committee member Padilla made a motion to elect Deputy Mayor Jensen as the Committee Chair. Committee member Feaker seconded the motion. Motion passed. Deputy Mayor Jensen will serve as the chair for this committee.

3) Presentations
   a) Overview of proposed changes – City Manager Brent Trout gave a few words to the committee to thank members for their work with this special committee and reiterated the importance of coming together to work on this ordinance.

   b) Legal considerations – Luther Ganieany, TPD Legal, provided committee members with a presentation for legal considerations. The City of Wichita currently has a similar ordinance for panhandling that the City of Topeka is looking at implementing. After providing some statistics and data that has been gathered over the past seven years in Topeka, Luther Ganieany introduced the vocabulary and definitions that would make up the ordinance. The ordinance would be limited to apply to only arterial intersections and congested areas as would be defined within the ordinance. The streets and areas introduced were selected after historical data provided the necessary statistics, which then identified “designated areas”. The main proponents to this ordinance that are intended to aid in keeping areas safe for both pedestrians and drivers include:
1) The proposed ordinance prohibits individuals to go upon any designated roadway or remain alongside a designated roadway and approach a stopped vehicle or attract the attention of the driver or occupant for the purpose of facilitating a transfer.

Bill Persinger questioned if drivers would also be penalized along with pedestrians. Mr. Ganieany noted that the answer would be presented shortly. Mr. Persinger also inquired if alleys and parking lots within those congested areas or near the arterial streets would be included as unlawful per this ordinance. Mr. Ganieany noted that these were not be included. Mr. Persinger wanted to make note to circle back to this issue to look at.

Councilmember Lesser inquired about drivers pulling over in a legal parking area momentarily, such as in a residential area, and parks to drop something off, if the action would be considered illegal. Mr. Ganieany confirmed that such an action would not fall under the proposed ordinance and would not be considered illegal.

2) The ordinance would prohibit the action of being on the median of a designated roadway unless the person is in the process of crossing the roadway.

3) The ordinance would prohibit the activation of a pedestrian crosswalk signal for any purpose other than to stop traffic to allow crossing the roadway. It would be considered a violation if the person stayed on the median or at the intersection after two consecutive opportunities to legally cross the roadway.

Deputy Mayor Jensen suggested volunteer crossing guards to assist with crossing the street. Mr. Ganieany noted that this ordinance would not prohibit individuals legally using the crosswalk to cross the roadway with exceptions also being made for large groups that may need to activate the pedestrian signal multiple times to allow for safe crossing at one time.

Mr. Ganieany then presented the section of the ordinance that would prohibit certain actions of drivers and would make them equally liable for violations the same as for pedestrians. The section included exceptions to the ordinance to allow for working and temporary types of situations that may fall into the category of holding up traffic on congested areas.

Barry Feaker inquired about including a provision for special circumstances that would cover an individual, who was not a designated first responder, stopping and/or holding up traffic to assist in an emergency type of situation. Mr. Ganieany noted that this type of example would not be in violation of the ordinance as no transfer of services would be occurring.

4) Discussion by Committee
Councilmember Lesser provided a handout to the committee. Deputy Mayor Jensen opened up the floor for committee members’ comments/questions.
Brian Cole inquired if the data shown in the presentation showed that the crashes correlated to panhandling/distracted drivers specifically due to this activity, or if there just happen to be a high number of crashes in those intersections due to sheer volume. Mr. Cole also voiced concern that activity may move off of designated streets and into parking lots of businesses. Mr. Cole also voiced concern regarding the financial impact it would cost if pedestrian violators of this ordinance were to be sent to jail. The other main concern of Mr. Cole’s is that pedestrians will seek out other public areas to move their activity to keep within the ordinance rather than ceasing the activity altogether. Councilmember Lesser answered the question regarding the use of private parking lots, noting that individuals would be required to have permission to be in the private parking lot. Councilmember Lesser asked Mr. Ganieany to expand. Councilmember Lesser also inquired as to the inherent danger that comes with the act of distracting a driver regardless of location, and if there is a need for defining congested areas and arterial streets and not simply prohibiting the action entirely. Mr. Ganieany noted that there were some legal considerations that had to be made with regard to the First Amendment. Panhandling is recognized as speech and is protected by the First Amendment. Whatever ordinance is set, it must remain content neutral and apply to everyone. The language in the ordinance must also be narrowly tailored, meaning that the proposed ordinance must allow for an alternative avenue for this type of activity and speech. This answers why there is a need to identify certain streets, intersections, and designated areas.

Deputy Mayor Jensen inquired about the City’s sign ordinance. Mr. Ganieany noted that the sign ordinance defines a sign as something that is fixed to an object or stuck into the ground, and not a person. Mr. Persinger followed with an inquiry regarding advertisements, such as a furniture store employee holding a sign. Mr. Ganieany noted that in the instance of businesses using employees to advertise on the sides of streets, they are not exchanging anything which would hold up traffic. Drivers can see their advertisements and continue driving or pull into the private business parking lot. In order for an individual to be in violation of the ordinance, each of the items identified in the “Prohibition” section of the ordinance would need to occur.

Padilla questioned if ordinance should include a goal for people who need help to get it rather than just putting them in jail. Deputy Mayor agreed that the goal of the committee was to not only displace people away from the congested areas but to displace them to areas where they could receive services such as from Valeo or Rescue Mission. Barry Feaker commented to understand where the committee needs to go is to begin by understanding why the repeated behavior is occurring. There are two main components that must be looked at: 1) The reason that the behavior occurs and 2) The reason that the behavior continues to occur. Rev. Feaker noted that having an understanding of these two things will need to be part of the equation in addition to addressing a community safety issue. Rev. Feaker also noted a concern for the correlation between the accidents that have occurred and panhandling.
Mr. Cole asked if restrictions or time limits could be added into the ordinance. Mr. Ganieany noted that as long as it is the same across the board, and there was a purpose of public safety, then yes. If the law is content neutral, the courts will not scrutinize it for being unconstitutional.

Councilmember Lesser noted three core ideas that he felt were of importance 1) safety of roadways 2) providing care for those in need 3) Economic impact. Business owners who have spoken to Councilmember Lesser noted a negative effect on business, tenants being fearful for their safety, etc. The next question becomes where would it push individuals who are not truly in need?

Deputy Mayor Jensen asked Mr. Persinger and Rev. Feaker to introduce what tools they have already in place. Mr. Persinger inquired about those who might decide to offer some type of service, such as washing car windows, in order to negate the ordinance. Mr. Ganieany noted that if the action was blocking the roadway, it would be in violation, however there would not be any rule to keep the driver from going onto a side street or other area to partake in the service. Rev. Feaker introduced some of the services that the Topeka Rescue Mission (TRM) offers. There are three types of people living on the street 1) taking advantage of the system 2) chronically homeless 3) could benefit but choosing not to because they prefer to do it their way. TRM advocates educating the community. Deputy Mayor Jensen asked how this ordinance would affect each of these types of panhandlers. Rev. Feaker noted that the community would need to be proactive with restrictions but create opportunity as well. Rev. Feaker asked the committee to consider composite care.

Bill Persinger introduced programs that were offered through Valeo. Most of the programs are full the majority of the time. Mr. Persinger noted that looking at current programs as well as programs that would be useful to have would be helpful if passing the ordinance becomes a possibility.

Deputy Mayor Jensen asked committee members where they thought existing loopholes or immediate problems would occur within the framework of the ordinance as it is currently written and to identify what issues would need to be addressed farther out. Deputy Mayor Jensen also inquired whether this ordinance would be good for our city when taking a holistic approach.

Mr. Cole inquired about best interest to improve safety in these high traffic areas. Mr. Cole was in agreement with Mr. Persinger in regard to reviewing what other cities who have a similar ordinance in place, or who have had a similar problem and found a solution elsewhere.

Mr. Persinger provided the example of DUI law changes as an example of a way that a law aided in public safety and perhaps this ordinance would have a similar effect.
Councilmember Lesser agreed with sentiments related from other committee members. He also noted that this ordinance might offer an opportunity to help people as well as to eliminate a problem to safety as well.

Deputy Mayor Jensen inquired with Rev. Feaker as to some ideas regarding assisting individuals who are in true need versus ones who are taking advantage of the system. 
(Had to leave about hour 6 minutes into meeting...catch everything)

Councilmember Padilla wanted to note his approval of keeping these meetings transparent and how important they are. He also wanted to remind committee members of two things when speaking to the public or media to include 1) making sure when talking to media, they understand the hope and direction of community.

Rev. Feaker noted that this is indeed a public safety issue and inquired as to if the ordinance would contain language that would direct officers to take individuals to the shelter. Mr. Ganieany stated that said language is in camping ordinance. LT Jones inquired if language could be inserted to cover this topic. Mr. Ganieany noted that it would difficult to do as it is more about addressing the action, not lifestyle.

Chief Duke noted future community mental health paramedicine program that TFD and TPD are working on would be something that would tie into this ordinance nicely. He also noted that in regard to the MDA collection, that if collection isn’t drawn from busy locations, there is a very noticeable drop in donations. However, TFD would look at other ways around this ordinance.

5) Public Comment
Councilmember Hiller agreed with other committee members to recommend that crash logs be reviewed to determine if there is a true correlation to crashes and the actions of pedestrians who were trying to solicit something from them and which were caused by other actions. Councilwoman Hiller suggested creating a culture of caring in the community to allow individuals to donate to places that will help the individuals by channeling to the appropriate area. She also suggested that the committee take a look at current sign ordinance noting that the current ordinance says signs that remain in the same place are not allowed. Councilmember Hiller felt this ordinance shouldn’t make difference if the signs are on metal legs or human legs.

Linda Johnsrud made a plea to look at the state of Michigan which has laws against panhandling. There are regulations that give organizations ways to collect. Ms. Johnsrud also noted that places such as San Diego and Kentucky requires everyone (panhandlers, organizations, etc) to be registered with a lanyard (permit) stating who they are, what they are collecting for.

6) Set Future Meeting Date(s)
Committee members will research other cities, and alternative ideas, if this ordinance isn’t the solution, what is. Look at July 30th for next date or look at dates for the week of July 23rd.

7) Adjourn

Video from the meeting can be found at: https://youtu.be/j7lGHRVU_e0