

CITY COUNCIL OVERSIGHT COMMITTEE MINUTES

August 20, 2015

The City Council Oversight Committee of the City of Norman, Cleveland County, State of Oklahoma, met at 5:10 p.m. in the City Council Conference Room on the 20th day of August, 2015, and notice and agenda of the meeting were posted in the Municipal Building at 201 West Gray 48 hours prior to the beginning of the meeting.

PRESENT: Councilmember Holman, Jungman, Williams and Chairman Miller

ABSENT: None

OTHERS STAFF PRESENT: Mayor Cindy Rosenthal
Mr. Jeff Bryant, City Attorney
Ms. Grace Dawkins, Legal Intern
Ms. Ronda Guerrero, Municipal Court Clerk
Mr. Steve Lewis, City Manager
Ms. Jeanne Snider, Assistant City Attorney
Major JD Younger, Police Department
Ms. Karla Chapman, Administrative Technician III

OTHERS PRESENT: Ms. Janice Oaks, Concerned Citizen

Item 1, being:

DISCUSSION REGARDING POTENTIAL UPDATES TO THE CITY TRAFFIC ORDINANCES RESULTING FROM THE MOST RECENT LEGISLATIVE SESSION: TEXTING WHILE DRIVING AND CHILD PASSENGER RESTRAINT REQUIREMENTS.

Texting While Driving

Ms. Grace Dawkins, Legal Intern, highlighted House Bill (HB) 1965 which was proposed in January, 2015, approved on May 5, 2015, and will go into effect on November 1, 2015. Ms. Dawkins said HB 1965 was introduced after two (2) Oklahoma Troopers were killed in accidents caused by electronic device distraction.

Ms. Dawkins said texting while driving causes 1.6 million accidents per year nationwide and Oklahoma will be the 45th State to enact this law. Under the State Law it shall be unlawful for any person to operate a motor vehicle on any street or highway within this state while using a hand-held electronic communication device to manually compose, send, or read an electronic text message while the motor vehicle is in motion. Ms. Dawkins said this is a primary offense; the maximum fine is \$100; and there is an "imminent emergency exception" with a specific list of persons who may be contacted without penalty. Staff highlighted what would constitute an "imminent emergency situation" as any situation a person finds himself in where a serious, unexpected, and likely dangerous event is about to happen.

Ms. Dawkins said municipalities are authorized to create ordinances and penalize violations; however, an ordinance may not be more stringent than State law. She said currently Norman Police Officers can cite a citizen utilizing the violation "failure to devote time and attention to driving," which has a fine of \$35 to \$200.

Ms. Dawkins said officers will maintain discretion when deciding which ordinance to cite and which court system to file the charge in. Mayor Rosenthal asked the difference between the current ordinance and proposed ordinance and Staff said the current ordinance for "failure to devote time and attention to driving," is a more general offense. Ms. Dawkins said the officer will be required to actually see the citizen looking at the electronic device and texting and officer testimony will be supported by phone records if available through discovery.

Texting While Driving continued:

Ms. Dawkins said the municipal judge(s) can access the fine; however, the maximum is \$100 plus court costs of \$74 for a total violation charge of \$174. She said citizens can pay administratively rather than go before a judge; however, the fine would be assessed at the maximum violation charge of \$174. If a citizen is cited for texting while driving, points will not go against their driving record at the Department of Public Safety (DPS).

Chairman Miller arrived at 5:26 p.m.

Councilmember Williams asked whether checking/sending/deleting emails, Pandora, and/or apps are included in the ordinance and Staff said yes, "any text-based message" includes any data sent to or leaving an electronic device, including apps, deleting messages, etc.; therefore, all would be subject to the proposed ordinance. He asked if the proposed ordinance would impede the work flow for the police officers and Major JD Younger, Police Department, said the proposed ordinance will not impede the work flow, but rather give the officers another tool to raise awareness of this issue.

Mayor Rosenthal said she has heard some criticism regarding the proposed ordinance; specifically, the City is merely trying to make more money. She wondered what the advantage was of having a local city ordinance versus citing the State law and Staff felt it would be a wonderful policy statement. Mr. Jeff Bryant, City Attorney, said if it were a money issue, police officers would be encouraged to cite violations using "failure to devote full time and attention" which has the higher fine. He said if Council desires Staff to move forward with a similar policy statement to that of State Legislature, then Staff would direct police officers to pay attention to the specific offense of "texting while driving," which is easier to prove in court and has a much lesser fine.

Councilmember Holman said some of people have criticized the proposal because it is redundant and unnecessary since it will already be State law and Mr. Bryant said that is a good point because the City of Norman can prosecute the same conduct under ordinances already approved and on the books. Mr. Bryant said Staff wanted to present this to the Committee and get guidance on how to proceed with either making this a policy statement through enactment of a specific ordinance in the jurisdiction of Norman or having the police officer cite the driver using the State law. Using State Law, the violation would be filed in District Court rather than Municipal Court, the fines would be doubled, and the court process may be more time-consuming and intimidating for the citizen.

Councilmember Holman felt if the proposed ordinance was adopted the University of Oklahoma (OU) students coming from out of state may not be aware it was a violation. He said they would need to be educated and requested Staff research similar college communities that have adopted "no texting while driving." Mayor Rosenthal suggested that information be given to the student newspaper, *The Oklahoma Daily*, so they could write a story in the newspaper.

Major Younger felt if this ordinance was adopted, there would be a big media push to educate the public, including the out of state OU students. He also felt more warnings will be issued at the beginning; however, officers will use discretion while doing due diligence.

Child Passenger Restraint Requirements

Ms. Dawkins said the next issue for discussion is an amendment proposal to the City's current ordinance for child passenger restraint system requirements. She said HB 1847 was proposed in January, 2015; approved on June 5, 2015; and will go into effect November 1, 2015. The Bill adopts recommendations from the American Academy of Pediatrics and the motivation for State law amendment and amendment of the current City ordinance is to keep children safe and reduce child injury.

Ms. Dawkins said the amendment proposal includes:

- The age requirement for use of a child passenger restraint system from “all children under six years of age to all children under eight years of age,”
- Rear-facing child passenger restraint system required until two years of age or until the child exceeds the weight or height limit per the manufacturer, stating a front-facing child passenger restraint system can cause greater harm/injury to the neck muscles in a child should an accident occur;
- A child at least four years old but less than eight years old is required to use a child passenger restraint system or booster seat until age eight or taller than four feet, nine inches; and
- The fine is currently \$50 and would remain \$50.

Ms. Dawkins said the City can take two approaches, either adopt State statute language by reference with clause stating any subsequent statutory amendments are considered adopted also or draft an ordinance using text that is modeled after State statute so when citizens look at the ordinance, they do not have to research state law to see what is required.

Child Passenger Restraint Requirements continued:

Mayor Rosenthal asked whether the State statute defined what constitutes a child passenger restraint system and Mr. Bryant said there is a section that specifies a child passenger restraint system means an infant or child passenger restraint system that meets the federal standards as set by 49 CFR Section 571 quote 213 and Staff can add the same language to the proposed ordinance amendment if the Committee desires more specificity.

Major Younger said the Police Department currently has a program for people who cannot afford child passenger restraint systems and teaches them how to properly install them.

Committee Discussion

The Committee discussed and requested both proposals come forward for First Reading on a future City Council agenda.

Councilmember Jungman left at 5:31 p.m.

Mayor Rosenthal requested Staff include more statistical information in their Staff presentation to Council and Councilmember Williams wondered if the City could educate college students about the new law during Freshman Orientation, as well as include information in the Student Handbook. The Committee agreed adding information in the Student Handbook would be very beneficial.

Items submitted for the record

1. Memorandum dated August 18, 2015, from Ms. Jeanne Snider, Assistant City Attorney II, and Ms. Grace Dawkins, Licensed Legal Intern, through Mr. Jeff Bryant, City Attorney, to Council Oversight Committee, with attached ordinance proposals for “Texting While Driving,” and “Child Passenger Restraint System”
2. PowerPoint Presentation entitled “Texting While Driving and Child Passenger Restraints,” Oversight Committee, presented by Jeanne Snider, Assistant City Attorney, and Grace Dawkins, Legal Intern, dated August 20, 2015

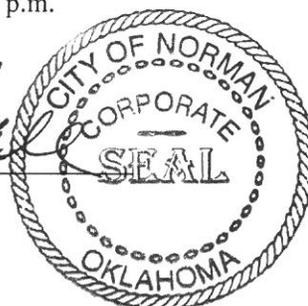
ADJOURNMENT.

The meeting adjourned at 5:35 p.m.

ATTEST:



City Clerk





Mayor