



City Council Agenda

Minutes

Monday, April 12, 2021 at 7:30 pm

6550 N. High Street, Worthington, Ohio 43085

Virtual Meeting Information

Link through: worthington.org

Our Government - Live Stream

1. Call to Order

Minutes:

Worthington City Council met remotely in Regular Session on Monday, April 12, 2021, via Microsoft Teams videoconference. President Michael called the meeting to order at or about 7:30 p.m.

2. Roll Call

Minutes:

Members Present: Peter Bucher, Rachael Dorothy, Beth Kowalczyk, Scott Myers, David Robinson, Doug Smith and Bonnie Michael

Member(s) Absent: None

Also Present: City Manager Matt Greeson, Assistant City Manager Robyn Stewart, Assistant City Manager Economic Development Director David McCorkle, Law Director Tom Lindsey, Director of Finance Scott Bartter, Director of Service & Engineering Dan Whited, Director of Planning & Building Lee Brown, Director of Parks & Recreation Darren Hurley, IT Director Gene Oliver, Chief of Police Robert Ware, Chief of Fire & EMS Mark Zambito, Clerk of Council D. Kay Thress

3. Pledge of Allegiance

Minutes:

President Michael invited all to stand and join in reciting the Pledge of Allegiance to the flag.

Reports of City Officials

4. Policy Item(s)

a. Financial Report - March 2021

Minutes:

Ms. Dorothy asked about how we are getting more street funds from our gas tax, and she wondered how much more money we were getting this year compared to prior years before the tax increase. Mr. Bartter replied he would have to research that and will come back with an answer.

Mr. Robinson expressed he was happy to see that year to date income taxes were above estimates, but General Fund Revenue was less than what was budgeted. He wondered what accounts for that difference. Mr. Bartter answered that the difference is revenues from Parks and Recreation and how we have not been able to do the same types of programming as we have done traditional in past years before COVID. Mr. Robinson asked about the General Fund Balance, noting that we have inched our way up to 49% of prior year. Mr. Bartter described how we finished 2020 with about 57% in unencumbered fund balance, and in January that dropped to 39% due to a transfer to the Economic Development Fund, January had three pays, and departments began encumbering significant parts of their budgets for the year. This type of drop is typical and happens every January. In February and March, the General Fund Balance began moving back up with us receiving the first portion of the property tax distribution which primarily goes to the General Fund. Additionally, our purchasing policy changed which dropped our encumbrances.

Ms. Kowalczyk expressed she was curious when we might hear more about the American Rescue Plan dollars. Mr. Bartter replied that it is pending and the most recent numbers he has seen shows Worthington receiving up to \$2.8 million to be distributed most likely starting in June in two distributions, with the second one coming a year later. The entire amount then needs to be spent by 2024. We are still waiting for more guidance, but these dollars will be more broad use versus the CARES Act dollars. Mr. Greeson explained how staff is having dialogue about how to frame the discussion around spending for Council. We are an advocate for spending one time dollars for one time expenses, which is a good fiscal practice. It is important to shape various options that will be logical and eligible expenses with the goal of having a conversation about how to invest those dollars.

MOTION: Ms. Dorothy moved, seconded by Mr. Robinson to approve the financial report as presented.

The motion carried unanimously by a voice vote

5. Discussion Item(s)

a. Overview of the City's Current Use of Force Policy and Proposed Body Worn Camera Program

Minutes:

Mr. Greeson described how Council has placed a priority on providing information, education, and transparency relating to our critical police policies, in particular use of force. Additionally, we have been evaluating technology and

policy related to the implementation of body worn cameras and are prepared to share that information tonight. An appropriation ordinance for body worn cameras was tabled last year and we will ask that to be removed from the table and amended at a subsequent meeting. Chief Ware will provide information on both of these topics tonight and how we seek to professionally manage Worthington's police services.

Chief Ware overviewed the six 2021 operating goals for the Division of Police. These include implementing the Body Worn Camera program, reviewing, and developing new strategies for community outreach and engagement, exploring, and developing strategies for providing increased collaboration between mental health providers and police, completing the Police building projects, upgrading the Records Management System, and implementing electronic ticketing. The first three topics are so intertwined he could not talk about force and body cameras without talking community policing and all the training we are undertaking to resolve interactions before they reach a level of force incident. COVID impacted our goals including infections and quarantines, the reduction of in-person services, and reduced training opportunities. This challenged our community policing efforts. Additionally, there were vacancies in staff and budgetary reductions to travel and training in 2020.

When talking about professional policing and its history, the foundation was established in England in 1829 when Sir Robert Peel laid the foundation of the Metropolitan Police. It was the first-time policing was controlled by the central government with formalized rules. That initial police force was founded on nine principles. When looking at these principles, he asked to view them through the modern lens of what is happening with policing. As we have developed into more of an enforcement role and less of a guardian role, you can see where we stepped away from Robert Peel's principles. We want to be able to prevent crime and disorder, gain the public's trust, gain compliance without force, and maintain relationships with the public. Police are the community, and the community are the police. There is quite a history here in Worthington for policing, and there is a book written by a group of employees led by Chief Mauger and Dick Tennant. The Worthington library has copies of this available. Historically, policing in Worthington has been focused on technology, policy, training, and community minded policing. One of the large standards in policing is the accreditation of CALEA, which the Worthington Division of Police received in 1997. To do that, you have to have a mission statement, values, policies and procedures, standards and practices, and training. CALEA was established in 1979 as a joint effort of law enforcement's major executive associations. When talking about best practices, much of that work is done by the Police Executive Research Forum. CALEA is a 21-member commission consisting of 11 law enforcement practitioners and 10 members of the public and private sectors. The accreditation process promotes integrity, transparency, and accountability, and is an objective measure of excellence in police leadership, management,

and service delivery.

Community policing is an important component of gaining the public's trust and building relationships. The WPD has historically done an excellent job of outreach in the community and is constantly looking for new ways to collaborate with the community. Our most popular citizen outreach is the Citizen's Police Academy which is a 10-week program, and he encouraged Councilmembers to take advantage of it. It opens the public's eyes to what actually occurs in policing. The Worthington Police Academy Alumni Association is a group of people that works to ensure that the police have opportunities to engage the community and they support some of their awards and other activities.

There has been a question of where the WPD gets their standards and best practices. In the recent 7-8-year period, there have been two task forces that brought community and law enforcement practitioners together, looking for ways to improve outreach and community interaction, to strengthen that relationship. President Obama has a task force called the Present's Task Force of 21st Century Policing, which was created to strengthen community policing and trust among law enforcement and the communities. It consisted of eleven members representing law enforcement, academia, and civil rights activists. Governor Kasich also formed the Ohio Task Force on Community-Police which focused on the challenges between police and communities. The 24-member panel consisted of a multidisciplinary group of members from around the state. Out of that task force was the Ohio Collaborative Community-Police Advisory Board which was created to oversee the implementation of the task force recommendations and establish state minimum standards on things such as use of force, deadly force, community engagement, bias free policing, and body worn cameras among others. The Ohio Collaborative has formulated a standard for law enforcement response to mass protests and demonstrations, which has not been issued yet. To be certified by the Ohio Collaborative, agencies are audited every three years for compliance, applying the standards to the agency and proving they have policies and procedures that align with that standard, that employees are knowledgeable and are trained on the content. The idea is accountability, transparency, and engaging in the best practices.

We regularly train our officers in a variety of ways that include formal schools such as the academy and supervisory schools, continuing professional training around things such as bias or use of force, the online version of the Ohio Peace Officers Academy, and the virtual academy which is an outside training resource. We also do scenario training that uses the educational training pieces, to see how the officer tasks that knowledge and puts it into practical application. Other topics that they are trained in include racial intelligence, autism spectrum, cultural competency such as profiling and implicit bias, mental illness, communication and intrinsic bias, missing persons, elder abuse, officer wellness, de-escalation, and interpersonal communications. With officer wellness, in the past we have not thought about the mental wellness of our officers, they were

expected to do the hard job and then be able to brush things off to go back to work. That is not an effective approach. The traumas they are exposed to on a daily basis can add up over time. Trauma comes from onetime events that are overwhelming or the chipping away at the protective armor. These traumas can impact the ability of an officer to do the things they need to do to prevent things such as excessive use of force among other things.

When discussing developing policy, it is informed primarily by the law including court precedents. For example, with the advent of cellphones, there were not expectations of what privacy is, over time the court has determined that even if they are in an automobile, there are still privacy rights to that cellphone. Things like that help law enforcement to determine where the limitations are without going before a court and getting a search warrant. Policy is established by standards including organization bodies and local agencies. Other sources of policy are informed by best practices, values, experiences, safety, and risk reduction.

Lexipol is an electronic system of policy and training management. In the past, training was done in person and recorded on paper and spreadsheets. Now their system not only delivers training on policy, but also manages and documents time spent on training. Lexipol is made up of legal and subject matter experts, and they advise on what the policy changes should be for agencies. They track compliance documentation for the Ohio Collaborative, so instead of manually locating all of the information the assessors would need, we can go into the Lexipol database and put the data into a compliance report. It saves a lot of time and resources for the agency.

One of the biggest topics over the past year has been the use of force. He expressed how he appreciates the efforts of Councilmembers Kowalczyk, Robinson, and Myers for sitting down and really talking about force, our policies around it, and how we manage the use of force, tracking it, and training to it. Force is a matter of critical concern both to the public and to the law enforcement community. Sometimes force is necessary and unavoidable, but oftentimes rarely needed. All of our policies align with these recommended standards and practices, valuing the dignity of all life and looking for ways to de-escalate a situation to avoid force. There is a requirement to report the use of force and all use is reviewed by supervisors. The National Consensus Policy and discussion on the use of force formed the basis for a lot of these standards and practices as well as the Presidential Executive Order in the past year regarding vascular and respiratory neck restraints. When force is used, we are obligated to provide medical care for any injuries that occur.

When we talk about types of force, in Worthington we report resistant handcuffing, which a lot of agencies do not. In the national conversation about use of force, that is one of the problems plaguing researchers because there is not a consistent, national listing of what constitutes force. Other types of force are balance displacement, assist to ground, escort position, joint manipulation,

and pressure points, which use the body's nerves and makeup to gain compliance. Others are strikes and kicks, OC spray, collapsible baton, taser, vascular and respiratory restraints, and firearms. If we can keep force to the lower levels, deadly force does not become an option, nor is it necessary. However, there are instances where deadly force is authorized, which is a critical topic right now in discussion across the country. Our goal is to never let a force incident get to that level. We have to train and be confident in our abilities to act in that way, but the goal is to keep it from getting there. If we are authorized to point a gun at someone, and take their life, we are authorized to use a vascular and respiratory restraint. That is the only time those two restraint techniques, commonly referred to as chokeholds, those are only allowed or used by Worthington police officers. A lot of questions were raised about why we do not just ban them. Previously in our policies, we did not reference them, we did not use them, we did not train to them. It was never listed as being an approved or unapproved option. An example of them being necessary, is take someone who is of small stature and they encounter someone much larger and stronger, potentially under the influence of something and violent, it is very likely that officer could be overpowered. If they are overpowered and, in a position, where they are prone on their back and this individual is on top of them, there may be only one option left to save their life and that is deadly force. The options can be if they can reach their service weapon, to use that, if they use the restraints it is another form of deadly force and not as likely to kill. As we reviewed the executive order, state official feedback, and Lexipol's recommendations, it was decided that we needed to have something in our policy that specifically limited it to deadly force.

He described when force can be used. Reasonable force is when officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose. The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information, and in circumstances that are tense, uncertain, and rapidly evolving. The courts have set the table so that we are not armchair quarterbacking without the benefit of being in that situation. When saying that the officer has a split-second decision based on their training and knowledge, that decision is made with a lot of consideration to several factors such as the immediacy of the threat, whether there are other options, the mental state of the individual, and the risk to not engage the person at that time. Those factors go into whether or not the actions of the officer can be delayed or if they are needed immediately to protect the lives and safety of themselves and others. That is quite a bit to process in a short amount of time and that is why training

is focused so much on competencies, building confidence, emotional intelligence, how to deescalate, and how to intervene with persons in crisis. The human side of things is focused on so force is the last resort. We average about one a month or less over the past two years, which is a testament to how the officers conduct themselves in a professional manner. The duty to intercede is mandatory and included in our policy so if any officer present and observing another law enforcement officer or a member using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force.

The use of force training shared with Councilmembers this summer, that basic curriculum was approved by the Ohio Peace Officer Training Commission. We train continuously through our daily training bulletins through Lexipol on policy and constitutionality. We engage in proficiency training through scenario-based training where we tie all of these skillsets together in a practical application. There are also semi-annual firearms qualifications.

Mr. Robinson thanked Chief Ware for his overview and written document, which was very informative. His focus on use of force policy really began in March or April of last year with Daniel Prude died in an engagement with police in Rochester, New York. What stuck in his mind was the police chief being quoted that his officers performed in full compliance with policy. He thought how that could be and how policy could allow that to happen, which made him wonder what Worthington's policies were and if our policies allow something similar to happen. As he has read through policy and discussed a number of specific passages, he is aware that a significant consideration is minimizing risk and liability. His question is whether the Chief can assure Council and the public that our policies are written in such a way that something like what happened in Rochester would not happen in compliance with our policies, and if not whether there is any way to write a policy to safeguard that kind of conduct and be described as in compliance. Chief Ware responded that the challenge with force in particular and law enforcement duties in general, is that we do not operate in a vacuum. There are so many external factors that can influence an interaction and he would hesitate to judge an incident in another community without seeing all the facts and circumstances behind it. However, when he looks at some of the incidents in other communities and how devastating the outcomes are, and how ugly they look, it drives him to ensure that while we must have policies and guidelines that keep us in the lane, that does not mean we cannot treat people with dignity and use other options when possible. That is why we focus so much on the training to understand autism, dementia, how to empathize and communicate with people in difficult situations, whether that is their own difficulties or the difficulties due to the fact we are trying to enforce a law. The commitment he gives is that we are committed to never having to use force. We average about one a month, so it does happen, but to the extent we can control it gets to that point in an interaction, we are going to do so. Just because you are

allowed to do something, does not mean it is the right thing to do, and that is what drives his decision making and values.

Mr. Robinson noted how in the Chief's document is described the different categories of sources for policy, and his question is whether policy could include discretionary language that could be additive to the more authoritative, higher-level policies. He knows that in discussion, we have wrestled over language and he wants to know if it is possible to retain the language as retained by Lexipol, but to then have supplemental discretionary language. Chief Ware replied that you could so long as it did not change the legal definition of critical wording. It could be done in a way where you do not affect the pertinent parts of the policy. Mr. Lindsey added that the use of force policies tracks very closely to federal and state law, in addition to what the courts have decided is permitted. He does not rule out the ability to add some language in the sense that it would be additive versus taking away. There is the possibility that additional language might better clarify for the public and reinforce for the officers. Due to the nature of the split-second decisions, it is difficult to ensure that you are going to get to that lowest level because it is an evaluation that the officer does for the safety of the public present as well as the officers' own safety. With that said, he does not rule out that an effort could be made to put some language that reinforces some of the principles that the Chief shared. The objective would be to make sure we do not lose the legal standard that the courts have held.

Mr. Robinson asked what role if any does the Chief see City Council have in the shaping of policy for the police. Chief Ware explained that Council's thoughts are valuable and the more people they hear from, the better informed they are on what it is that Council as a governing body values. That is very important in the discretionary areas. In some of the areas of policy, the courts and federal government have already laid the foundation for where we need to be, and we have little authority to change that. As far as input and values, that is important to him.

Ms. Kowalczyk expressed her thanks for the opportunity to learn from the Chief and his staff. This use of force policy is an important matter. She asked for the Chief to describe how use of force is monitored. Chief Ware replied that every force incident is reviewed by a supervisor regardless of the level of force use, which is reviewed up the chain on command and signed off by himself. When we look at an incident, we are making sure it was legal and within departmental policy and identifying any potential trainings. We review a lot of our calls to identify how we can do things better and what things were done well. Annually, we review these policies, and our support services lieutenant submits a report that is public, outlining the force incidents that we had listing the types of force and the demographic information. We are always looking to reduce those levels of force and making sure our staff are competent. Oftentimes, force to the human eye is ugly and anytime someone fails to comply, and they must be forced to comply, it can be ugly. Ms. Kowalczyk said that the other thing that

would be helpful to understand, is how the national discussion about use of force is about race and the disproportionate application of force on people of color with much worse consequences. When talking about this policy and how it is applied, it is so important to discuss how we are monitoring the application of this policy and monitoring it in terms of bias to ensure we are not applying biased based application. We do not have information about bias in policing in Worthington, the assumption is that if there is any, it is minimal. It is important to understand in this policy with such dire consequence, whether we do that or not, and if there are mechanisms for sharing these reports with Council on a periodic basis. Chief Ware replied that we do review the racial makeup within the context of the review of a use of force. Our numbers being as low as they are, it is somewhat challenging to identify a pattern when you're looking at one report a month on average, versus a larger city that may have one a day. When we review these, we are looking at regardless of gender, race, or background, whether we treated that person professionally and with respect regardless of personal characteristics. The reports which have been published on the City's website and can be part of the Council packet and easily done. When looking at bias and racial makeup, one of the challenges in documenting the racial background of something like traffic stops, the tendency is to correlate that with the population of the community. If you're stopping 10% of a demographic, but they make up only 7% of the residency of Worthington, there is a tendency to think that is not in line with what it should be. The challenge is that we are a mobile society. He would encourage everyone to look when they are out at a major intersection in Worthington and look at the cars that come through the intersection, it is amazing the diversity that visits our community every day. You will find that the percentages are going to be different than what our residency percentages are. That is a testament to the community that people want to visit here but shows how challenging it is to take your surrounding area's demographics and not think they are going to crossover with the community demographics. Mr. Greeson added that we do have bias-based policy around trying to stop bias and a focus on doing implicit bias training, to help mitigate any potential for that. Chief Ware said he did not include all of those pertinent policies in this conversation, but we have standards we train to, collect data, and review annually. We are doing as much training in that area as possible. We are going above and beyond the minimum standards set by the state so that we can be even better as a professional organization. Ms. Kowalczyk expressed how much she appreciates that and how we need to keep that perspective in the discussion as we move forward. It is a difficult task, but it must be done. Ms. Dorothy commented on our disproportionate number of persons pulled over in Worthington, that do not mirror the demographics of the City. Sometimes it seems like that is due to equipment failures and some cities are giving grants to people to have their cars fixed. It looks like we are targeting poor people if we are looking for people with lights out or some sort of problem with their cars.

That might be something to look into, examining the reasons we might engage in the first place. Chief Ware replied that he has a lengthy career in law enforcement, and he is privileged in the sense to have seen some of the things you've talked about such as poor communities or disadvantaged people. For example, you're pulling someone over and they have a suspended license because they didn't pay child support, so now you have to take the vehicle from them that is the means of which they are trying to work in order to support and pay the child support. Or people deciding between fixing a headlight or paying the electric bill. The police have a significant role as a community partner. You can work together as community to help people get their basic needs met, evening the playing field to be successful or have opportunities to be successful. Over time we have written so many laws to control chaos, that certain segments of our society have been affected adversely by that. It is important for police to understand their role. You can be legally just, but there is the question of whether you are being procedurally just. Just because you can do something, doesn't mean that is the right things to do at that time. That is something that the Worthington Division of Police discusses regularly.

Mr. Myers responded to Ms. Dorothy's comments, explaining how the equipment stop is always troubling and is disproportionate, but he knows when he defends cases and talks to officers, it is a slippery slope when talking about which laws should and should not be enforced. We tend to put that burden on our field officers when it is a societal burden. There is no question a missing taillight falls on those who can least afford it. We are always reminded that Timothy McVeigh was stopped because of an equipment problem, so sometimes it is a legitimate basis for a stop. Ms. Dorothy stated that her suggestion was not to not enforce the law, but more about we should help someone fix that equipment failure. Mr. Myers said that we still have to stop the person and that is the problem. His other comment about the force policy in general is that when he reads the substantive portions, about how force is defined and what are the levels of force, our policy is pretty much verbatim from the Supreme Court case law which we cannot change that standard. He asked whether we tracked warnings as well as tickets for traffic stops. Chief Ware said that we do track both verbal and written warnings. Mr. Myers said that we do have some data, for instance around equipment stops, how often we are warning and how often we are ticketing. Chief Ware explained that we do not break them down by the reason for the stop. When he got here, he talked about purposeful enforcement, if we are going out and responding to crashes and then the traffic enforcement, what we need is the crash causing violations. That is not to say you ignore violations, but the focus should be on those things that are causing crashes, clogging up the roadways, and inconveniencing the public. We are in the unique position where we do not have the ability to enforce traffic on the interstate where we respond to crashes. That is challenging. Your typical crash causing things such as distracted driving, speeding, failure to yield, running stop signs, those are the

things we want to focus on. Mr. Myers commented on the force matrix and he was surprised what is constituted as force. It is much broader than a lot of the policies he has seen. He is not aware of another policy where handcuffing is considered use of force. Typically, a balance placement technique would probably not generate a use of force report. With the expansive use of force definition, we have about one a month. He wondered if we took out balance placement and handcuffing how many we would have. Chief Ware responded that it may be about 60% of what we currently report, it is a significant amount. Mr. Myers asked when the last time was a Worthington officer used deadly force. Chief Ware stated that it was many years ago. Mr. Myers shared that the last he remembered was in response to a shooting on Wilson Bridge Road, which was 10-12 years ago. Mr. Greeson stated that he has been here 13 years and there has not been one during his tenure. They are exceedingly rare. Chief Ware said that Lieutenant Holton shared that the last one was in 2002. It is a rare occurrence, but one we must be prepared for and trained to.

Mr. Bucher asked for confirmation that these policies are reviewed annually alongside the statistics. Chief Ware said that is correct, but they are reviewed with staff more frequently. He does an annual review for purposes of changing policy or validating that it is current and consistent, which Lexipol helps with greatly. Mr. Bucher asked for clarification about the reasonable of force being judged from the perspective of a reasonable officer on the scene at the time of an incident. He wanted to clarify that means someone on the scene at an incident is the one. Chief Ware explained that some facts can be uncovered as part of an investigation or review that the officer would not have had knowledge at the time they acted. We cannot use that information to determine the reasonableness of their actions. There have been instances across the country where someone has been shot and it was discovered they were holding a toy gun. If the officer does not know that is a toy gun, then his use of force is probably reasonable in response to someone pointing a weapon at them. We may know that the gun is a toy, or others may know, but the question is whether the officer that took the action knew the gun was a toy. Mr. Lindsey clarified that the reasonable officer on the scene at the time of an incident does not mean an actual officer of the Worthington Police Department, it means that it is the perspective of an officer on the scene at the time of the incident, having the knowledge that the actual officer on the scene had at that time, not the subsequently discovered facts. He explained how one of the pivotal cases that the Supreme Court decided was the Tennessee v. Garner case. The case was decided in 1985 and Tennessee law at that time gave the officer a right to use deadly force on anyone they had probable cause to arrest. As long as a warning was given, if a person attempted to flee or evade arrest, the officer was authorized to shoot. The Court determined that these factors were part of the calculation of when it is or isn't appropriate use of deadly force. Chief Ware moved on to discuss the issue of body worn cameras. Use of body

worn cameras is endorsed by the federal government, state governments, officers, and the public. It is an extension of the dash camera system that started in the 1990s and we intend to use the same vendor as the in-car system so we can save the footage from the two system together. The benefit of body cameras includes improved community trust, accountability, transparency, documentation of events, court presentation, training, behavior improvement, and complaint resolution. With training, we can take an officer through essentially any interaction they have and improve their performance and become more self-aware. There are some concerns with implementing a body worn camera program such as the costs of equipment, issues with storage and retention, public records, and redaction. In Ohio, video footage is considered a public record and that can impact privacy. Privacy concerns will need to be considered, especially with the public where there are areas of expected privacy, moments of crisis, and persons being victims. With the officers, there are privacy concerns around personal conversations, breaks, and use of restrooms and locker rooms. If you have a camera running 24/7 there is potential for privacy concerns. There needs to be a balance between the privacy interest of the public and what law enforcement needs. We need to capture what we need to capture, and not capture what we do not need or when privacy interest outweighs the need to record. Ohio has modified the law to exempt certain footage from open records. The ACLU was very complimentary of the changes in Ohio of the open records laws as they relate to video.

When we talk about activation, we want them activated for all law enforcement activity include pedestrian stops, traffic stops, response to calls, amongst others. The camera also needs to be on if in a conversation with someone that appears to become adversarial. The final catch all is for anytime that an officer believes that it would serve the City's interest. When looking at deactivation, we want that to be at the conclusion of an interaction. There is a legally established right to privacy with things such as HPPA and privileged communications. The situations where the privacy interest outweighs value to law enforcement. In case specific scenarios deactivation can be done upon request. There are times that there are operationally sensitive communications requiring deactivation. There will need to be documentation of reason for deactivation during an interaction which can be done on camera or in the report.

A topic that was raised early on in this conversation, was about the review by officers. He has done extensive research and conversations with regional agencies including at the state level. He has reviewed agency standards and they all allow for the review of the footage before writing routine reports. We have been doing that with our in-car cameras since the early 1990s and it is important to remember that the body camera footage is just one piece of evidence that would be available to the officer when writing the report. It is not uncommon to review all pieces of evidence before writing a report. They may perceive something and then document that the dash camera or body worn

camera picked up something they did not perceive. However, in a critical incident that becomes a little more important. There is some literature that has identified potential detriments to allowing officers to review the footage, but there are also benefits for memory recall. There is not a lot of research on this, and more is needed. In order to minimize the potential that may have on report writing in a critical incident, our officer involved shootings and death policy requires that the report be completed by an uninvolved officer to reduce potential influence.

When looking at agencies that have implemented body worn cameras, there lessons learned that we have used to inform us on potential features for cameras, and the decision to go with the most up to date technology which will have costs which we believe is well worth it. With record after the fact, we will be able to go back and get audio and video. Ms. Kowalczyk asked if that was for 60 seconds. Chief Ware responded that it is longer. One of the agencies that employed it designed it to activate when the emergency lighting systems on the car was activated, which was problematic because 80% of calls do not have the emergency lighting turned on. They discovered that due to muscle memory, officers were accidentally deactivating their cameras. The better way to do it is to require the manual activation, not tied to the operation of the vehicle's emergency lighting system. With records retention, it is an unfinished concern, body cameras will generate a great amount of footage, we are trying to balance storage capacity, the staff capacity to manage public records. The longer you retain a record, the higher possibility you will be processing public records. The other side is privacy, there is the question of how long there would be comfort keeping video footage of persons. If it is no value of court purposes or training, and just collateral footage, there is no value in keeping that for an extended period of time. However, it needs to be examined further before landing on a solid number of days we want to keep footage. With the improved hardware, there is a replacement and maintenance plan. There are discussions about server storage as well.

Mr. Lindsey commented about the records retention issue and that the law allows us to create a retention schedule that has to be approved by our Records Commission as well as the state. The challenge is always how long to keep things and the storage that may entail, as well as the ability to retrieve in a reasonable amount of time. The challenge with video footage that grows with the volume of it, is that to review it to make sure there is not privacy issues involved for the public that might be on the video, the only way to correct redact that, will be to manually review the video. That is very time intensive, and the City of Columbus has had a division of officers who review footage of around 10 persons, which reviewing video footage is their fulltime job. Moving forward with what the right retention schedule will be, it is a significant cost in order to review it. If we retain it, the law will require us to review it if a request is made for it. Chief Ware explained how Upper Arlington which is in the process of

planning for body worn cameras, they hired a fulltime staff member whose job it will be to review footage. We want to be able to use our support techs, but that will not be their only duty and we will need to strike the proper balance. Locating footage and determining what needs to be redacted is the time-consuming work that will need to be done.

Mr. Oliver described how we looked at managing on premises where we both acquire the storage and manage it through the lifecycle with onsite backups and disaster recovery versus a cloud solution where the vendor does that management for us. Once we adjusted and added in our costs, it came out to be on par from a cost perspective. With their cloud solution, they included a replacement for all of the cameras at the end of three years. The cloud solution does provide unlimited storage, unlimited sharing capabilities, and otherwise the features are functionally equivalent in terms of software and other services available.

Ms. Dorothy explained how this was one of the questions she had when this was first brought up and we were talking about using one-time dollars for just the cameras. She asked about the cost of having someone review all this material and the storage. She wondered if there is an annual maintenance fee that we are looking for approval at a different time. If we did have to hire a fulltime person, she is curious about what is the cost of a fulltime officer. Chief Ware responded that we have not calculated the cost for staff. The hope is to set a retention period that allows us to use existing staff. We cannot set a retention too low because that defeats the purpose of accountability. For the maintenance piece, that is built into the cost that will be shared with Council. It is a maintenance and replacement plan, and the hardware costs are all packaged together. We already have the redaction software, which is the same used with the in-car video.

Chief Ware described how after reviewing critical incidents that have occurred around the country and in the region, he decided that we needed enough cameras to outfit every officer. So, we are going to request more cameras than originally requested.

Mr. Myers noted that Ms. Dorothy is raising the same issues that state agencies have been raising since the Public Records Act was enacted. It has been a very expensive law for all public entities and some organizations have entire staffs dedicated to public records requests and review. Agencies have tried for years to have the courts allow them to pass along the actual costs of public records, but they cannot. Chief Ware said that Ohio is one of the most open states for the purpose of reviewing public records. Mr. Greenson stated that this is something that will need to be reviewed and adjusted over time if necessary. Ms. Dorothy said she is worried about going down this path and then needing to provide the staff necessary for the review of public records. We really want the next person to be hired to be a social worker for the police, not just someone to look at public records after the fact.

Ms. Kowalczyk asked about how long the look-back feature is. Chief Ware replied that it is going to depend, part of the reason for asking for more cameras is so that he can assign them to individual officers. These cameras will be carried only by the assigned officer for their shift, nobody else will use that camera. The footage for that individual officer is in the position to be recorded after the fact for a longer period of time. Ms. Kowalczyk said she was thinking of something else; it is the cameras not coming on soon enough where there is a 60-second initiation with video but not audio. Mr. Oliver explained that it is configurable, he believes it is around 90-seconds. Ms. Kowalczyk asked about battery life and how long they are going to last and if that is sufficient for the usage we are talking about. Mr. Oliver replied that is set-up to be around ten hours and officers will have the capability to charge in-car and have a secondary battery. Mr. Robinson brought up the issue of activation and how there was language such as, "We want them on under these circumstances..." When he looks at the language in the proposed policy, it seems like it gives great discretion to the officer. He asked how that language in the policy would translate into actual practice in the field and how we would avoid situations where an officer might turn off for their own reasons but in a way that might not comply with the spirit and intent of the policy. Chief Ware replied that the bullet points listed on the screen are cut and paste from the policy. The opening paragraph gives the officer basically the ability to do what the last bullet point says, which is activate it in a time that it would be of value of the City's interests. To answer the question, nothing is foolproof, he is sure an officer could attempt to circumvent the recording by claiming they are shutting it off for another reason, but there are other recordings as well including the in-car camera and other officers on the scene. The likelihood of them successfully circumventing policy would most likely not be successful. We do a thorough review of incidents as part of protocols. Mr. Robinson asked about the review by officers and wanted more information on the circumstances where another officer would be writing the report. Chief Ware responded that is a policy still in its development stage and has not been issued. The intent of that policy is to have uninvolved officers write the reports if it involves an officer involved shooting or a death in the care and custody of police. Mr. Robinson asked if that was in works with Lexipol or internally to Worthington. Chief Ware said it is review of a policy from Lexipol and there are some caveats in discussion with the labor attorney to what level that has to be taken through the labor management process. Mr. Robinson asked if there were any other language that would allow further differentiation, meaning any other instances where access to the review by officer would be circumscribed, such as different types of use of force or is this the only qualification out there. The root motivation is that prior to this evening when he thought about this, his reflexive thinking was that an officer should not have access to video. If they do not have access to the videos, it would require rigorous recollection and truth telling on their part, based upon memory.

Viewing videos could have them writing the report in line with the videos. He has modified his thinking; he is open to various circumstances where it makes sense. He wondered if there are ways to think about it and enact policies, particularly with use of force, where the review by officers would be circumscribed. Chief Ware explained how he asked that question to other law enforcement executives around the state, particularly those that are at the top of their game, to his surprise they were all allowing for that review. Absent some definitive research that validates some of the potential concerns posed in literature review, that the best practice currently is to allow for that review. This is only one piece of evidence in that event, there will be multiple officers with body cameras, they will have in-car camera footage, there may be other evidence to review. We have had lengthy discussions about the role of reviewing camera footage, particularly in a use of force incident. Ms. Dorothy expressed she is very interested in this and she does believe the officer should be writing a report without the use of the video. Every single person's perspective is different. The example used earlier of the boy with a toy gun, the officer was acquitted because in that moment of time it wasn't a toy, so why do you get to use it both ways. Everyone has their own perspective, and it should be written that way, and everyone should have access to this public record after they have had the chance to give their statement. She is not for having the officer having access to this information before they make their initial statement. She is happy to hear other people's perspective.

Mr. Lindsey explained how the video has multiple functions and is used in the prosecution of any crime that may have been occurring that prompted the officer to be there. Not every incident involving a body worn camera involves a person charged with a crime, but generally the police are responding to some situation that may or may not involve criminal behavior and therefore the prosecution will want an accurate report of what was observed. Previously, officers have routinely observed the cruiser video before completing their reports on a traffic stop as to accurately reflect what was observed. If you do not, you have an officer's report that appears to conflict with the video, and the jury having watched the video now questions the officer's credibility because they incorrectly noted things on their report. From a prosecutorial point of view, they would much rather that report be consistent with the other evidence that the jury will be hearing. Another aspect of that is that the officer in writing their report, has already interviewed witnesses, read their statements, and the system already has in place that the officer's report is a compilation of information both personally observed and conveyed by other means. In the civil liability aspect, defending the public treasury in terms of liability cases in which a city or state or other government entity is being sued, similar concerns of having an accurate report come into play from a desire to be consistent with the other evidence. The one exception is in the labor management situation, so if you are considering an internal affairs investigation of the officer's actions, it

might be in that instance that you would want the officer's viewpoint as to why they did what they did perhaps without the benefit of that video. He does not know if that is uniformly done anywhere, but that would be the one instance where the City's interests would align from a management standpoint more closely to the concerns about having a report that was not based upon review of the video. Nobody has enough experience with this concept to be comfortable with a policy that changes what has been in place for 30 plus years in terms of cruiser video review.

Mr. Myers described how the idea of us having cameras, it is not quite as authoritative or definitive as DNA, but it is pretty close. If we have video of an encounter, we know if we are going to trial or not or if we are going to settle. As for turning cameras on and off, all of the officers he has encountered are going to turn their cameras on more often than they should, because they want to protect themselves and have a clean record of everything and not falsely accused. If we have an officer that would manipulate turning it on or off, he would be suspicious and guess that agency already knows they have problems with that officer. His experience is most officers want to protect themselves, and agencies that do not have cameras have expressed how they wish that they did because it would make everyone's life easier. As to whether they should review the video prior to writing a report, it is important that the report is as accurate as it can be. While the officer will have to express what they saw at the time, it shouldn't be based on perception, it should be based on fact. The best expression of fact we have is the video. If there is inconsistency between the report and the camera footage, there are going to be problems. The officer's report is going to be a computer-generated report that has the statutes cited, then there is going to be a narrative which is what the officer saw. On cases where there is no video, in his experience, the narrative is much more favorable to the prosecution than what the actual facts turn out to be. The report is going to be written to make the officer look really good, the video is going to keep them from doing that. He wants to make certain that the report produced is as accurate as possible. The other situation encountered all the time is that an officer is going to cite someone on a specific code violation. With as many laws as we ask officer to enforce, we cannot ask them to memorize every criminal statute and every criminal ordinance. They will know generally that something like speeding is a certain city ordinance, but they may not know that burglary is a certain state statute. So, they will look at that statute before writing the report to make sure the elements are in that report. Same thing with the video, they are going to look at the law before writing their report. We want the most accurate report that we can get and want to make sure the officer is consistent because the real truth is in the video. He cannot support cameras enough. They protect everybody and if we want to talk about police bias, we will discover bias from looking at videos to just see how they interact with the public, and we will be able to train around that. This will be a tool to weed out bias because we will

be able to see how they interact with people. In his experience with use of force situations there are two parts, the act of the use of force and the time leading up to it. The time leading up to the application almost always determines whether force will be used. A lot of times if the officer does the right thing prior to using force, they never have to use force. Those cameras demonstrate that and help that officer deescalate better and use better techniques.

President Michael conveyed how she agrees with Mr. Myers about having the most accurate report as possible. If the report is not consistent with the video, it can compromise the case and the integrity of the officer.

Mr. Robinson acknowledged that this is a very complex issue, dealing with perception, memory, and legal aspects. He can accept the relative truth of the perspective that Mr. Myers is sharing. However, he is not persuaded that allowing access to videos prior to writing reports would result in something you would call accurate. He would imagine himself if he was an officer and been involved in an incident that was problematic, if he was writing a report and watching a video, it would be possible that his recollection and articulation of motives could be skewed. He is not convinced that access to video prior to writing reports would serve the overarching benefit of cameras for the public, that cameras can be seen as providing as close to as an objective portrayal of events. It is complicated and he is not persuaded that allowing access would provide objectivity.

President Michael asked what the difference was between someone reviewing body camera footage and reviewing in-car camera footage, which has been done as custom over the years. Mr. Robinson replied that the body camera would often be up-close and more revealing, the car itself might be in position to capture events very well. Maybe in some instances, access to the car footage should not be allowed. In principle, he hears what is being said, but just because we have been doing it with the car footage, does not mean we should be doing it with the body camera footage. Mr. Myers said he just does not understand. For example, if someone has a final paper due in a class, they will probably go to the library and research for that paper as opposed to just writing the paper from what the professor was saying. A person is going to use every tool available to make certain the report captures what actually happened, rather than embellishing or leaving something out. He does not know why we would not strive for the best recollection and use all of our tools to arrive to that recollection. Mr. Robinson said that the issue of best recollection, that is not the whole story with the impact for an officer of seeing video footage before writing a report. Ms. Dorothy agreed that it is not saying they cannot see the footage, it is just seeing it prior to writing a report. We do not give the public access to the footage before making a statement, so she does not see why we are giving the access to the video before they make their first statement. It is not that we do not use the video, it is not the first tool that we use. Mr. Myers asked what is wanted from the report. Ms. Dorothy replied that we want to see what

happened. Mr. Myers replied that the cameras are telling you what happened. You do not want what happened, you want the officer's remembrance and recollection of what happened. You are not asking for what happened, because if you are asking for what happened, you would not do a narrative. The narrative would just say, see video. Ms. Kowalczyk asked if there is some relevance to that perception. Mr. Myers replied absolutely that report is going to be written, looking at the video and expressing their perception on top of what that video shows. The video is not as good as what is seen on television, it may not show the details, so you will get the officers perception on top of that video. If you're looking for what happened, the video is the best evidence of that. Mr. Robinson expressed that no one is saying the video should not be viewed, the question is whether the report written by the officer should be able to avail itself of that prior to the writing of the report. It sounds like the public when asked to give testimony and statements, they do not have access to the same video. To put the burden on the officer, why would the officer not want or be able to write a report without access to the video. He asked what the harm is in them writing a report without the video. Mr. Myers reiterated that the video is evidence. Chief Ware explained how when teaching to write an incident report, that report becomes the basis for the criminal charge or the probable cause for an arrest or some other proceeding. He asks them to answer five questions: who, what, where, when, and how. The only way you can have those is to review all the available evidence which would include the video. He understands the concern, but his question is one of if they write the report without use of the video, then watch the video, there has to be some change to that report either as an amendment or supplement. When you do so, and the video is different than the officer's writings, then you cast the question of the impeachment of their integrity or casting doubt as to whether or not any of their recollections are accurate. In a criminal setting where the burden of proof is much higher, then the least amount of doubt cast can make the difference between a successful prosecution and an unsuccessful one. For example, if you are called to a brawl at a restaurant or liquor establishment, and you come in, the first thing that happens is that everyone runs when they see the police. The officer may not be able to tell who the participants are, but the body camera footage caught it, and they just need to look at it to understand who should be appropriately charged for what based on statements and evidence. There is a balance here as to accuracy versus the potential there could be undue influence on perceptions. President Michael expressed that we are going to have to come up with a policy at some point if we are to have body cameras, and everyone pretty much agrees that body cameras would be a good thing if we can come up with the right policy.

Mr. Myers explained that the report is what generates the charging document eventually. This officer is about to charge someone with a crime that could result in the loss of liberty, which is really serious stuff. He wants to make sure

before they do that, everything is correct. That video helps the officer get everything correct before starting the process to put somebody in jail. It is not necessarily that we need to protect the officer in some pending criminal trial, he is looking at it from the perspective of protecting the defendant to make sure the officer got it right. Mr. Robinson asked what it means if the officer does not get it right. Mr. Myers responded that if the officer filed charges without probable cause, first the case would be dismissed, if the officer did it too often, they may be disciplined, it would result in civil rights action where we would pay, and it is just the wrong thing to do. Before you charge someone with a crime you want to make sure they did it, which is why you interview witnesses and do a crime scene investigation. This is why we have all these techniques, and if we are going to charge somebody that we got it right. Chief Ware raised the issue that if you have the body camera and do interviews with victims and bystanders, that recording is your interview, so when you write the report and reference the interview, it makes sense to look at the video which depicts the interview to make sure you got the right content of statement when writing the report.

Mr. Bucher shared how he appreciates this discussion and how it is a difficult situation to balance things correctly. He feels that the proposal discussed where with fatal cases, someone else reviews the video is a fair compromise as to who can see the potential video footage and when. He agrees that using video and other tools to get the report correct is key and we should continually review this to ensure that the program is meeting all the goals. He asked if there is a rough timeline for next steps on this. Mr. Greeson responded that there is an appropriations ordinance on the table that will need to be amended and voted upon, which can happen at any meeting following this one. At this point, we have prepared a recommended policy as well as thought through the budget and could put it on any subsequent agenda that Council is comfortable with. There is a budgetary overview of this that Mr. Bartter can cover when the time is appropriate. Mr. Bucher expressed that however we move forward, that we also provide plenty of opportunity for public input. We want to make sure we are doing our due diligence there.

Mr. Smith stated that he is struggling with this one, it is outside of his normal wheelhouse. He is trying to think about the vantage point of a defendant or perpetrator as the case may be with these cameras. He has some good answers for why it would be beneficial for a defendant or perpetrator, but maybe that is a future point we can discuss.

Mr. Bartter detailed how the cost is \$155,000 and we have an appropriation on the table from July 2020 using the Law Enforcement Trust Fund for \$55,000. We anticipate we would pull the legislation from the table and amend it with an additional \$100,000 from the New and Replacement Equipment Line in the Capital Improvements Fund.

Ms. Kowalczyk went back to what Ms. Dorothy asked about the ongoing costs

and wanted more information on those costs. Secondly, she asked if there is grant funding from the state to support this. Chief Ware shared that in the Governor's biennial budget, he is putting in money for body cameras for law enforcement agencies. His understanding is that those dollars will survive the budgeting process and it is likely some of that money can be used reimbursable for hardware costs, so we will likely get some money back.

Mr. Bucher asked about the funding from the Law Enforcement Trust Fund and the source of those dollars. Mr. Bartter responded that it is from the sale of contraband and has about \$73,000 in that fund which can be used at the Police Chief's discretion to support policing in the City of Worthington.

Mr. Greeson asked Council if any additional information is needed. The Law Director and Chief of Police had a robust conversation about the policy, and it sounds like there is some time Council wants to spend thinking about it. Ultimately the decision will be less on the substance of the policy, but on the appropriation. We want Council voting on the appropriation knowing what the policy is that is intended to be issued.

President Michael asked if people have questions who those should be forwarded to. Mr. Greeson replied they should be sent to the Chief.

Mr. Lindsey explained how he wasn't fully sure we answered the maintenance cost question. He thought that he heard in the discussion some mention of maintenance costs being part of that and it was explained this budgeted amount would buy us two renditions of the cameras. But he asked for clarification on how many years of maintenance the \$155,000 covers. Mr. Oliver replied that it is 5 years inclusive for the hardware, software, and maintenance. He thought the maintenance questions were more around the administration and staff costs for that. Ms. Kowalczyk said that answered her question.

Mr. Greeson shared that Mr. McCorkle wanted to give Council a heads-up on the Farmers Market and some interest we are getting about a potential expansion of the DORA. Mr. McCorkle explained how there are a lot of questions about when the Farmers Market will return to Old Worthington, and the Partnership is working hard with the City and Columbus Public health. There is tentative approval to return to Old Worthington at the beginning of May. There are extensive health protocols including expanding the geographic footprint, social distancing, and hand sanitizing stations. Masks will also be required. More information will be coming out soon from the Partnership. With the Designated Outdoor Refreshment Area, from the ReBOOT applications came the suggestion that the DORA be expanded, specifically the hours and days. The proposal will require a couple legislative changes, which will come next week. What is proposed is a 90-day pilot from June to August, where the DORA becomes a full sip and stroll district every day of the week. It will no longer be just a sip and stroll district for specific events. This will help support our local businesses, and afterwards we will be able to assess what to do going forwards. Mr. Greeson described how the DORA creation was a sensitive topic we had to work through

carefully, but we need to bring this conversation forward considering how so many of our local businesses are interested in it and we need to support them in these unique times.

Mr. Robinson asked if this was intended to be a permanent policy and is not just a COVID policy. Mr. McCorkle replied that it will be started as a 90-day pilot, but if successful we would recommend that it stay in place.

Mr. Greeson updated that he has attended several meetings of the school facilities task force. The first one was a high-level overview where they talked about the previous task force's work and recommendations. The second one, they broke out into groups to use as focus groups on various topics and surfacing concerns. More recently, the planning team spent time with the task force highlighting a website they are going to roll out using GIS to show all the schools and home turnover in those areas in addition to student yield analysis for each building. They also asked for feedback about questions they were going to ask the public. There were lots of Worthington residents who had experience with survey questions and could provide feedback. The District has announced a meeting where some of those questions will be asked on April 28th at 7:00pm for the public. They also offered tours of buildings to the task force, he toured Colonial Hills and Brookside with their principals and facilities staff. His main takeaway is that the scope of Phase Two, which was a significant redevelopment of Thomas Worthington, investing some in Kilbourne, and doing a couple elementary schools, due to construction cost inflation there may not be enough resources to do all of that. Some of this dialogue may be around whether it is best to invest in the high schools or the elementary schools. This task force does not appear to be getting down to the landscape, site, or specific school level, it is more at a higher level so far.

Mr. Lindsey updated on the American Legion Post liquor permit request. Ms. Thress did receive an email with the D-3 permit form notification. We had previously indicated that was in-process. It is not clear why we did not get that with the D-2. She sent out our request for the 30-day extension and we would consider both of those requests at the same time, tentatively on the first meeting in May.

Reports of Council Members

6. Reports of Council Members

Minutes:

Ms. Kowalczyk shared that she was very interested in Reynoldsburg's recent adoption of the position of public safety and social work victim advocate, who could help serve the community and take on some of that burden in dealing with mental health issues that is beneficial to everyone. She would like to have more conversations about how we could do something accomplishing those goals as well.

Mr. Myers applauded Mr. Whited for getting the street sweeper out to get glass off the

streets after sharing his concerns last week. He also brought up how he has seen people out working on the bridge at Park Boulevard Park and how much he appreciates the work of the Parks Department on that.

Other

Executive Session

7. Executive Session

Adjournment

8. Motion to Adjourn

Minutes:

MOTION: Mr. Myers moved, Ms. Dorothy seconded a motion to adjourn. The motion carried by a voice vote.

President Michael declared the meeting adjourned at 10:45 p.m.

Contact: D. Kay Thress, Clerk of Council (Kay.Thress@worthington.org (614) 436-3100) | Minutes published on 04/29/2021, adopted on 05/03/2021

 /s/ Ethan C. Barnhardt
Management Assistant

Attest

 /s/ Bonnie D. Michael
President of Council