

Minutes

The City Council of the City of Leawood, Kansas, met for a Special Call Meeting at City Hall, 4800 Town Center Drive, at 6:00 P.M., on Monday, April 18, 2016. Mayor Peggy Dunn presided.

Councilmembers Present: Debra Filla, Chuck Sipple, Jim Rawlings, Julie Cain, Carrie Rezac, Andrew Osman, Lou Rasmussen and James Azeltine

Councilmembers Absent: None

Staff present: Scott Lambers, City Administrator Patty Bennett, City Attorney
Chief Troy Rettig, Police Department Cindy Jacobus, Assistant City Clerk
Debra Harper, City Clerk

Others Present:

Scott Hall, Vice President Strategic Initiatives, Greater Kansas City Chamber of Commerce
Kevin Harker, Executive Vice President, American Heart Association
Kevin Walker, Regional Vice President of Advocacy, American Heart Association
Bellinda Schoof, Division Director of Health of the Public and Science, American Academy of Family Physicians
Pamela Rodriguez, Health Programs Manager, American Academy of Family Physicians
Jessica Hembree, Program and Policy Officer, Health Care Foundation of Greater Kansas City and Co-Chair of the Healthy KC Initiative
Sue Matson, Prevention Services Coordinator, Johnson County Mental Health Center
Jamie Katz, Prevention Services Coordinator, Johnson County Mental Health Center
Nicole Brown, Chronic Disease Program Coordinator, Johnson County Department of Health and Environment
Kevin Jeffries, President, Chief Executive Officer and Director of Economic Development, Leawood Chamber of Commerce
Stephen Duerst, Lobbyist and Law Clerk, Federico Consulting

Tobacco 21 Initiative

Mayor Dunn called the meeting to order, thanked all for their interest and introductions were made. Mayor Dunn stated that Tobacco 21 [T21] had been discussed at the January and February meetings of the Johnson & Wyandotte Counties Council of Mayors, with information from the Greater Kansas City Chamber of Commerce and Health Care Foundation of Greater Kansas City provided at those meetings included in the Work Session meeting packet. A recent email received from Dr. Willie Lawrence, Jr., on this topic has been distributed. Ms. Bennett has been the point of contact for the City in this regard.

Mayor Dunn stated experts who had been assisting City Councils with deliberations on this topic would make presentations for approximately 20 to 25 minutes, facilitated by Mr. Hall, which would allow time for questions before meeting adjourn by about 7:20 P.M.

To inform all attendees, Mr. Lambers stated the meeting was a Work Session and not a Council Meeting. At a Work Session, no decisions can be made, but occasionally consensus is reached. A proposed ordinance would need to be presented at a subsequent Council Meeting. Mayor Dunn added it would need to be on a future Council meeting agenda and open to citizen comment.

Mr. Hall estimated tonight's presentation was the 15th made to cities in the metropolitan area. He stated he would introduce the idea and turn the meeting over to the experts on health tobacco cessation. Highlights of T21 history as follows:

1. Tobacco cessation is a very important project and one of five initiatives of the Great Kansas City Chamber of Commerce's "Healthy KC", with a goal to make greater Kansas City a destination for health and wellness. The project started about 2-1/2 years ago.
2. Dr. Edward Ellerbeck, Chair of the Department of Preventive Medicine & Public Health and professor of Internal Medicine at the University of Kansas Medical Center, who could not attend tonight's meeting, is credited for the new idea of T21.
3. The idea was discussed internally for 9 months, during which about 30 to 40 cities across the United States adopted T21.
4. After Columbia, Missouri, passed T21 in December 2014, it was felt that T21 would pass in Kansas City. Approval to raise the sale age of tobacco and tobacco products from 18 to 21 was given unanimous favor within their membership and at every level; through policy and by their Board.
5. The very first city to adopt T21 was Needham, Massachusetts, a suburb surrounded by Boston providing for ease of access by driving across the city-line.
6. After adoption in 2005, in five years Needham saw a 46% reduction in teen tobacco use, which is a stellar example and very important to change in buying patterns and behaviors for the 15 to 20 age group.
7. Needham is quite similar to Leawood in size, social economic and racial demographics, and high school student scores on standardized tests.
8. Needham model is being followed by other cities throughout the country.

Mr. Harker stated he oversees an 11 state territory, is a Leawood resident and father of three sons age 18 to 21. Highlights of his presentation as follows:

1. The AHA believes they have an important role to partner with other organizations and "move the needle" for decisions made by children and young adults in this regard.
2. According to 2014 United States Surgeon General's Report, tobacco products leads to 500,000 deaths a year, each day 3,200 people under the age of 18 smoke their first cigarette meaning 4.7 Million students become smokers each year. Each day 1,200 youths become daily smokers.

3. According to a Centers for Disease Control and Prevention [CDC] report issued last week the use of traditional products by middle and high school students dropped slightly, but was offset by a sharp increase in use of e-cigarette and vaping products.
4. At a young age, e-cigarette and vaping devices are a gateway to traditional cigarette use.
5. Marketing of e-cigarettes is becoming more covert, being disguised as writing pens, highlights and asthma inhalers, making detection by teachers difficult.
6. Blue Valley, Shawnee Mission and other local school districts support T21.
7. A national poll revealed 75% of adults support the T21 initiative, including 70% of current smokers.
8. The AHA recognizes the enormous potential health benefits of T21, including the likely reduction in tobacco-related diseases such as cancer, heart disease, high blood pressure and other ailments in smokers.
9. The AHA applauds the adoption of T21 by Kansas City, Kansas; Kansas City, Missouri; Independence, Missouri and Olathe, Kansas.
10. Implementation of T21 in Leawood would result in both short- and long-term improvements in a city he is proud to call home.

Ms. Schoof stated the AAFP represents 121,000 family physicians nationwide, providing nearly 200,000 Million office visits per year of all ages of family members, 48% more per year than any other type of physician. Highlights of her presentation as follows:

1. Second-hand smoke in the household has ramifications. Tobacco smoke affects young children cognitively, resulting in lower tests scores and addiction problems.
2. For young people, the best way to stop is to prevent at the onset. Ninety-five percent of current smokers started before age 21, a time of experimentation.
3. New research on tobacco and nicotine reveals use at an early age is more habit-forming. The human brain is not fully developed until approximately age 22 to 23.
4. The true cost of cigarette use exceeds the point-of-sale cost, due to health issues later in life and impact on insurance and Medicare premiums, and Medicaid.
5. Tobacco products syphon \$289 Billion the United States economy annually in healthcare and productivity costs.
6. Raising the age of sale sends a strong message to the community, and supports cleaner air and tobacco-free areas.
7. Kansas youth and teen smoking is 10.2% which is higher than the national average of 9.2%. Smokeless chewing tobacco use is highest in rural areas of Kansas.
8. AAFP is a strong national supporter of change. Change needs to occur at the community and local level, which might promote change at a state level and national level.

Mr. Hall added that a Greater Kansas City Chamber of Commerce report revealed tobacco sales to 18 to 20 year olds accounted for only 2% of retail sales. The additional average cost of a smoker to their employer is \$5,816 annually. In the 21st century, communities that grow the fastest tend to be the healthiest.

Ms. Hembree, provided update on efforts in the local metropolitan area, which started in the area about six months ago on October 22, 2015.

1. A diverse group of 165 organizations have now endorsed T21, including hospitals, school boards and a funeral home.
2. There are approximately 1 Million people living in the areas that have adopted T21 and these areas cover about 60% of their service region.
3. T21 has been adopted by the Unified Government of Wyandotte County and Kansas City, Kansas; Prairie Village, Kansas; Olathe, Kansas; Bonner Springs, Kansas; Lenexa, Kansas; Gladstone, Missouri; Independence, Missouri; and Iola, Kansas, which is the smallest city to pass to-date.
4. T21 is on a council meeting agenda for Overland Park, Kansas, and expect them to have a formal vote in the next six weeks, and a presentation had been made to Grandview, Missouri.
5. Tobacco is a primary barrier to health and T21 has received a great deal of public support.

Ms. Matson stated in addition to being a Prevention Services Coordinator at the Johnson County Mental Health Center, she was also a member of the Blue Valley Board of Education and Leawood resident. She stated use of e-cigarettes and vaping devices has surpassed combustible cigarettes in pre-teen and teens in the last few years; they are easiest to obtain. To exempt these devices from T21 would not be prudent.

Ms. Katz confirmed to Mayor Dunn that T21 impacts the National Cancer Institute designation of the University of Kansas Cancer Center. The next designation application will include the T21 cities map for the area, showing that the University of Kansas Cancer Center is not just focused on health within its walls, but for the entire community.

Mayor Dunn asked for questions; discussion and answers as follows:

Social

1. T21 puts “comfortable breathing room” between 15 and 17 year olds and those who can legally purchase tobacco
2. Often high school seniors purchase tobacco for sophomores. Seniors are not the entire pipeline, but a major portion, as 18 year olds tend to socialize with younger students, while 21 year olds are not in the same social circles.
3. In regard to raising the age above 21, a 340 page Institute of Medicine report on a study of 19 to 25 year olds found that age 21 was optimal for breaking the social chain.

Mental Health Impact

1. One-half of individuals with a mental health diagnosis use tobacco.
2. Johnson County Mental Health Center supports T21 and raising the point-of-sale age because so many of their clients use tobacco.
3. Johnson County Mental Health is also involved in T21 because of the Federal SYNAR Amendment aimed at decreasing youth access to tobacco. The amendment provides that all states must have a law and compliance of 80% of tobacco retailers. It also ties to prevention funding.

Ordinance/Violations

1. It is important that an ordinance covers purchase and sale, not possession and use.
2. All local T21 ordinances have included e-cigarette, vaping and juicing devices.
3. Retail clerk violators tend to fall in three types: A) national franchise retailers like Price Chopper, Hen House and Waterways with high compliance through training and staff retention, B) locally owned shops that may be fined once or twice before compliant and C) retailers who sell regardless of potential violations and penalties.
4. The City can decide whether to cite retail clerk for sale or both the retail clerk for sale and also the purchaser. The purchaser might have a lesser fine than the retail clerk who did not check identification.
5. Prairie Village ordinance uses the Uniform Offense Code [UOC] on sale and purchase. Sale fine is \$200 minimum and purchase fine is \$25 to \$100.
6. Prairie Village fines remained the same when they adopted T21 and raised the point-of-sale age.
7. Olathe has similar fines.
8. Current penalties for those younger than 18 are \$25 fine for purchasing and \$200 minimum for seller.
9. To-date, there has been no lawsuits or overturn of ordinances related to T21.
10. Increasing fines for repetitive violations could be considered if problems are encountered.

Enforcement

1. Enforcement usually involves law enforcement. Chief Rettig expects there would be minimal impact on staff.
2. Requires point-of-sale identification check of purchaser by vendor.
3. Some retailers are not averse to checking point-of-sale identification, as raising the tobacco purchase age to the same age as alcohol, means only one date to review.
4. A couple of undercover vendor compliance checks per year are beneficial.
5. A local television station conducted a “ride-along” compliance check of a retailer which found the retailer appropriately denied a purchase.
6. Sample signage that could be displayed, much like that for alcohol, is available from area cities that have adopted T21.
7. Ms. Katz at Johnson County Mental Health Center has and can assist with signage.
8. Best practice is to build in 60 to 90 days in adoption schedule for proactive communications about the change with retailers.
9. Leawood has approximately eight tobacco retailers, such as Price Chopper [2], Hen House, Zip [2], Walgreens [2] and Waterway.

10. Leawood does not have any hookah establishments, where smokers share a common water pipe.
11. Hookahs are unregulated devices and the Kansas City, Missouri, Health Department, is deliberating the appropriate age for entry and use at hookah establishments. Mr. Hall will revisit and provide this information to meeting attendees.
12. Staff turnover and training point-of-sale may be an issue. Signage and education will be key factors.

Miscellaneous

1. The Kansas cities of Gardner, Leavenworth, Merriam and Mission discussed T21 and decided not to bring before their City Councils. Less-than-optimal timing and “what would be next” pushback was determined by Gardner, Leavenworth’s decision was largely impacted by retailers and mostly by vaping shop owners, Merriam and Mission did not invite T21 presenters to their meetings.
2. Although the City of Leavenworth did not adopt T21, the armed services are interested because about 1/3 of our young people cannot serve due to health reasons such as obesity, as well as criminal history.
3. Some states that have legalized marijuana use at age 21 have been discussing T21, supporting that you must be 21 to use addictive or mind-altering substances.
4. Kansas has not attempted to pass tobacco prohibition.
5. The Johnson & Wyandotte Counties Council of Mayors have wanted county government to adopt T21. Johnson County government cannot pass a law that is binding on its cities, but they can for unincorporated areas and are considering this.
6. Research is inconclusive on whether e-cigarettes and vaping are a way to smoking cessation or if they are a gateway to smoking. Time and additional data are needed, but they seem to not be a positive.
7. American Society of Heating, Refrigerating and Air-Conditioning Engineers [ASHRAE] tests of vaping devices revealed they do not just produce water vapor, but also chemical droplets of cadmium, nickel and other carcinogens.

Councilmember Osman stated he was undecided on T21, but hopes to be swayed one way or the other by keeping an open mind. He stated there are various gateway drugs that any person can obtain. From his position in real estate, he has witnessed the growth of horrific and unproven vaping shops, which at some future time the Food and Drug Administration may decide to regulate. He was also proud when his first shopping center went smoke-free, so the children dining in restaurants could eat in an environment that is healthy and clean. He remarked that in the 1960s and 1970s, voting age was reduced by the Federal Government from 21 to 18, and then the legal age for alcohol also reduced to 18. Then between 1983 to 1986, the Federal Government raised the legal age for alcohol to 21. States that did not also raise their legal drinking age did not receive federal highway funding. Therefore, many states reverted their legal drinking age back to 21. He would be more comfortable if Kansas would adopt T21, but stated his opinion that Kansas would more likely legalize the use of marijuana before revising laws related to alcohol and tobacco.

Councilmember Osman expressed concerns about enforcement. T21 would make it illegal to sell to or purchase for those under 21, but if such a person was seen smoking on a corner there would be no way to ticket them. Also, a fine of \$25 for an underage purchaser would not be a deterrent, but a fine of \$100 to \$200 for an underage purchaser might force them to borrow from parents.

Mayor Dunn thanked everyone for a productive meeting. There being no further business, the work session was adjourned at 7:20 P.M.

Debra Harper, CMC, City Clerk

Cindy Jacobus, Assistant City Clerk