

Memo

To: City Commission
From: Collin Bielser, Deputy City Manager
Date: June 29, 2023
Re: July 6, 2023 Work Session

Please find the attached agenda and supporting documentation for the July 6, 2023, Work Session.

Item 2 – Common Consumption Area

Please see my attached memo regarding the Kansas Common Consumption Area (CCA) law. Prior to July 2023, it was a requirement for roads within a CCA to be blocked, prohibiting vehicular traffic. However, recent legislation modified this requirement and now, at a minimum, only requires boundaries of a CCA to be conspicuously posted with signage designating the boundaries of the area. City staff, as well as Agent Justin Whyte with the Kansas Alcoholic Beverage Control Division, will be present to discuss the process to establish a CCA and the associated rules and regulations.

Item 3 – Commission Receives 2024 Proposed Budget

I am pleased to be presenting the draft 2024 Budget to the City Commission. This is the third year of the Revenue Neutral Rate budget law which has elongated the process to adopt the budget. A process that previously concluded in August will now conclude in September. This gives City staff and the Commission more time to review the budget and make modifications as required.

CITY OF HAYS
CITY COMMISSION WORK SESSION
CITY HALL, 1507 MAIN STREET, HAYS, KS
THURSDAY, JULY 6, 2023 – 4:00 P.M.
AGENDA

1. **June 15, 2023 Work Session Notes (PAGE 1)**
Department Head Responsible: Kim Rupp, Director of Finance
2. **Common Consumption Area (PAGE 7)**
Person Responsible: Collin Bielser, Deputy City Manager
3. **Commission Receives 2024 Proposed Budget**
Person Responsible: Collin Bielser, Deputy City Manager
4. **Other Items for Discussion**
5. **Executive Session (if required)**
6. **Adjournment**

ANY PERSON WITH A DISABILITY NEEDING SPECIAL ACCOMMODATIONS TO ATTEND THIS MEETING SHOULD CONTACT THE CITY MANAGER'S OFFICE 48 HOURS PRIOR TO THE SCHEDULED MEETING TIME. EVERY ATTEMPT WILL BE MADE TO ACCOMMODATE ANY REQUESTS FOR ASSISTANCE.

City of Hays
City Commission
Work Session Notes
Thursday, June 15, 2023 – 4:00 p.m.

Present: Shaun Musil, Sandy Jacobs, Reese Barrick, Mason Ruder, Toby Dougherty, Kim Rupp, and Don F. Hoffman
Alaina Cunningham joined the meeting by Zoom.

June 1, 2023 Work Session Notes

There were no corrections or additions to the minutes of the work session held on June 1, 2023; the minutes stand approved as presented.

Shrine Bowl Update

Don Bohannon, Kansas Shrine Bowl President, updated the Governing Body on the upcoming Shrine Bowl and events surrounding the game. The 50th Kansas Shrine Bowl will be played at Lewis Field Stadium on the campus of Fort Hays State University on July 15, 2023. He thanked the City of Hays, the Convention and Visitors Bureau, and Fort Hays State University for their assistance and stated everyone has been great to work with. He also announced that Barry Sanders will be in Hays and will be inducted into the Shrine Bowl Hall of Fame.

2024 Budget Presentations – Outside Agencies

The following agencies presented requests for Outside Agency funding in the 2024 Budget:

Grow Hays

Doug Williams, Grow Hays Executive Director \$180,000

Fort Hays State University Scholarship Program

Dr. Joey Linn, FHSU Vice President for Student Affairs

Dr. Dennis King, Associate Vice President for Student Affairs \$100,000

CARE Council

Erica Berges, United Way of Ellis County Executive Director

Cindy Strube, CARE Council Chair \$170,000

Downtown Hays Development Corp. (DHDC)

Julie Rider, DHDC Executive Director

Brett Ottley, DHDC Board President \$54,000

Ellis County Historical Society

Amanda Rupp, Ellis County Historical Society Executive Director \$42,232

Note: A budget request was submitted by the CARE Council for Special Alcohol Tax Funds in the amount of \$60,000; this request is not part of the Social Services, Economic Development, or Quality of Life Budgets. These funds are specifically used for the education, prevention, and treatment of substance abuse.

Each organization thanked the City of Hays for their support and reviewed their past and future projects and programs. The Outside Agency funding requests will be considered during the budget process.

Ordinance and Resolution to authorize the Issuance of General Obligation Bonds, Series 2023-A

Kim Rupp, Director of Finance, stated the Kings Gate 2nd Addition improvement district project is complete, the assessments have been levied, and the project is ready for permanent financing. The amount of the project cost is \$651,020.24, which includes an estimate of issuance costs. Mr. Rupp stated that it will be a 20-year assessment; therefore, after the 30% upfront payment by the developer, the maximum principal amount of the bonds is approximately \$455,000.00. The bonds will be paid from special assessment revenues received by the City as property owners within the improvement district pay their tax bills.

Mr. Rupp reviewed the next set of documents needed to continue with the issuance of General Obligation Bonds Series 2023-A to fund the improvements. He explained that the ordinance authorizes the bonds be issued to pay the costs of the improvements, allows staff to levy special assessments, and directs city

officials and staff to execute the necessary documents to complete the placement. The next item for action will be the resolution. It provides details regarding the bonds including redemption, security, establishment of funds and accounts, application of bond proceeds, defaults and remedies, continuing disclosure, and other miscellaneous provisions.

David Arteberry, the City's Financial Adviser with Stifel, Nicolaus & Company, Inc. joined the meeting by phone and reviewed the bond issuance and bid tabulation. Three local banks submitted bids. Astra Bank offered the lowest average coupon rate of 5.50%.

At the June 22, 2023 Commission meeting, Commissioners will be asked to approve an ordinance authorizing and providing for the issuance of General Obligation Bonds Series 2023-A and approve a resolution prescribing the form and details of and authorizing and directing the sale and delivery of General Obligation Bonds Series 2023-A.

On-Street Parking Request for First Care Pharmacy

Jesse Rohr, Director of Public Works, stated The First Care Clinic, located at 13th and Main Street, will be adding a pharmacy to the clinic in June. The owners have submitted a formal request for special on-street parking accommodations to allow limited-time parking during pharmacy business hours. Their request includes the utilization of two on-street angle parking stalls located on Main Street in front of the business. This issue was discussed at the June 1, 2023 Work Session, and staff was directed to return with a draft ordinance authorizing First Care Clinic's parking request.

Mr. Rohr noted there is already a perceived parking issue downtown and taking away parking from the general public could possibly compound that issue. He reviewed other thoughts for consideration:

- Other examples of this type of reserved parking does not exist along the Main Street corridor.
- The Clinic could reserve stalls within their nearby private lot for pharmacy customers.

- Enforcement of such parking, which would be handled by Hays Police Department, would be problematic and difficult.
- This could set a precedent for future requests.

Following discussion, it was the consensus of the Commission that this item not be moved on for consideration for the reasons staff presented.

Property/Liability Coverage Renewal – 2023/2024

Kim Rupp, Director of Finance, reported that the City's Property/Liability Coverage is up for renewal on July 1, 2023. Insurance Planning provides oversight for the City as the Insurance Broker.

Taylor Pfannenstiel, Commercial Lines Executive for Insurance Planning, reviewed the property and liability market and the City's place in that. He also reviewed the recommended renewal for this year. Mr. Pfannenstiel stated he has had conversations with other insurance carriers and concluded that Midwest Public Risk (MPR) offered the lowest cost option for the renewal of the City's package. The outcome translates into a 20% increase or \$57,251.00 more than the prior period. City staff recommends pursuing the 2023/2024 Property/Liability Coverage renewal in the amount of \$349,930.00 with the incumbent as per the expiring policies.

At the June 22, 2023 Commission meeting, Commissioners will be asked to authorize the City Manager to renew the 2023/2024 Property/Liability Coverages with the MPR package in the amount of \$349,930.00 to be funded from the Intergovernmental Insurance and Surety line item.

Solid Waste Compost Turner – Award of Bid

Jesse Rohr, Director of Public Works, stated the 2023 Budget included \$85,000.00 in the Solid Waste Reserve Fund for the purchase of a new compost turner and water tank for the Public Works Solid Waste Division. The current turner was purchased in 2013 and has reached the end of its useful life. This piece of equipment is used for turning grass and other yard waste during the composting process at the City of Hays compost site.

Staff received one bid from Midwest Bio-systems, Inc. in the amount of \$78,830.00 and was determined to meet all specifications. The City has worked with Midwest Bio-Systems, Inc. for several years, and they have been a reliable vendor and resource for composting equipment.

At the June 22, 2023 Commission meeting, Commissioners will be asked to award the bid for the purchase of a new Model PT-120 compost turner and Aeromaster WT-1775 water tank for the total amount of \$78,830.00.

Other Items for Discussion

Toby Dougherty, City Manager, stated the Public Comment Hearing as part of the R9 Ranch water transfer proceedings will be held on June 20, 2023 at 6:00 p.m. in the Black and Gold Room at Fort Hays State University's Memorial Union. He also noted that on June 19, 2023 at 6:00 p.m. the City Commission will be hosting the Russell City Council for a joint meeting regarding the R9 Ranch water transfer proceedings.

Commissioner Cunningham thanked the outside agencies for attending and providing information as to what they are doing for our community. She also stated she is excited the Shrine Bowl is coming to Hays and all of the benefits it will bring. She hopes we can continue to bring more events to our community.

Commissioner Ruder stated that he enjoyed seeing a good turnout for the Employee Appreciation Picnic.

Commissioner Barrick stated he appreciates the outside agencies and the services they provide.

Vice-Mayor Jacobs stated that during budgeting time each year the Commission gets to hear from these quality-of-life organizations, and she encouraged community members to share their time, talent, or treasure to assist these organizations.

Mayor Musil agreed and thanked all of the volunteers that get things done in our community. He also stated that Dallas Haselhorst, who is opening a Cold Stone Creamery downtown, has added two electric vehicle charging stations at his business. Mayor Musil has been interested in getting these charging stations

downtown and noted that Mr. Haselhorst may have room for a few more. He believes that would be a draw to bring more people downtown.

The work session was adjourned at 5:43

Submitted by: _____

Brenda Kitchen – City Clerk

Commission Work Session Agenda

Memo

From: Collin Bielser, Deputy City Manager

Work Session: July 6, 2023

Subject: Common Consumption Area

Person(s) Responsible: Collin Bielser, Deputy City Manager

Summary

Downtown Hays is one of the more prominent neighborhoods in the community. As the area continues to flourish, the ability to designate a defined area, allowing patrons of restaurants and bars to move freely in the public right-of-way with consumption allowances has been desired from time to time. To accommodate this desire, Kansas law allows municipalities the ability to establish Common Consumption Areas (CCA). A Common Consumption Area authorizes the possession and consumption of alcoholic liquor or cereal malt beverages within a defined jurisdiction. Recent changes in State law have renewed interest for the possibility of establishing a CCA.

Background

Prior to July 2023, it was a requirement for roads within a CCA to be blocked, prohibiting vehicular traffic. This was the primary hinderance of past efforts to establish a CCA. However, recent legislation modified this requirement, and now at a minimum, only requires boundaries of a CCA to be conspicuously posted with signage designating the boundaries of the area.

Discussion

A Common Consumption Area is a defined indoor or outdoor area not otherwise licensed where the possession and consumption of alcoholic liquor and cereal malt beverages (CMB) are allowed pursuant to an approved permit issued by the Kansas Department of Revenue, Alcoholic Beverage Control division. There are two components involved, establishment of the CCA and approval of businesses to participate in the CCA.

To establish a CCA, the City must pass an ordinance creating the area and designating the boundaries. Any City-specific rules or guidelines, such as dates and time of operation, applicable to the area must be included in the ordinance. Following ordinance approval, the City would need to seek approval of a Common Consumption Area permit from the State. Permits are valid for up to one year.

Businesses licensed to sell alcoholic beverages must apply to the State to participate in an established CCA. Only businesses located within or immediately adjacent to the district are eligible to participate. Drinks must be purchased inside the place of business and then they may be carried outside into the CCA. Drinks must be served in a container that displays the licensee's trade name or logo or other identifying mark that is unique to the participating business.

Some of the questions/concerns that Staff needs guidance from the Kansas Department of Revenue - Alcoholic Beverage Control division, and issues the City Commission should consider include but aren't limited to:

- What area should the CCA encompass?
 - a. Should the CCA include portions of residential neighborhoods?
 - b. Should Fort Hays State University be consulted?
- Should the CCA have established dates and times of operation?
- What type of signage or markings designating the boundaries of the CCA are acceptable?
 - a. Do we need signage and/or markings on every street?
 - b. What about signage and/or markings on sidewalks and alleys?
- Can a drink be purchased in one business and taken into another CCA or non-CCA participating business?
- What are the responsibilities and liabilities of the participating businesses?
- What are the responsibilities and liabilities of the non-participating businesses?
- What are the responsibilities and liabilities of the CCA permit holder?
- What will the enforcement of the district rules and regulations entail?
- The city currently collects liquor and CMB fees. Should a local Common Consumption Area fee be established and levied to cover costs for the state permit fee, district signage, etc.
- State law authorizes the Secretary of Revenue to adopt rules and regulations to implement the new CCA provisions. Have any corresponding rules and regulations been established and if so, what are they?

The Hays Police Department has been consulted and their foremost request is for the district to be a clearly defined geographical shape. A district with zigzagging boundaries could create confusion for both law enforcement and patrons of the CCA, which could impact effective enforcement.

Downtown Hays Development Corporation (DHDC) is aware of this discussion and was asked to provide comments if desired. The organization has indicated they plan on submitting a letter prior to the work session.

Legal Consideration

The city has two ordinances that will need to be addressed if the Commission pursues the creation of a CCA. Sections 14-141 and 14-143 prohibit public drinking and possession on public property except in the City's public parks and where an outdoor dining permit

has been issued. If the City Commission desires to implement a CCA, the City Attorney recommends modifying sections 14-141 and 14-143 to include a statement that specifies the consumption and possession of alcoholic liquor and cereal malt beverages are allowed within a CCA established by the City pursuant to State law.

Other than that, there are no known legal obstacles to proceeding to preparing and designating a common consumption area.

Financial Consideration

The financial impacts are currently unknown. A CCA permit from the State is \$100; however, if a CCA is established, signage will have to be purchased and erected. This cost will be dependent on the size of the established area.

Options

Presently, this item is informational only. No action is being requested.

Recommendation

Presently, this item is informational only. No action is being requested.

Action Requested

Presently, this item is informational only. No action is requested; however, staff is prepared to receive further direction from the City Commission.

Supporting Documentation

House Bill No. 2059, Pages 7 & 8

comply with any provision of this section or K.S.A. 41-501 et seq., and amendments thereto, or any rules and regulations adopted pursuant to such statutes. Upon revocation of a special order shipping license for shipment of wine to a person not of legal age as required herein such winery shall not be issued any special order shipping license pursuant to this act for a period of one year from the date of revocation.

(g) The holder of a special order shipping license shall collect all gallonage taxes imposed by K.S.A. 41-501 et seq., and amendments thereto, shall on a ~~quarterly~~ *monthly* basis electronically remit such taxes in a manner prescribed by the secretary and shall accompany such remittance with any reports, documentation or other information as may be required by the secretary. In addition, an applicant for and a holder of a special order shipping license, as a condition of receiving and holding a valid license, shall:

(1) Collect and pay the applicable Kansas enforcement tax on each sale shipped to a consumer in Kansas imposed by K.S.A. 79-4101 et seq., and amendments thereto;

(2) accompany each remittance with such sales tax reports, documentation and other information as may be required by the director of taxation; and

(3) if the holder of the license is an out-of-state shipper, the licensee shall be deemed to have appointed the secretary of state as the resident agent and representative of the licensee to accept service of process from the secretary of revenue, the director and the courts of this state concerning enforcement of this section, K.S.A. 41-501 et seq., and amendments thereto, and any related laws and rules and regulations and to accept service of any notice or order provided for in the liquor control act.

(h) The secretary of revenue may adopt rules and regulations to implement, administer and enforce the provisions of this section.

(i) This section shall be a part of and supplemental to the Kansas liquor control act.

Sec. 7. On and after July 1, 2023, K.S.A. 41-2659 is hereby amended to read as follows: 41-2659. (a) (1) A city or a county may establish one or more common consumption areas within the limits of the city or within the unincorporated portion of the county, as applicable, by ordinance or resolution, respectively, and authorize the possession and consumption of alcoholic liquor or cereal malt beverage within the common consumption area. The ordinance or resolution shall designate the boundaries of any common consumption area and prescribe the times during which alcoholic liquor or cereal malt beverage may be consumed therein. The ordinance or resolution ~~shall~~ *may* require that any public street or roadway that lies within a common consumption area ~~shall~~ be blocked from motorized traffic during the hours in which alcoholic liquor or cereal malt beverage is consumed.

(2) The city or county shall immediately notify the director of the division of alcoholic beverage control of the establishment of a common consumption area and submit a copy of the ordinance or resolution along with such notice.

(b) A common consumption area permit shall allow the consumption of alcoholic liquor or cereal malt beverage in any area designated by such permit. The director may issue common consumption area permits to the city or county or any one person who shall be a resident of Kansas or an organization that has its principal place of business in Kansas and that has been approved by the respective city or county, in accordance with rules and regulations adopted by the secretary of revenue.

(c) Applications for common consumption area permits shall be submitted to the director, subject to the following:

(1) A copy of any ordinance or resolution promulgated in accordance with subsection (a) shall accompany any application for a common consumption area permit.

(2) Each application shall be accompanied by a non-refundable permit fee of \$100. All permit fees collected by the director pursuant to

this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(3) A common consumption area permit shall be issued for a period of not to exceed one year. A common consumption area permit shall not be transferable or assignable.

(d) Any licensee immediately adjacent to, or located within a common consumption area may request that the licensee's licensed premises participate in the common consumption area for the duration of the common consumption area permit. Such a request shall be made upon forms prescribed by the director.

(e) (1) Any licensee who has requested and received permission to participate in the common consumption area may allow its legal patrons to remove alcoholic liquor or cereal malt beverage purchased from the licensee into the premises described by the common consumption area permit. All alcoholic liquor and cereal malt beverage removed from a licensed premises in such fashion shall be served in a container that displays the licensee's trade name or logo or other identifying mark that is unique to the licensee.

(2) In addition to their licensed premises, one or more licensees that have requested and received permission to participate in a common consumption area may offer for sale, sell and serve alcoholic liquor or cereal malt beverage for consumption from one non-contiguous service area within the common consumption area, as designated and approved by the common consumption area permit holder. The licensee shall prominently display a copy of its drinking establishment license and the approval of the common consumption area permit holder at its non-contiguous service area.

(f) (1) Each licensee within a common consumption area shall be liable for violations of all liquor laws governing the sale and consumption of alcoholic liquor or cereal malt beverage that occur on the licensee's premises.

(2) Each common consumption area permit holder shall be liable for violations that occur off the licensee's premises, but within the common consumption area identified in the permit. No permit holder shall permit any person to remove any open container of alcoholic liquor or cereal malt beverage from the boundaries of the common consumption area.

(g) (1) For the purposes of this section, "common consumption area" means a defined indoor or outdoor area not otherwise subject to a license issued pursuant to the Kansas liquor control act or the club and drinking establishment act where the possession and consumption of alcoholic liquor or cereal malt beverage is allowed pursuant to a common consumption area permit.

(2) The boundaries of any common consumption area must be clearly marked using a physical barrier or any apparent line of demarcation. *Every common consumption area shall have signs conspicuously posted identifying the boundaries of such area in a size and manner that provides notice to persons entering or leaving the area.*

(h) The secretary shall adopt rules and regulations to implement this section.

(i) This section shall be a part of and supplemental to the club and drinking establishment act.

Sec. 8. K.S.A. 2022 Supp. 41-2704 is hereby amended to read as follows: 41-2704. (a) In addition to and consistent with the requirements of the Kansas cereal malt beverage act, the board of county commissioners of any county or the governing body of any city may prescribe hours of closing, standards of conduct and rules and regulations concerning the moral, sanitary and health conditions of places licensed pursuant to this act and may establish zones within which no such place may be located.

(b) Within any city where the days of sale at retail of cereal malt