

Note: These minutes are considered "DRAFT" until approved at the next scheduled meeting.

MINUTES

Tuesday, May 8, 2012

\* 5:00 PM

Public Services Committee Carnegie Town Hall

235 West 10th Street

Members Present: Council Member Sue Aguilar, Council Member Kenny Anderson Jr., Council Member Vernon Brown, and Council Member Michelle Erpenbach

Members Absent: None

Staff Present: Tamara Jorgensen, CMC, Assistant City Clerk

Guests: Doug Barthel, Steve Haney, Rich Lauer, Julie Ward, Marilyn Buskohl, Megan Myers, Jesse Smith, Bruce Eide, Drew Duncan, Dr. Susan Randall, Dave Renli, Cheryl Rath, Rex Roling, Jeanne Gerkin, and Gerald Gerken

1. Call To Order

Committee Chair Anderson Jr. called the meeting to order at 5:00 p.m.

2. Review and approval of Minutes dated April 9, 2012

A motion was made by Council Member Vernon Brown and seconded by Council Member Michelle Erpenbach to approve the minutes. Anderson Jr. called for a voice vote and all members present voted yes. Motion Passed.

3. Distracted Driving Proposal

Rich Lauer, coordinator of Citizens for Cell Phone Safety While Driving, introduced members of his committee: Julie Ward from Avera McKennan Hospital and University Center; Marilyn Buskohl from AAA South Dakota; Megan Myers from the South Dakota State Medical Association; Jesse Smith from Sanford Health; Bruce Eide from Vern Eide Motorcars; Drew Duncan from the SD Insurance Alliance; Dr. Susan Randall from the South Dakota Voices for Children; and Dave Renli from the Sioux Empire Safety Village.

Lauer distributed a copy of memorandum from Myron L. Rau and reviewed the information. Rau is a retired Captain of the South Dakota Highway Patrol and now serves as President of the South Dakota Trucking Association and as President of the South Dakota Automobile Dealers Association. Lauer distributed documentation listing the corporations and institutions endorsing a city or state ordinance banning texting while driving and a ban on the use of hand held electronic devices while driving in a school zone when children are present. This information was reviewed and discussed.

Lauer discussed the neighboring states that have banned texting while driving. He relayed previous conversations that he had with members of law enforcement regarding enforcing an ordinance on banning texting.

Lauer stated that the item being considered at this meeting has a direct effect on 90% of the electorate. He stated there is no 'down side' to this proposal by improving public safety on our streets and sidewalks.

Brown asked if the City has reviewed ordinances from other municipalities to see how they are handling the language for this kind of item. Keith Allenstein, Assistant City Attorney, stated they have not been asked to review this yet but there are quite a few examples out there to review and that some are more detailed than others. Lauer stated that the U.S. Department of Transportation has a link on their website that deals with distracted driving at [www.dot.gov](http://www.dot.gov) and they have samples of laws for regulating this type of activity. (Note: Select "distraction.gov" - then either select "Get the Facts" and select "State Laws" (this will give you access to you the type of ban by state) or select "DOT Action" and choose "Regulations" (this will give you access to verbiage of laws.)

Aguilar asked if there were examples from other communities or municipalities that had moved forward with this type of legislation. Lauer stated that Texas (larger cities include San Antonio, Austin, El Paso, and Galveston), had the best examples with 19 communities in Texas that have this type of law. He stated that Pennsylvania enacted a state wide ban last week after several cities passed similar ordinances.

Lauer discussed the importance of public awareness. Lauer said that Tom Simmons, with Midcontinent Communications, stated that, if the City Council passes this ordinance, their production department would be happy to provide (free of charge) the production of the public service announcements. He stated that Simmons personally guaranteed that the South Dakota Broadcasters (radio and television) and the cable broadcasters would ensure that this information is shared. Lauer stated that Bruce Eide also has an advertising business and has made an offer to help with production. Lauer stated that Mark Benedetto, President of the University of Sioux Falls, has also offered their assistance.

Brown encouraged the coalition to stick together in pursuing these changes if they bring it forward to the South Dakota Legislature. He stated that he thought the Legislature might try to take away local control on this item. Erpenbach asked Brown to elaborate and to provide a specific example. Brown gave the example of the red light cameras controlling an intersection on Minnesota Avenue. He stated there was a member of the Legislature from Huron, who provided legislation two years in a row to prevent the City of Sioux Falls from controlling the intersection.

Lauer responded that the state-wide approval on banning texting is at 80% and is at 90% in this community. He felt the widespread public support would discourage someone from stopping this from moving forward.

Erpenbach stated that Aguilar has already started research on the wording for a potential ordinance. They would like to work with the new Legislative/Operations Manager Jim David and the City Attorney's Office to develop a proposed ordinance and bring it back to the committee for review.

Anderson Jr. asked for input from the Police Department.

Barthel stated that he is not an advocate for texting while driving. He thanked the members of the committee for their hard work and diligence with

this item. Barthel stated that he personally would like to see these types of traffic laws legislated at the State level. He noted that the Legislature has dealt with this topic for the last couple of years. In a prior session, they created a Safe Driving Task Force with representatives from around the state. Captain Steve Haney represents the Sioux Falls Police Department on this task force. Texting is just one section of what the committee is reviewing. Barthel would like to see what this task force concludes and review their input and suggestions.

Barthel noted that when laws are approved at the legislative level, there is a judicial review process involved. Barthel said that seeing someone with a phone in their hands does not tell an officer what they are doing with the phone at that time. In order for any form of enforcement to occur, the driver would need to admit to what they were doing. Barthel stated that for this ordinance to be effective, it may require totally banning electronic devices in a car. This opens a lot of options as many vehicles now have electronic options built into them with phones, navigation, screens, etc.

Haney gave an update on how the task force was organized and developed. He stated that one of their initial requests was to review teen driving. The task force has had three meetings since it was created. They have 14 members, comprised of members from the health industries, Public Safety, State Senators and Representatives, and parents. Most of the data is received from the Department of Public Safety, and the Department of Public Transportation and Health.

Haney presented statistics regarding teen drivers. The amount of injuries and fatalities for teen drivers due to distracted driving is 7%. Haney reviewed the statistics regarding accidents with teen driving: 18% - Failure to Yield; 18% - Speeding; 8% - Following Too Closely; 7% - Distracted Driving.

The task force is reviewing driver's education and they have discovered there is not a standardized form of driver's education throughout the state. Haney stated that distracted driving in the state is under reported because there is no check box on the state form that will allow for the reason for the distracted driving to be noted (talking, texting, visiting with a friend, etc.). The state form will need to be updated in order to get accurate information on the type of distracted driving.

Other subjects that are being reviewed by the task force include alcohol/underage drinking, rural vs. urban driving, and the current laws on the graduated driver's license structure that we have right now. The focus has now been narrowed to: change the format of the graduated driver's license in the state; review how many passengers should be in the car with a teen or restricted driver; and the restrictions on using electronic devices within the vehicle while under the restricted drivers permit.

Haney stated that the next meeting is scheduled for June 24, 2012. Anderson Jr. asked if the task force had a timeline for suggestions to the Legislature. Haney replied that they are to have their suggestions by August-September, 2012, for the next session in 2013.

Anderson Jr. would like this item to stay in the Public Services Committee. He suggested that Aguilar work with the Legislative/Operations Manager and the City Attorney's office and to bring the item back to the committee for additional discussion.

Erpenbach discussed the contrasts between the City of Sioux Falls and the Legislature. She suggested that the City of Sioux Falls take a leadership role in moving this item forward. Brown encouraged Erpenbach to bring this forward to the South Dakota Municipal League and to incorporate the topic into the policy discussions in August. Brown stated this would be good opportunity to find out how the rural communities feel about this issue.

Anderson Jr. noted that a few years ago, the City of Aberdeen reviewed the possibility of having an ordinance banning distracted driving.

Eide spoke regarding distracted driving. He cited a personal example of a friend of the family who died in a car accident due to distracted driving.

#### 4. Open Discussion

There was none.

#### 5. Adjournment

Committee Chair Anderson Jr. adjourned the meeting at 5:40 p.m.

Tamara Jorgensen, CMC

Assistant City Clerk