

TOWN OF HILTON HEAD ISLAND
PUBLIC SAFETY COMMITTEE REGULAR MEETING

Date: May 6, 2013

Time: 10:00 a.m.

Members Present: Marc A. Grant, *Chairman*; Bill Harkins, *Council Member*; John J. McCann, *Council Member*

Members Absent: None

Town Staff Present: Lavarn Lucas, *Fire Chief*; Joheida Fister, *Fire Marshal*; Greg DeLoach, *Assistant Town Manager*; Brian Hulbert, *Staff Attorney*; Rene Phillips, *Website/Court Systems Administrator*; and Lynn Buchman, *Administrative Assistant*

Others Present: Lee Edwards, George Williams, and Kim Likins, *Council Members*; Captain Toby McSwain, *Beaufort County Sheriff's Office*; Keira Morris, *Beaufort County Sheriff's Office*; and Eleanor O'Key, *Lowcountry Inside Track*

Media Present: Brian Heffernan, *Island Packet*

1. Call to Order

2. Freedom of Information Act Compliance

Public notification of this meeting has been published, posted, and mailed in compliance with the Freedom of Information Act and the Town of Hilton Head Island requirements.

3. Approval of Minutes

Motion to approve the minutes of the January 28, 2013 Special Meeting of the Public Safety Committee was made by Mr. Harkins and seconded by John McCann. The Motion was approved unanimously.

Motion to approve the minutes of the January 31, 2013 Special Meeting of the Public Safety Committee was made by Mr. Harkins and seconded by John McCann. The Motion was approved unanimously.

Motion to approve the minutes of the February 4, 2013 Regular Meeting of the Public Safety Committee was made by Mr. Harkins and seconded by John McCann. The Motion was approved unanimously.

4. Unfinished Business

None

5. New Business

a. General Discussion of Texting

Joe Kopf, former Chairman of the Parks and Recreation Commission, Board Member of the Island Recreation and Senior Center, and a member of the Greater Island Council, presented a letter from Stu Rodman, Chairman of the Greater Island Council, recommending that Town Council consider enacting an Ordinance banning texting while driving. While recognizing that cell phone usage is also a problem, the Greater Island Council is asking that the Ordinance be patterned after current House Bill H.3121 to apply to all ages, but only as to texting and not apply to cell phone usage. He noted that Sheriff Tanner had also supported a condensed version of House Bill H.3121. Mr. Kopf shared with the Committee facts, statistics, and research concerning distractions created by texting while driving and talking on cell phones that resulted in accidents and deaths. He reviewed the City of Beaufort Ordinance, but noted that Sheriff Tanner had issues with the Ordinance, which he outlined. The background and content of House Bill H.3121 was detailed; however, he stated for Hilton Head Island needs, a reduced version of the Bill had been suggested by Sheriff Tanner.

Mr. Kopf's recommendations included:

- consider banning texting now for motorist driving, but do not ban cell phone usage at this time;
- review the Ordinance of the City of Beaufort, but consider a shorter version of H.3121 for Hilton Head Island; and
- don't wait for the State to enact legislation so that action can be taken before the tourists come to the Island.

Mr. Harkins expressed concerns that while on an intuitive level, texting is something that should not be permitted, the hard data that could create a cogent argument against it is not there. He posed the unanswered question as to whether Hilton Head Island should pass an Ordinance that may not be truly enforceable if not done countywide or statewide.

Greg DeLoach, Assistant Town Manager, updated the Committee on the status of H.3121 that remains in the House Judiciary Committee, and is unlikely to be adopted this session according to the Municipal Association. He noted, however, that it will certainly be re-considered in next year's legislative session.

Brian Hulbert, Staff Attorney, briefed the Committee on the memo and materials he provided as a part of the agenda packet to assist in their consideration of a ban to allow text messaging on hand-held devices while driving or the use of cell phones while driving. He outlined the differences in the Ordinances already passed by the City of Beaufort, Clemson, and Columbia, noting each assess a civil penalty and not a misdemeanor charge. Referencing House Bill H.3121, which is generating the most interest, he noted the felony component for great bodily injury or death resulting from a serious accident. He pointed out there are other bills pending in the House and Senate, and he outlined differences in those from H.3121.

Mr. Hulbert suggested the Committee fully consider and discuss the effect of such a ban, whether it should be age related, whether it should include texting and/or phone usage, and how enforceable and effective it would be. He noted the pros and cons listed in his memo and other materials provided in the agenda packet that should be part of the consideration, as well.

Mr. Hulbert pointed out that Staff does not have a recommendation as to whether or not Town Council should pass an Ordinance to ban texting or the use of cell phones within the Town, but he noted that any Ordinance passed is likely to be pre-empted by State law. He expressed his opinion that if there is a prohibition, with a misdemeanor or crime attached, it should be uniform and statewide rather than being done on a local basis. He reminded the Committee that with the large number of tourists coming from areas having differing laws on such use, education and enforcement will be difficult.

Mr. DeLoach added that the logic behind patterning a local Ordinance along the lines of H.3121 is that if a texting ban is adopted in the State, the local Ordinance would not need to be changed as much. Another component he mentioned was that in the event Council adopts a texting ban, a strategy should be established to work with the schools, parents, and organizations for on-going education about such a ban, and Mr. Hulbert agreed that research indicates that continuing education would be needed.

Lee Edwards, Council Member, inquired about the status of the state legislation, and Mr. Hulbert explained that while it did not pass in this legislative term, it could be taken up again in the next session starting in January, 2014.

In response to Chairman Grant's inquiry about problems in enforcement of the City of Beaufort Ordinance, Mr. Hulbert advised that they are in the education and warning phase now, but no numbers are available since the City of Beaufort has its own Police Department.

Mr. McCann noted the importance of this issue and the fact that the State may not pass such legislation for several years. Therefore, he felt the Committee should vote to move it on to the full Town Council for discussion and action. A motion was made by Mr. McCann that the Committee move this issue forward to the full Town Council for consideration of an Ordinance banning texting only. Chairman Grant and Mr. Hulbert clarified that a proposed Ordinance should be patterned after House Bill H.3121 rather than the City of Beaufort, Clemson, or Columbia Ordinances to make any violation a misdemeanor rather than a civil penalty or infraction.

A discussion followed concerning problems associated with enforceability of such an Ordinance, the use of education on an on-going basis instead of legal enforcement, and whether regulations without enforcement work.

Mr. Harkins seconded the motion.

Kim Likins, Council Member, spoke before the Committee as a mother of a teenager. She encouraged the Committee to bring this matter before the Town Council for further discussion and receipt of input from the community. Recognizing that enforcement would always be an issue, she stated that should not prevent Council from doing the right thing for the citizens of our community.

Mr. McCann reiterated his motion to recommend that the texting issue only be brought before Town Council for discussion of an Ordinance modeled after House Bill H.3121. Mr. Harkins seconded. The motion was passed by a vote of 3-0.

Proposals for modeling a proposed ordinance after H.3121 and procedural matters were discussed among the Committee members, Mr. Hulbert, and Mr. DeLoach. Chairman Grant will report on the Committee's recommendation at the Town Council Meeting to be held tomorrow, and depending on Council's direction, a draft Ordinance could be presented for first reading at the May 21st Town Council meeting.

b. 1st Quarter 2013 Crime Statistics – Capt. Toby McSwain

Capt. Toby McSwain from the Beaufort County Sheriff’s Office presented the 1st Quarter 2013 Crime Statistics. Looking at the overall statistics, he noted no significant events that had occurred over the first quarter of 2013.

Capt. McSwain reported on the status of the Town’s contract calling for a total of 39 officers, with 3 openings that were filled with officers currently in training in Beaufort for 6 to 8 weeks, and 1 remaining vacancy.

He noted that Spring Break created some calls for loud music and drunken and disorderly charges, but peaceful for the most part with not as many incidents as past years. No murders were reported for the first quarter, and although aggravated assaults saw an increase from last year, there were no significant changes.

Statistics on property crimes showed a decrease in larcenies and burglaries, and he noted court cases in the 4th quarter of 2012 resulting in convictions that may have affected those numbers, with other cases pending that may affect next quarter. An increase in vehicle collisions was reported from last year, but generally averaging the same as seen in the past year. He detailed the vehicle fatalities that had occurred. Traffic tickets this quarter he noted were down from last year, but he explained this also fluctuates as accidents take away time from the traffic team.

He reported the volunteer and reserve deputies logged 222 hours of reserve time over the last quarter and almost 830 hours of volunteer staff working at the Hilton Head Island office.

Chairman Grant asked for community concerns to be expressed. Bob Buterbaugh, a resident of Spanish Pointe, appeared before the Committee, explained his concerns about open burning of yard debris, and asked for consideration of a ban on such open burning. Karen Buterbaugh mentioned that a website had been set up to garner support from the community, and she read a letter from a resident who recently moved to the area from California who expressed her concerns about open burning. Gregg Clements reported on Ordinances in Myrtle Beach, Seabrook, and Kiawah Island that ban the open burning of yard debris, as well as other States that have taken such steps. He requested that positive action be taken and an Ordinance be brought forward to Town Council.

Adjournment

At 11:03 a.m. Mr. Grant moved to adjourn the meeting and Mr. McCann seconded. Chairman Grant declared the motion approved.

Respectfully submitted:

Lynn W. Buchman
Administrative Assistant

Approved by:

Marc A. Grant, Chairman