

ASHTABULA CITY COUNCIL COMMITTEE REPORT

NAME OF COMMITTEE: SAFETY FORCES

DATE: Wednesday, August 18, 2010

TIME & PLACE OF MEETING: 8:00 a.m. – Municipal Building 2nd Floor Conference Room

MEMBER(S) PRESENT: Mr. Joseph Rose (Chair/Ward 1 Councilor), Ms. Betty Kist (Vice President)
Mr. James Trisket (Ward 5)

MEMBER(S) ABSENT: Mr. Charles Brockway (President/Ex-Officio Member)

STAFF PRESENT: Fire Chief Ronald Pristera, Police Chief Robert Stell
Clerk of Council LaVette Hennigan, 2 Fire Department Personnel

SCHEDULED VISITORS: NONE

VISITORS PRESENT: Ward 3 Councilor Ann Stranman

MEDIA PRESENT: NONE

REPORT OF BUSINESS CONDUCTED

1. Reports - Safety Forces

The Police Chief reported:

a. Crime

There has been a recent spree of violate crimes; the department has done a good job handling it.

b. Marx Radios

- * The radios are still not working as they should and have not since they were put into operation;
- * The Marx technician is baffled and is working on the problem;
- * They have gotten a little better but are not operating as they should; and
- * There are 50,000 of these radio units in use throughout the country.

ACTION: The Police Chief said if the technician can not get the radios working to the department's satisfaction, a refund will be requested. He will keep the Committee updated.

Fire Chief reported:

a. CSX Derailment

The department was busy with the recent CSX derailment.

Ashtabula City Council Safety Forces Committee
Wednesday, August 18, 2010

b. Alarm Ordinance

The Chief asked for the status of the alarm ordinance approved by him and the committee.

ACTION: The Clerk of Council reported the Committee presented the formal legislation request to the full Council on August 16; and that she presented the request for drafting the legislation to the Solicitor prior to August 16.

c. Key Lock Box

- * Key lock boxes are still in use;
- * They are mandatory if a company has a fire alarm system, and in common hallways of apartment buildings;
- * Everyone who should have one does; and
- * There are close to 200 of them in place.

2. Texting / Cell Phone Use While Operating a Vehicle

- * The Committee's initial intent (see EXHIBIT A), was to prohibit all mobile phone use and texting while operating a vehicle;
- * At the Committee's January 20 meeting they voted to combine legislation from the City of Brooklyn, Ohio and City of Conneaut, Ohio (both attached);
- * Earlier in the year Police Captain Bradley attended a Safety Forces Committee meeting, was asked what he thought about the prohibition of both texting and mobile phone usage while operating a motor vehicle, and said he thought it to be a good idea;
- * On June 7, the Council passed Ordinance No. 2010-60 (EXHIBIT B), which addressed texting only; which is why the Committee revisited the topic today;
- * When the Police Chief was asked his thoughts he commented "I think that (particularly the texting), anything that distracts you from the road is a safety issue in my mind; and of course we want the roads to be as safe as possible, particularly the texting. It seems to be that's the one we're addressing first and it's probably the best one I think, to start with; my feeling is that's the biggest distraction. Why not just read the newspaper while you're driving down the road if you're going to read your text and write things. So, yes, I'm in agreement with that."
- * It was suggested the safety forces should be allowed to use their cell phones for OFFICIAL BUSINESS ONLY because it allows their calls not to be picked up by non-law enforcement persons, thereby allowing law enforcement to be more effective in carrying out their road responsibilities;
- * Fairness regarding other City employees being allowed to use their cell phones while operating a vehicle was discussed; and it was determined that they are able to more readily pull off the road and use their cell phones; and that this should be the practice;

ACTION: Ms. Kist moved, Mr. Trisket seconded, to amend Ordinance No. 2010-60 to prohibit the use of mobile cell phones while operating a motor vehicle within the City limits, exempting all non-clerical Police and Fire personnel while on official business or in the line of duty, and those calling for emergency assistance; and amend the title to include "communication devices"; motion CARRIED.

**Ashtabula City Council Safety Forces Committee
Wednesday, August 18, 2010**

3. MISCELLANEOUS

a. Police Department Composition

The Vice President reported people have expressed concern with the Police Chief's recent request that Council pass legislation to replace all Sergeant titles with Lieutenants, and Lieutenants assume the duties of Captain through attrition, without requiring the persons affected by this change to first take civil service promotional examination. The Council passed Ordinance No. 2010-107 (EXHIBIT C) in response to the Police Chief's request. The Vice President announced she will meet with the Civil Service (CS) Commission today to see if they have checked the legality of these actions.

The Ward 5 Councilor, a Mentor firefighter, reported somewhere between 1988 and 1990, the department he works for went from Captain to Battalion Chief, and that it happened just as the recent action of Council happened – by legislation; and examinations were not required.

The Chair asked, and the Police Chief confirmed that a test had to be taken to become a Sergeant.

The Ward 5 Councilor asked if Sergeants fill in when Captains are absence; the Chief replied yes.

The Chief further stated:

- * In the absence of a Lieutenant a Patrolman is upgraded to Lieutenant;
- * Some years ago there were Lieutenants but no Captains; all the Lieutenants were renamed Captains without a CS test;
- * Other agencies have done it the same way;
- * He confirmed the duties of Captain will be assumed by the Lieutenants through attrition; but that the structure and policies and procedures reflect that all positions held by Captains can also be held by the Sergeants. There is also a denotation of Captains/Sergeant, which will be changed to read Captain/Lieutenant; and
- * That he thoroughly checked out the matter before bringing it to the Committee, including meeting with the Solicitor.

Ms. Kist moved, Mr. Rose seconded, to adjourn the meeting at 9:14 a.m.

Scribe: LaVette Hennigan, MMC, Clerk of Council

EXHIBIT A

EXCERPT FROM
Ashtabula City Council Safety Forces Committee
Wednesday, May 19, 2010

4. Prohibit Texting and Wireless Handheld Cell Phone Use While Operating A Motor Vehicle
- * Committee reviewed the proposed amendment to Codified Ordinance 331.34 titled “Failure to Control; Weaving; Full Time and Attention” (EXHIBIT C);
 - * The Clerk of Council informed them that Assistant City Solicitor Lori Lamer said the Committee must select which (g) penalty they desire; once the selection is made the legislation may be presented to the full Council;
 - * Ward 5 Councilor asked what the fines are for the various misdemeanors;
 - * Fire Chief said he has never seen anyone go to jail for a misdemeanor; and that the law allows 1st degree misdemeanors up to \$1000.00 with 180 days in jail; and a 3rd degree misdemeanor is \$500.00 and a proportional less amount of jail time;
 - * The ability for the courts to handle cases stemming from the proposed legislation was discussed; and
 - * Ward 5 Councilor said “if you can afford a cell phone you can afford the fees for a cell phone; you can afford to pay the fines then, especially if you can run around and gab on them”.

ACTION: Mr. Trisket moved, Ms. Kist seconded, to accept the first (g) penalty offered; motion CARRIED.

EXHIBIT B

ORDINANCE NO. 2010-60

**AN ORDINANCE ENACTING NEW CODIFIED ORDINANCE SECTION 331.34
ENTITLED "FAILURE TO CONTROL; WEAVING; FULL TIME AND
ATTENTION"**

WHEREAS, the daily operations of the City of Ashtabula and the Office of the City Manager require the enactment of this legislation; and,

WHEREAS, it is necessary to enact legislation prohibiting texting while driving within the City of Ashtabula in order to safeguard the public peace, health and safety;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Ashtabula, Ohio:

SECTION 1. That Codified Ordinance Section 331.34, entitled "Failure to Control; Weaving; Full Time and Attention", a complete copy of which is attached hereto, shall be, and the same is hereby, enacted;

SECTION 2. It is hereby found and determined that all formal actions of this Council concerning and related to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its Committees that resulted in such formal action were in meetings open to the public in compliance with the requirements of Section 10 of the Municipal Charter of the City of Ashtabula, Ohio, and of Section 121.22 of the Revised Code of Ohio.

SECTION 3. For the reasons stated in the preamble, this ordinance, if approved by the votes of five (5) or more members of Council, shall take effect immediately, otherwise 30 days thereafter.

PASSED: JUNE 7, 2010

Charles P. Brockway, President of Council

Vote:

	Yea	Nay
Brockway:	<u>X</u>	___
Kist:	___	___
Rose:	<u>X</u>	___
Pugliese:	<u>X</u>	___
Stranman:	<u>X</u>	___
Lattimer:	___	<u>X</u>
Trisket:	<u>X</u>	___

ATTEST: _____
LaVette E. Hennigan
Clerk of Council

APPROVED: _____
Anthony J. Cantagallo
City Manager

Approved as to form and correctness this 7TH day of JUNE, 2010.

Michael Franklin, City Solicitor

(legislation requests & drafts/2010/2010-60 enact new co 331.34)

Ashtabula City Council Safety Forces Committee
Wednesday, August 18, 2010

**331.34 FAILURE TO CONTROL; WEAVING; FULL TIME AND
ATTENTION.**

(a) No person shall operate a vehicle without exercising reasonable and ordinary control over such vehicle.

(b) No person shall operate a vehicle in a weaving or zigzag course unless such irregular course is necessary for safe operation or in compliance with law.

(c) No person shall operate a vehicle without giving his full time and attention to the operation of such vehicle, including but not limited to refraining from such operation while composing, sending or reading text messages using a wireless handset while driving a motor vehicle in the City of Ashtabula.

(d) As used in this section:

(1) "Text message" means a message sent or received via a process using wireless handsets. For the purpose of this section, an e-mail shall be considered a "text message."

(2) "Wireless handset" means a portable electronic device capable of transmitting or receiving data in the form of a text message.

(e) Notwithstanding the provision of division (c), this Section shall not be construed to prohibit the use of a wireless handset inside a motor vehicle to compose, send or read a text message by:

(1) A driver using a wireless handset to contact any law enforcement, police officers, emergency services personnel, emergency medical technicians, or fire safety officials to report an emergency situation; or

(2) A driver using a wireless handset inside a motor vehicle while such vehicle is parked, standing or stopped and is removed from the flow of traffic, in accordance with applicable laws or rules, or is stopped due to the inoperability of such vehicle.

(f) Enforcement for this offense shall be primary.

(g) Penalty: Whoever violates this section shall be fined One Hundred Dollars (\$100.00) for the first offense, Two Hundred and Fifty Dollars (\$250.00) for a second offense, and no more than Five Hundred Dollars (\$500.00) for each subsequent offense.

(h) That the provisions of Section 331.34 (c) shall take effect thirty (30) days after the effective date of this ordinance.

EXHIBIT C

ORDINANCE NO. 2010-107

AN ORDINANCE ENACTING NEW CODIFIED ORDINANCE SECTION 141.11 ENTITLED COMPOSITION

WHEREAS, the daily operations of the City of Ashtabula and the Office of the City Manager require the enactment of this legislation; and,

WHEREAS, it is necessary to provide for and efficiently enforce reasonable standards for housing within the City of Ashtabula in order to protect property values and safeguard the public peace, health and safety;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Ashtabula, Ohio:

SECTION 1. That Codified Ordinance Section 141.11, entitled Composition, shall be enacted as follows:

141.11 COMPOSITION

The Division of Police shall be charged with the duty of preserving the peace and good order to the City. The division of Police shall consist of not less than eight nor more than sixty persons. Of these 60 persons, not less than 8 nor more than fifty-one may be full-time employees whose designation and minimum/maximum numbers shall be as follows: 1 Chief of Police; not less than 1 nor more than 3 Captains; however, the rank of Captain shall be eliminated through attrition. The rank of Sergeant shall be eliminated and renamed Lieutenant upon passage of this Ordinance. As a Captain's position is eliminated through attrition, said position shall be replaced by a Lieutenant position and there shall be not less than 1 nor more than 10 Lieutenants; not less than 1 nor more than 33 Patrolmen/Patrolwomen; not less than 1 nor more than 4 Police Dispatchers; 1 Police Legal Reporter/Secretary to the Chief of Police; 1 Computer Records Clerk; and 1 Animal Control Officer. Additional full-time civilian, part-time civilian or temporary civilian employees may be employed by the City in its Division of Police (to supplement the aforesaid 8 to 51 full time employees) in a number not to exceed 9.

SECTION 2. It is hereby found and determined that all formal actions of this Council concerning and related to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its Committees that resulted in such formal action were in meetings open to the public in compliance with the requirements of Section 10 of the Municipal Charter of the City of Ashtabula, Ohio, and of Section 121.22 of the Revised Code of Ohio.

SECTION 3. For the reasons stated in the preamble, this ordinance, if approved by the votes of five (5) or more members of Council, shall take effect immediately, otherwise 30 days thereafter.

PASSED: AUGUST 2, 2010

Charles P. Brockway
President of Council

Ashtabula City Council Safety Forces Committee
Wednesday, August 18, 2010

Vote:

	Yea	Nay
Brockway:	<u> X </u>	<u> </u>
Kist:	<u> X </u>	<u> </u>
Rose:	<u> X </u>	<u> </u>
Pugliese:	<u> X </u>	<u> </u>
Stranman:	<u> X </u>	<u> </u>
Lattimer:	<u> X </u>	<u> </u>
Trisket:	<u> X </u>	<u> </u>

ATTEST: _____
LaVette E. Hennigan
Clerk of Council

APPROVED: _____
Anthony J. Cantagallo
City Manager

Approved as to form and correctness this 2ND day of AUGUST, 2010.

Michael Franklin, City Solicitor

(legislation requests & drafts/2010/2010-107 enact new police dept composition)