

Memorandum

City of Lawrence

TO: City Commission
Special Alcohol Fund Advisory Board
FROM: Brandon McGuire, Assistant City Manager
Toni Wheeler, City Attorney
DATE: December 20, 2022
RE: Special Alcohol Fund Budget

Background

The Special Alcohol Fund Advisory Board inquired about the legality of appropriating Special Alcohol Fund moneys to the City's Housing Initiatives Division for programs and services designed to help people avoid, survive and/or recover from homelessness and associated addiction. People experiencing homelessness suffer disproportionately from addiction to alcohol and/or drugs. Addiction can contribute to people becoming homeless, and recovery from addiction while experiencing homelessness is challenging and potentially dangerous. The City of Lawrence and Douglas County adopted the Housing First philosophy which recognizes that people experiencing homelessness must first be able to access a decent, safe place to live before stabilizing, improving health, reducing harmful behaviors or increasing income.

Responding to homelessness was one of the top priorities identified in the City's Strategic Plan, which was created following engagement with more than 3,000 community members. As such, budget resources have been reprioritized to serve this need. The Housing Initiatives Division was created in 2022 to improve access to affordable, safe housing and to end chronic homelessness in Lawrence. The Housing Initiatives Division, a division of the Planning and Development Services Department, leads the City's strategies to create lasting solutions that connect people to housing to make homelessness a rare, brief and one-time experience (Reference Strategic Plan Key Progress Indicator Strong Welcoming Neighborhoods #6).

The 2022 budget appropriates \$800,000 and the 2023 budget appropriates \$843,000 to homelessness interventions led by the City Housing Initiatives Division, including directly provided and contracted services like emergency sheltering and case management. The Division anticipates ending fiscal year 2022 with approximately \$200,000 of these funds unspent. The unspent 2022 funds will carry forward for 2023 Housing Initiatives Division expenses, such as for the Winter Emergency Sheltering and support site.

Charter Ordinance No. 33

Kansas municipalities' use of special alcohol and drug program funds is governed by Kansas Statutes Annotated (K.S.A.) 79-41a04(d). Using home rule powers, the City of Lawrence exempted itself from K.S.A. 79-41a04(d) with Charter Ordinance No. 33 (adopted in 1998) which identifies the allowable uses of special alcohol funds to "reflect the priorities and needs of the community as the governing body determines". In short, Charter Ordinance No. 33 provides the purposes for which the City's special alcohol funds may be expended and authorizes the City Commission to determine the appropriateness of Special Alcohol Fund expenditures.

The City Treasurer receives special alcohol fund disbursements and deposits one-third of the revenue in the General Fund, one-third in the Special Recreation Fund and one-third in the Special Alcohol Fund. Special alcohol revenue deposited in the General Fund may be used for any legally authorized General Fund expenditure. Special alcohol funds deposited in the Special Recreation Fund may only be used for the purchase, establishment, maintenance or expansion of park and recreational services, programs and facilities. Special alcohol funds deposited in the Special Alcohol Fund may be used for the purposes listed in Charter Ordinance No. 33, Section 2, Paragraphs (a) through (g), the appropriateness of which is determined by the governing body. Moneys in each of these three funds fall under the direction and control of the governing body.

Special Alcohol Fund

Regarding the one-third of special alcohol moneys deposited in the Special Alcohol Fund, Charter Ordinance No. 33, Section 2, permits moneys in the Special Alcohol Fund to be spent on such programs, services, equipment, personnel, and capital expenditures as the governing body determines is in the best interest of the public to address one or more of the needs listed in Section 2, Paragraphs (a) through (g). The Charter Ordinance does not restrict the City Commission's ability to appropriate moneys in the Special Alcohol Fund to any City department or partner agency capable of meeting one or more of the listed needs.

In some cases, Special Alcohol Fund moneys may need to be appropriated to various City departments to accommodate specific uses listed in Charter Ordinance No. 33. For example, in order to meet the need described in Section 2, Paragraph (d), the City Commission may reasonably need to appropriate Special Alcohol Fund moneys to the Lawrence Police Department and Lawrence Municipal Court. Please see Section 2, Paragraph (d) below.

- d. Law enforcement, prosecution, court activities and programs, or portions thereof, related to apprehending, prosecuting, adjudicating or monitoring individuals who are alcoholics or drug abusers or are in danger of becoming alcoholics or drug abusers, including individuals who are or may be charged with violating laws related to alcohol or drug use.*

Specific to the inquiry about the legality of Special Alcohol Fund moneys being allocated to the Housing Initiatives Division, the Division's use of special alcohol funds serves the following purposes which are allowed for by the charter ordinance.

- f. Programs, activities, or efforts related to preventing or intervening in drug abuse and alcohol abuse, including programs, activities, or efforts for which drug abuse and alcohol abuse prevention or intervention comprises a partial element of the complete program, activity or effort.*
- g. Any program, activity, or effort, or a portion thereof, that the governing body determines seeks to discourage, prevent, intervene, or address issues related to alcohol or drug abuse.*

Finally, Charter Ordinance No. 33 addresses the issue of compliance in the final paragraph of Section 2, stating, "The appropriation of funds by the governing body for such a program, activity, or effort shall be conclusive of compliance with provisions of this ordinance, and separate findings shall not be required. In determining compliance with the provisions of this ordinance, the appropriation of funds by the governing body for personnel, services, programs, facilities

or capital expenditures shall be conclusive of compliance with provisions of this ordinance and separate findings shall not be required.”

Special Alcohol Fund Advisory Board

The Special Alcohol Fund Advisory Board operates under the authority of City Code Chapter 1, Article 14. Among other duties, the Board advises the City Commission on the uses of moneys in the Special Alcohol Fund except for those moneys allocated to City departments. No limitations on the City Commission’s ability to allocate some or all Special Alcohol Fund moneys to any City department are found in City Code, Ordinance No. 9726 or Charter Ordinance No. 33. These policies do not guarantee that Special Alcohol Fund moneys will be available for the Advisory Board’s review and recommendation to the City Commission.

Conclusion

The appropriation of Special Alcohol Fund moneys to the Housing Initiatives Division is legal and supported by City Code and Charter Ordinance No. 33. Homelessness and addiction are closely related for many individuals. Recovery from homelessness is a critical initial step to recovery from addiction. The Housing Initiatives Division’s work responding to homelessness aligns with the purposes of the Special Alcohol Fund as articulated in Charter Ordinance No. 33 as well as the City’s Strategic Plan.