

CITY COMMISSION MEETING

November 18, 2020 at 7:00 PM

CITY COMMISSION / MUNICIPAL COURT ROOM
518 MECHANIC, EMPORIA, KS

Agenda

Meeting Items

1. Members Present
2. Mayor and City Commission Reports and Comments
3. Consent Agenda
4. Public Comment
5. Approval of the 2021 Maintenance Agreement with the Emporia Public Library
6. Consider Ordinance Amending City Code Sec. 16-266 Pertaining to Face Masks
7. Report from City Manager on City Activities
8. Executive Session



**If you need accommodations due to a disability to participate in this event, meeting, or activity, or alternative format of written materials contact City of Emporia Jeff Lynch, ADA Coordinator at least 48hours before the event at 620-343-4285 or jlynch@emporia-kansas.gov*

AGENDA ITEM SUMMARY

MEETING DATE: November 18, 2020

ITEM NUMBER: 2

SUBJECT: Mayor and City Commissioners Reports and Comments

RECOMMENDATION:

BACKGROUND SUMMARY

This is a time for the Mayor and City Commissioners to make comments and reports to the Public.

The following is general information for the month of October for the community:

1) Monthly Local Retail Sales Tax Receipts Update

	2019	2020	Increase of \$38,221.89 for the month, and Overall increase of 1.60% from year 2019
	\$410,662.07	\$448,883.96	
YTD	\$ 4,110,493.92	\$ 4,176,093.58	

2) City Share from County Tax

	2019	2020	Increase of \$20,499.82 for the month, and Overall increase of 4.59% from year 2019
	\$206,476.06	\$226,975.88	
YTD	\$ 2,033,909.05	\$ 2,127,314.57	

3) Building Permits issued from 10/1/2020 to 10/31/2020 for new construction, remodeling / repairs and demolition.

Total number of building permits issued through Code Services:	74
Total of valuations associated with those building permits:	\$14,803,173.00
Total number of dollars collected for Building Permit Fees:	\$ 38,697.25
Construct - single family dwellings	1
Demo - single family dwellings	2

Flint Hills Mall CID for October	\$ 24,348.26
Year to Date Total	\$ 178,307.72

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____

GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

AGENDA ITEM SUMMARY

MEETING DATE: November 18, 2020

ITEM NUMBER: 3

SUBJECT:

Consent agenda:

The items listed on the Consent Agenda are considered by the Governing Body to be routine business items.

Approval of the items may be made by a single motion, second and majority vote with no separate discussion of any item listed. Should a member of the Governing Body desire to discuss any item, at his/her request, it will be removed from the Consent Agenda and considered separately.

- a. Consider minutes of the Meeting held on November 4, 2020.
- b. Consider ratification of Payroll Ordinance for the period ending on November 6, 2020.
- c. Consider the Approval of October Budget.

RECOMMENDATION:

- a. Approve Minutes
- b. Approve Payroll
- c. Approve Budget

BACKGROUND SUMMARY:

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____

GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

AGENDA ITEM SUMMARY

MEETING DATE: November 18, 2020

ITEM NUMBER: 4

SUBJECT: Public Comment

RECOMMENDATION:

BACKGROUND SUMMARY:

Citizen Appearance Procedures

Presentations by individuals during "Citizen Appearance" portion of the Commission agenda shall be limited two minutes each. No personal attacks, comments or opinions shall be expressed or made against or about any member of the Commission, Mayor, City Employee, individual group or corporation.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

AGENDA ITEM SUMMARY

MEETING DATE: November 18, 2020

ITEM NUMBER: 4

SUBJECT: Public Comment

RECOMMENDATION:

BACKGROUND SUMMARY:

Citizen Appearance Procedures

Presentations by individuals during "Citizen Appearance" portion of the Commission agenda shall be limited two minutes each. No personal attacks, comments or opinions shall be expressed or made against or about any member of the Commission, Mayor, City Employee, individual group or corporation.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

AGENDA ITEM SUMMARY

MEETING DATE: November 18, 2020

ITEM NUMBER: 6

SUBJECT: Consider Ordinance Amending City Code Sec. 16-266 Pertaining to Face Masks

RECOMMENDATION: Consider Approval of Ordinance

BACKGROUND SUMMARY:

City Code Sec. 16-266 requiring individuals to wear face masks or other face coverings in certain circumstances is scheduled to expire November 21, 2020 at 11:59 p.m. Lyon County has recently instituted a Public Health Order with requirements to wear masks in public places which will be in effect until January 14, 2021. This new ordinance proposal adds the additional language found in the Lyon County Public Health Order and extends the expiration date to December 22, 2020 at 11:59 p.m.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____

GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

ORDINANCE NO. 20-_____

AN ORDINANCE OF THE CITY OF EMPORIA, KANSAS REQUIRING INDIVIDUALS TO WEAR MASKS OR OTHER FACE COVERINGS IN CERTAIN CIRCUMSTANCES AND AMENDING CITY CODE SECTION 16-266

WHEREAS, the governing body of the City of Emporia prioritizes the protection of the health, safety, welfare and economic well-being of residents and visitors of the City of Emporia; and

WHEREAS, the spread of COVID-19 in the City of Emporia has resulted in illness, quarantines, school closures, and temporary closure of business resulting in lost wages and financial hardship; and

WHEREAS, the United States Departments of Health and Human Services declared a public health emergency for COVID-19 beginning January 27, 2020, with now more than 10,314,254 cases of illness and more than 241,069 deaths as a result of the illness across the United States; and

WHEREAS, the World Health Organization declared a pandemic on March 11, 2020; and

WHEREAS, a State of Disaster emergency was proclaimed for the State of Kansas on March 12, 2020; and

WHEREAS, on March 13, 2020, the President of the United States declared the ongoing COVID-10 pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to Section 501 (b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121-5207 (the "Stafford Act"); and

WHEREAS, as of this date, in Kansas there have been 109,225 reported positive cases of COVID-19 spread including 1,215 deaths; and

WHEREAS, after a steady trend of decreasing metrics, recent weeks have seen the numbers of COVID-19 cases, hospitalizations, and deaths spike in Kansas and across the nation; and

WHEREAS, this trend of increased COVID-19 spread is a danger to the health and safety of residents and visitors to the City of Emporia, and also presents a serious threat to reopening and reviving the City's economy; and

WHEREAS, wearing a mask in public is the easiest and most effective way to protect each other and keep our businesses open and our economy running; and

WHEREAS, the City of Emporia must remain flexible to account for the evolving nature and scope of the unprecedented public health emergency posed by COVID-19, while also

simultaneously safely, strategically, and incrementally reopening business and facilitating economic recovery and revitalization; and

WHEREAS, the City of Emporia approved Ordinance 20-24 on August 5th, 2020 requiring individuals to wear masks or other face coverings in certain circumstances, and

WHEREAS, for the aforementioned and other reasons, the governing body of the City of Emporia is acting pursuant to its constitutional home rule authority to provide for the health, safety, welfare, and economic well-being of residents and visitors of the City of Emporia by amending Section 16-266 of the Code of Ordinances of the City of Emporia, Kansas and extending the requirement that masks or other face coverings be worn as described in the ordinance until December 21, 2020.

BE IT ORDAINED by the Governing Body of the City of Emporia, Kansas;

Section 1. That Section 16-266 of the Code of Ordinances of the City of Emporia, Kansas, is hereby amended to read as follows:

“Sec. 16-266 Mask or other Face Coverings in Certain Circumstances.

(a) Mask or other face coverings; definitions. The following words or phrases when used in this article shall have the following meanings:

- (1) "Mask or other face covering" means a covering of the nose and mouth that is secured to the head with ties, straps, or loops over the ears or is simply wrapped around the lower face. A mask or other face covering can be made of a variety of synthetic and natural fabrics, including cotton, silk, or linen. Ideally, a mask or other face covering has two or more layers. A mask or other face covering may be factory-made, sewn by hand, or can be improvised from household items such as scarfs, bandanas, t-shirts, sweatshirts, or towels.
- (2) "Public space" means any indoor or outdoor space or area that is open to the public; this does not include private residential property or private offices or workspaces that are not open to customers or public visitors."

(b) Mask or other face coverings; when required; exemptions.

- (1) All persons in the city shall cover their mouths and noses with masks or other face coverings when they are in the following situations:
 - (A) While inside, or in line to enter, any indoor public space;
 - (B) Obtaining services from the healthcare sector in settings, including but not limited to, a hospital, pharmacy, medical clinic, laboratory, physician or dental office, veterinary clinic, or blood bank, unless directed otherwise by an employee thereof or a health care provider;

- (C) Waiting for or riding on public transportation or while in a taxi, private car service, or ride-sharing vehicle; or,
 - (D) While outdoors in public spaces and unable to maintain a 6-foot distance between individuals (not including individuals who reside together) with only infrequent or incidental moments of closer proximity.
- (2) All businesses, organizations and non-profit associations in the City of Emporia must require all employees, customers, visitors, members, or members of the public to wear a mask or other face covering as follows:
- (A) Employees, when working in any space visited by customers or members of the public, regardless of whether anyone from the public is present at the time;
 - (B) Employees, when working in any space where food is prepared or packaged for sale or distribution to others;
 - (C) Employees, when working in or walking through common areas, such as hallways, stairways, elevators, and parking facilities;
 - (D) Customers, members, visitors, or members of the public, when in a facility managed by the business or organization;
 - (E) Employees, when in any room or enclosed area where other people (except for individuals who reside together) are present and are unable to maintain a 6-foot distance except for infrequent or incidental moments of closer proximity.
- (3) The following individuals are exempt from wearing masks or other face coverings in the situations described in subsections (b)(1) and (b)(2):
- (A) Persons age five years or under—children age two years and under in particular should not wear a face covering because of the risk of suffocation;
 - (B) Persons with a medical condition, mental health condition, or disability that prevents wearing a face covering—this includes persons with a medical condition for whom wearing a face covering could obstruct breathing or who are unconscious, incapacitated, or otherwise unable to remove a face covering without assistance;
 - (C) Persons who are hearing impaired, or communicating with a person who is hearing impaired, where the ability to see the mouth is essential for communication;
 - (D) Persons for whom wearing a face covering would create a risk to the person related to their work, as determined by local, state, or federal regulators or workplace safety guidelines;

- (E) Persons who are obtaining a service involving the nose or face for which temporary removal of the face covering is necessary to perform the service;
 - (F) Persons who are seated at a restaurant or other establishment that offers food or beverage service, while they are eating or drinking, provided they maintain a 6- foot distance between individuals (not including individuals who reside together or are seated together) with only infrequent or incidental moments of closer proximity;
 - (G) Athletes who are engaged in an organized sports activity that allows athletes to maintain a 6-foot distance from others with only infrequent or incidental moments of closer proximity;
 - (H) Persons who are engaged in an activity that a professional or recreational association, regulatory entity, medical association, or other public-health-oriented entity has determined cannot be safely conducted while wearing a mask or other face covering;
 - (I) Persons engaged in an activity or event held or managed by the Kansas Legislature;
 - (J) Persons engaged in a court-related proceeding held or managed by the Kansas Judiciary; and,
 - (K) Persons engaged in any lawful activity during which wearing a mask or other face covering is prohibited by law.
- (4) It shall be an affirmative defense to any prosecution under subsection (a) or (b) that the person in violation is an individual listed under subsection (c)."

(c) Mask or other face coverings; penalties; enforcement.

- (1) Any person, business or organization violating the provisions of this Section of the Code of the City of Emporia shall be guilty of an infraction. The person or persons responsible for any business or organization that does not comply with subsection(b)(2) includes a sole proprietor, or any officer, partner, member, manager, director, or other supervisor for the business or organization, who may be held jointly and severally responsible for such violation with respect to any enforcement of the violation.
- (2) A violation of this section shall be punished by a fine of twenty five (\$25.00) dollars upon a first conviction, by a fine of fifty (\$50.00) dollars upon a second conviction, and by fine of one hundred dollars (\$100.00) dollars upon a third or subsequent conviction, plus court costs.

(d) Mask or other face coverings; effective term. The provisions of Section 16-266 through Section 16-268 of the city code shall be in effect until 11:59 p.m. on December 22, 2020."

Section 2. That the provisions of this ordinance as amended shall be included and incorporated in the code of the City of Emporia, Kansas.

Section 3. Effective Date. This ordinance shall take effect upon publication in the official city newspaper.

PASSED AND APPROVED by the Governing Body of the City of Emporia, Kansas, this 18th of November, 2020.

Danny Giefer, Mayor

ATTEST:

Kerry Sull, City Clerk

AGENDA ITEM SUMMARY

MEETING DATE: November 18, 2020

ITEM NUMBER: 7

SUBJECT: Report from the City Manager on City Activities

RECOMMENDATION: This is a verbal report that announces upcoming events, recognizes employees for outstanding contributions and provides the public with information that may be of general interest.

BACKGROUND SUMMARY: This is an opportunity to present information to the public that may not be reported in other news accounts or City activities or to highlight accomplishments of the organization.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

AGENDA ITEM SUMMARY

MEETING DATE: November 18, 2020

ITEM NUMBER: 8

SUBJECT: Executive Session

RECOMMENDATION:

BACKGROUND SUMMARY:

At this time, the City Commission request an Executive Session to discuss proprietary information of private businesses.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____

GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____