



CALL TO ORDER - The Governing Body met for a special meeting and the following commission members were present in the commission chambers: Mayor Myron J. (Mike) Griswold, Mayor Pro-Tem Nancy Bauder and Commissioners Camalla Leonhard, Mark Preisinger and Jermaine Wilson.

Others present in the commission chambers: City Manager Paul Kramer, Assistant City Manager Tylour Tedder, Police Chief Pat Kitchens and City Clerk Carla K. Williamson.

Other members participating via teleconference: City Attorney David E. Waters

Mayor Griswold read the following statement from the agenda index:

*In accordance with Kansas Open Meetings Act (KOMA), the meeting can be viewed on Channel 2 and via Facebook Live. The Leavenworth City Commission special meeting is open to the public with limited seating capacity. To attend the meeting in person, email cwilliamson@firstcity.org no later than 2:00 pm on November 19 to reserve a seat. Seats are available on a first come first serve basis and face coverings and social distancing are **REQUIRED**. Comments may be emailed to cwilliamson@firstcity.org no later than 2:00 pm on November 19 and comments will be provided to the Commissioners.*

Mayor Griswold asked for a motion to open a special meeting.

Commissioner Preisinger moved to open a special meeting for Thursday November 19. Commissioner Leonhard seconded the motion and the motion was unanimously approved.

Consideration of Proposed Face Mask Ordinance – The Mayor introduced the item explaining the reason the Special Meeting has been called. The proposed ordinance was first reviewed on July 21, 2020 and at the conclusion of that meeting, no action was taken. At the November 17, 2020 Study Session there was a desire by the Commission to consider the draft again.

The presentation and comments to the Board of County Commissioners (BOCC) by County Health Officer Jamie Miller at the BOCC November 18, 2020 meeting was played for the Commissioners and public to view.

Mayor Griswold provided statistics from Mr. Jamie Miller. (provided in the presentation to the BOCC

	10/30	11/16	Case Increase	% Increase
Active Cases	89	251	162	182%
Deaths	14	22	8	57%
Hospitalizations	78	84	6	
14 Day Moving average			29.07	16.03%

Over the last seven weeks the test positivity rate has increased by approximately 10 percentage points and the daily case count has increased by 14.1 cases per day. Mr. Miller reported 497 new cases/100,000 over the most recent two-week reporting period. The number exceeds the Gating Criteria for a Red Rating

established by the Unified School District (USD 453) in conjunction with the County in conjunction with the County Health Department set back in August. In fact, the number of 497 exceeds the Red Rating criteria of 201 or more new case per 100,000 over a two-week period by 296 cases. These numbers were all shared by Mr. Miller at the BOCC meeting on November 18th. Mr. Miller added that the spread in Leavenworth County is escalating and it is everywhere and we have to do something different.

Mr. Miller mentioned a letter dated November 17, 2020 that the six school district's superintendents sent to the BOCC. A portion of the letter stated that with exponential rise in positive COVID-19 cases throughout the community, student and staff absences are increasing due to potential exposure as close contacts, in most cases originating off school property when individuals are not practicing the same public health protocols as they do on campus.

Mayor Griswold referenced a study conducted by the KU Institute for Policy & Social Research over the summer and early fall. At the conclusion, researchers found that a 50% reduction in the spread of COVID-19 in counties that had a mask mandate compared to those without and that masks do not eliminate COVID but they significantly slow the spread of the disease.

Kansas Governor Laura Kelly is imposing a new statewide mask mandate as COVID-19 cases rapidly increase statewide. The executive order will go into effect at 12:01 am on November 25, 2020. County Commissioners will still have the ability to opt out of this order.

Commissioner Preisinger

- There are seven Counties in the metro area, all have COVID mitigation procedures in place excluding Leavenworth County
- The City is not looking at closure of business only a mask requirement
- Per the CDC 15% of U.S. population has contracted COVID since February and additional 15% projected to contract COVID in the next 75 days
- Sweden went with the herd immunity approach and saw the largest number of cases and deaths and have now changed their approach
- State of Utah had the same approach as Sweden and has the highest rates of cases and deaths in the U.S.
- Governor of Iowa also was strongly against masks but as of yesterday has changed and now has a mask mandate in place for her state
- Kansas hospitals are running short on beds
- True Patriots do what is right and put Americans first

Commissioner Leonhard

- On July 21st was not in favor of the mask ordinance at the time and wanted to watch the numbers
- Have been watching the numbers and they have skyrocketed
- Mask ordinance needed in order to keep business open; does want to keep business open
- It is time (to pass the ordinance)-need to take action

Commissioner Wilson

- Agree it is real
- Believes it is important to encourage the public to wear a mask
- Believes in the use of proper hygiene, social distancing and avoiding mass gatherings
- Best way is to stay home

- People have to choose to do the right thing/personal responsibilities
- Area who have mandates are still experiencing cases
- The city does not have the manpower to enforce the ordinance
- Is opposed to a mask mandate

Commissioner Bauder

- Several months ago she was in favor of a mandate
- Received more emails from people and business who want a mask mandate
- Refused to close business
- Need is in order to keep from closing businesses
- This is temporary
- Supports the mask ordinance

Mayor Griswold

- A special meeting was determined necessary to review and decide on the passage of a mask ordinance

David Waters

- Discussed the authority the city has to vote on and put the ordinance in place
- Home Rule powers by the KS constitution allows Cities to enact ordinance that protect the health, safety and public welfare of their citizens as long as ordinances are not in conflict with state laws
- Executive Order 20-52 Governor previously enacted was not accepted by Leavenworth County and the BOCC opted out of it
- If the County enacts the new order this would not affect the ordinance should the commission adopt the ordinance
- Mr. Waters reviewed each of the sections of the proposed ordinance
- In regards to Sec. 22-206 penalties and enforcement:
 - The fines are not a revenue generator or to place a burden on people. Fines were kept low to focus on education and enforcement. Failure could be trespassing and/or refusal to obey a lawful order
 - There would be ability to be heard by a judge
- Sec. 22-207 -- The expiration date is left blank for the commission to establish a date.

Mayor Griswold

- Discussed the penalties and how they differ from the Uniform Public Offense Code (UPOC) passed earlier in the year
- The (UPOC) addresses rules and fines for a County Health Order and this is different as this is a city offence
- This will not be a class C misdemeanor

Chief Patrick Kitchens

- Will treat the ordinance as any new ordinance with an educational element and allow for people who may not be aware of the ordinance
- If there are complaints or violations, will try to resolve through voluntary compliance
- If voluntary compliance does not work it would be enforcement through a citation based on the facts observed by the officer

- There may be some that are simply defiant and a citation would be issued after all other avenues have been exhausted
- The pandemic is serious, but a call for a mask violation would not be prioritized over a violent crime or calls that are of a higher priority

Commissioner Preisinger asked if the ordinance will handcuff the department in anyway if this is passed?

Chief Kitchens stated there may be an initial wave of calls but it has been discussed and it will be put in its appropriate level but it will not overwhelm the department.

Mayor Griswold:

- Should the Commission decide to pass the ordinance and have the ordinance take effect without a second reading the commission must declare an emergency by motion and vote.

Public Comments

Jessica Dalby – 2211 Shenandoah Drive

- Two points; one as the commissioner state what true patriots do
- As military retiree and as a true patriot we put America and Americans first that is what she put her life on the line for
- At the board meeting yesterday a Commissioner state a statistic that children placed in remote (learning) are more likely to suffer depression and suicide
 - There are more COVID deaths than suicide. She received calls from concerned parents and she want to correct that fact statement
- This is a strain on education and on the teachers and they are doing their very best

Education component and this is a strain on

Peggy Bair 1917 Westwood Drive

- Her joint surgeon had to stop surgeries last spring due to the COVID lockdown; she lives in Leavenworth and her surgeon is in Johnson County. He serves our community. He does not want a repeat of last spring's closing for either his patients or for his business.
- When she told Dr. Salin that she was coming to a city council meeting tonight to discuss "Should we wear a mask or not?" His response was "Are you kidding me? That's a question?" With the statistics that masks have created a 50% reduction in infection rate in counties where there is a mask mandate, Dr. Salin said "That's HUGE, though. If we cut cancer rates by 50%? That would be huge. That's ginormous in the medical world!"
- Leavenworth and Leavenworth County was given ample opportunity for months to voluntarily wear masks, social distance and hand washing to prevent the spread of COVID-19. If this voluntary work had been done, we would have seen a reduction in infection but, we did not see a reduction in cases. We have seen a steady rise in cases. Why? No mask mandate. Counties with mandates have seen a 50% reduction in cases. Logical next step? Mask mandate.
- Is a business owner in Leavenworth County
- Was shut down for 2 ½ months last spring. It has been devastating to try to recover from that.
- Choice now is: 1) Another lockdown/shutdown or 2)Mask mandate
- She chooses #2

Susan Pierce 1208 High

- Tested positive 2 times with COVID
 - Stayed home and did everything possible
 - A family member got COVID and she quarantined her grandkids
 - Doctor said she could come see the kids -Daughter came to see kids and took her mask off
 - To say we will be fine is ridiculous
 - Cannot rely on tests; Has COVID in her body and does not know the long-term effects
 - People are not getting tested because people don't want to know
 - Some are presumed positive but not counted
 - In favor of the Commission passing the ordinance
- Stacy Vega 231 Cherokee Street
 - Owns two businesses in town and is a nurse
 - Very disappointed that people are protesting
 - Not all businesses can do curbside
 - Businesses are scared to speak up because groups that are against are loud, but loud is not right
 - Cannot afford a close down
 - Every doctor knows masks will slow the spread
 - Family members went to family event resulting in death of her uncle; He was in his 60's with no underlying health conditions

Commissioner Preisinger:

- In elected office some will say we are not representing their opinion sometimes there are no easy answers and won't please everyone
- Elected to constituents to use best judgment in making decisions
- Will make sure if there is a motion made, there will be a second so there will be a vote and everyone knows where their commissioners stand

Mayor Griswold:

- Job of the Commission is to lead especially during a crisis
- Must consider the health and welfare of all citizens
- Not everyone can just stay home, they must get out for jobs

Commissioner Preisinger moved to declare Ordinance 8154 an emergency for us to act on. Commissioner Bauder seconded the motion. The motion passed 4-1 with Commissioner Wilson voting no.

Commissioner Preisinger moved to pass Ordinance 8154 with an expiration date of 11:59 pm January 31, 2021. Commissioner Leonhard seconded the motion. The motion passed 4-1 with Commissioner Wilson voting no.

Adjournment:

Commissioner Preisinger moved to adjourn the meeting. Commissioner Bauder seconded the motion and the motion was unanimously approved.

Time Meeting Adjourned 4:07 p.m.

Minutes taken by City Clerk Carla K. Williamson, CMC