



City Council Agenda

Minutes

Monday, May 10, 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, May 10, 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, David Robinson, Doug Smith and Bonnie Michael

Member(s) Absent: Scott Myers

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, Communications Director Anne Brown, 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.

Special Presentation

4. Resolution No. 21-2021 Recognition - Kathryn Paugh

Expressing the Appreciation and Best Wishes of the Worthington City Council to Kathryn Paugh for her Outstanding Service to the Worthington Area Chamber of Commerce and Contributions to the Worthington

Minutes:

Introduced by Mr. Bucher

MOTION: Ms. Kowalczyk moved, seconded by Mr. Smith to adopt Resolution No. 21-2021.

The motion carried unanimously by a voice vote.

President Michael read the text of Resolution No. 21-2021. She thanked Ms. Paugh for all she has done and has always been deeply involved in the community, connecting with people, and making things better.

Ms. Paugh expressed her appreciation for everyone in attendance. It has been her honor to lead the Chamber, to work with everyone, and wear the occasional moniker as "Ms. Worthington". She is deeply honored.

Mr. Greeson said that in the life of a staff member in Worthington, there are some constants over the years, first is that Finance will deposit your paycheck every two weeks, second is that the first three Monday nights of every month we'll have a Council meeting, and the third is that Kathryn Paugh will answer your call and be willing to help you with any civic project you wish to undertake. He has been witness to her going far above and beyond not only connecting people, but working to build organizations, collaborations, and relationships in this community. Each initiative along the way has benefitted from Ms. Paugh's keen insights, exceptional organizational skills, and ability to shape and harness the written word to make every event a little more special. He cannot wait to see what she does next.

Mr. Robinson thanked Ms. Paugh for the warmth and hospitality she has always showed him at Chamber meetings. He wished her best of luck in her future endeavors.

Ms. Dorothy thanked Ms. Paugh for making events so special, noting her attention to detail. Every event was special and memorable.

Ms. Saunders explained how she shared a letter to membership that described how she met Ms. Paugh and how she was excited to be a part of the Chamber and Ms. Paugh's world. She is so thrilled to have had the opportunity to learn from Ms. Paugh and have her as a mentor. She wished Ms. Paugh the best and that they will work to carry on her vision of the Chamber going forwards.

New Legislation to Be Introduced

5. Resolution No. 22-2021 ReBOOT Grant to American Legion Post 239

Approving Funding from the ReBOOT Worthington Grant Program to Support the American Legion Post 239.

Minutes:

Introduced by Ms. Dorothy

MOTION: Mr. Robinson moved, seconded by Mr. Bucher to adopt Resolution No. 22-2021

Mr. Greeson described how at the last meeting, Council directed staff to craft legislation in order to consider issuing up to a \$14,000 grant that is roughly the amount encumbered in the Economic Development Fund for the purposes of the

ReBOOT grant program. We have prepared that resolution and staff is ready to answer any questions Council may have. One of the things noted in the staff memorandum is the recommendation that we include a similar requirement that we have with other not-for-profit and civic organizations that we support, requiring a year-end report documenting how funds were used along with a short explanation of the proposed use of funds before distribution. The purpose is for accountability and audit purposes consistent with good financial practices of local government. The American Legion does many important things in our community and it should be an easy requirement to fulfill.

Ms. Dorothy expressed that she is in favor of having the reporting requirements.

Mr. Robinson agreed that the reporting would be appropriate and not difficult to provide. He appreciates staff putting this legislation together. He only became aware of the contributions of the Post through the discussion that was had last month regarding the liquor license request and subsequent visits he had with Commander Luksik. Considering that the Post has not had prior City funding, and was not aware of the ReBOOT program, and the impact that COVID has had on them, this would be money very well spent and he is fully in support.

Mr. Bucher echoed support for the reporting requirements.

President Michael commented that she supports the Legion and the work that they do. However, this is one-time money and is something that should not be counted on in future years. We received a number of letters from individuals saying how much they support the Legion, and she mentioned that the Legion does not have a lot of sources to raise funds. She would suggest that those who have had family members that served in the military, to join the Legion and help bring in some extra business so they can have ongoing income coming in.

Ms. Kowalczyk added that in terms of sustainability, there is no reason the Legion could not apply for community grants, though it may not be as much as there is through this particular grant. She suggests they take a look at that application next year to see if it fits with their mission.

The motion carried unanimously by a voice vote.

6. Ordinance No. 18-2021 Development Agreement High North

Authorizing the City Manager to Enter into a Development Agreement with DRP Worthington, LP.

Minutes:

Mr. Greeson explained that this is the High North Development Agreement and many of the details are spelled out in the memo. The agreement itself is in final legal review and will be attached to the agenda of the upcoming meeting and public hearing. There is a substitute ordinance to be introduced this evening, which Mr. Lindsey will overview. Next Monday night there will be a full and detailed presentation on all aspects of this.

Mr. Lindsey explained how there are some offsite public improvements that the developer will be doing, including enhancements to the High Street corridor, pedestrian pathway by the Wilson Bridge intersection, and then City monument and

landscaping that will be done. We have added language to clarify the appropriation needed for that piece of the work that the developers will do on behalf of the City. We have added our normal language regarding determining to proceed with public improvements to meet the Charter language. We also clarified that during the period of construction, the City Manager may need to grant temporary construction easements as to allow them to get the work done, and would not need to come back to Council for temporary easements for work done in the City's right-of-way. The City Manager would also have authority to take any administrative actions necessary consistent with the ordinance and the development agreement. It does not include authorization or approval of the financial incentives that will come later once the developer has secured the necessary leases to move forward.

Introduced by Mr. Smith.

The Clerk was instructed to give notice of a public hearing on said ordinances in accordance with the provisions of the City Charter unless otherwise directed.

Reports of City Officials

7. Policy Item(s)

a. American Legion Post 239 Liquor Permit Request

Minutes:

Mr. Greenson summarized how Council asked for a 30-day extension to decide whether to object to the Division of Liquor Control on the issuance of D-2 and D-3 liquor permits being requested by the American Legion Post. We requested that and it was granted. This is the last meeting before the 30-days are up, and Council needs to discuss what action to take.

Mr. Lindsey explained how he asked attorney Marc Myers to join us on the call tonight and how he is a long time practitioner in liquor law. We are here to support the discussion by Council tonight.

President Michael asked if in light of the ReBOOT funding whether the Legion is still interested in moving forward with the liquor permits. Mr. Lindsey said he is unsure, however Mr. Robinson has had discussion with the Legion in recent weeks, and Mr. Myers has had discussions with the attorney who is assisting them with their liquor permit process.

Mr. Robinson said he cannot speak for the Post in any way, but two understandings that he has from conversation with Commander Luksik, is that their motivation for seeking the permits originally is entirely financial. He had wondered whether there were other motivation such as giving visibility to the Post, but as far as he understands that is not the case. They would rather not staff events with volunteers. Whether tonight or into the future, he would very much like to discuss the possibility of recurring grants for the Post. A second factor that relates to whether they want to pursue the licenses, according to the Commander, they are still entertaining the possibility of continuing to seek the

permits even if additional funding is granted, with the idea they would subsequently sell the permits. Personally, he hopes to discourage the Post from pursuing that course of action if in fact their financial future can be secured through other means. He does not know what they would say tonight, but the ReBOOT funding is a one-time, generous grant, but he does not think that alone will cause them to abandon their pursuit of liquor licenses.

Mr. Myers explained how with his conversations with the attorney working with the Post, his impression was that the main purpose was not necessarily to obtain the permits to sell or cash them in, but the Commander envisioned the Post being able to hold special events, and they would be able to raise money. That was the core purpose more than the idea of getting the permits with the purpose of selling them. President Michael asked about if they were to get the liquor permits, there would still need to be a conditional use permit to restrict time, place, and dates. She asked if they are still moving forward with permit or want to withdraw. Mr. Robinson brought up a text he just received from Commander Luksik that his description previously was correct as to the understanding of the Post's sentiment and thinking. President Michael asked if that means they want to withdraw or move forward. Mr. Robinson said it is an awkward position, the Commander can listen but cannot call in. He said that the D-2 and D-3 permits alone are not particularly useful, and the Post being able to use or sell them is contingent on getting a D-1 permit. He asked for Mr. Myers to speak to the issues related to the probability and timing possibility of them getting a D-1 license. Mr. Myers explained that they are in opening status for the D-2 which is for wine, and the D-3 which is spiritous liquor. However, it is not in opening status for the D-1 since the liquor permits are issued on a quota basis. The quota is one permit for every 2,000 people or part there of. The population of Worthington is listed at 14,725 which makes the quota for the permits eight. Currently there are seven D-1 issued, so there is one opening, but two people on file. Number one is Yappy Greek and the Legion Post is number two, and they are the odd man out. They will not be getting the D-1 until or unless they come up for an opening. The only way they will come up for an opening is if the Yappy Greek does not qualify or withdraws their application, the other way would be if the population of the City increased by 1,275 people ratcheting the quota up, the final way would be if one of the current permit owners lost their permit, creating an opening. The only way the Post would get a permit quickly would be to buy an existing permit, or try to buy a D-1 from outside Worthington and TREX it in with the upfront support of the City Council. Mr. Robinson asked about the probability of a current owner not renewing their permits and the timing of that. Mr. Myers replied that with the timing, that would not be solidified until early October since the renewal is due July 1 and there is a 30-day grace period and a 30-day appeal period. Assuming a permit holder went through that process, the Division would wipe it out of the register, putting the Legion into process. Mr. Robinson asked if that ever happens. Mr. Myers replied that it

typically happens in much larger cities with a larger pool of permits. In a town like Worthington, unless there is a D-1 permit holder who is in big financial trouble, it is unlikely to happen. Savvy permit holders know that the permits have value to stay in Worthington or be T Rexed out. The odds are pretty small. The other way would be if someone lost the permit through revocation which is also unlikely. With the population, he does not know how much it will grow with the population figures.

President Michael texted Commander Luksik and he informed her that they still want the licenses. So, they would still like to move forward with the understanding that there be a conditional use permit and the City would have definite impact on their hours of operation and what they can and cannot do. Mr. Myers expressed that is consistent with what he was told, that the Post did not want to withdraw their application.

Mr. Lindsey noted that even if Council were to vote to request a hearing, the chances of the City being able to establish grounds that would result in the non-issuance of the permits would be very slim. There is no prior history of any problems, or separate grounds that the Liquor Commission would be considering, they do not concern themselves with local zoning. Council may want to consider not objecting, and letting the process move forward, knowing that if they want to hold those special events, the Post will need to seek a rezoning of the property and then seek the conditional use. Through that process, the City will be able to hear from the residents and work out a solution that would work for all parties. Mr. Myers said that the law specifically cites that zoning is not to be considered by the Division of Liquor control, that is 100% a local issue. The Division of Liquor Control will not issue the D-2 and D-3 permits to the Post until or after it cancels the D-4 permit. The Post cannot hold all of those permits at the same time. Until the Post comes into opening status for the D-1 or obtains a permit by some other means, if they want the D-2 or D-3 fairly quickly, they would have to give up the privilege of selling beer. Mr. Robinson asked how long they would be able to hold on to the D-2 and D-3 permits in safe keeping. Mr. Myers replied that it cannot be put in safe keeping until issued, and right now they do not have those permits, they have a pending application. In order to have the D-2 and D-3 issued, they must give up their D-4, since the privileges are duplicative. Mr. Robinson asked if there were a status for the Post whereby the D-2 and D-3 would be in some sense approved and in waiting, where they would have ownership pending the receipt of a D-1. Mr. Myers responded that there are no guarantees they will get the D-2 and D-3, they are in pending status. The Division will not do much about it and could be in pending status for a couple of years unless someone gets in line behind and their license is prejudicing that subsequent applicant, the Division will turn up the heat to get the permits issued. Mr. Robinson said that he imagines there is a process where the Post could inform the Division of Liquor Control that they are withdrawing their applications and would take effect immediately. Mr. Myers said that is

correct, all they would have to do is file a request that would initiate a refund of the D-2 and D-3 permit fees that have been paid.

President Michael explained it is her understanding that the Legion would like to pursue these permits, only for special events and we all know for anything to go forward, they would have to go through the rezoning and conditional use.

Mr. Robinson asked when the rezoning potentially takes place, whether the regulation of the hours of possible operation would be determined through the rezoning process, or would there be subsequent action that would regulate the specifics. Mr. Lindsey replied that it would most likely not be part of the rezoning itself, assuming they would rezone to the same zoning classification as Memorial Hall. It is possible they would seek a PUD rezoning, which allows for a lot of details to be a part of the actual rezoning process itself. The anticipated approach would be to rezone to the Memorial Hall classification and then do a conditional use, which the conditional use process would include the additional controls. However, it could be done through a PUD process as well. Mr. Robinson asked if the conditional use terms could be changed by a subsequent council. Mr. Lindsey replied that there is a notion of having a conditional use granted for only a period of time, and make the property owner seek an additional conditional use each year for a period of time, and then grant a longer one. Those are options we could explore with the Post if and when they seek that rezoning.

Mr. Smith asked if his understanding is correct that if the Post gets their D-2 and D-3, they are giving up their D-4 and would not be able to sell beer at all, even to their members. Mr. Myers said that is correct, the D-4 allows the sale of beer, wine, and hard liquor to members only. In order to have the other permits, they would need to cancel the D-4 and would lose the privilege of selling beer. Mr. Smith asked if they do not end up getting the D-1 in a timely manner, can they revoke their D-2 and D-3, and get their D-4 back or would they have to restart the process of getting that permit back. Mr. Myers replied that they could cancel the D-4, get the D-2 and D-3 issued, and then try to market the D-2 and D-3, and apply for a new D-4 since there are plenty of those permits available in Worthington. Mr. Lindsey clarified about the issue of safe keeping, mentioned by Mr. Robinson, and that is a process that occurs but not in this instance. As long as nobody else is seeking a D-2 or D-3 in Worthington, the Post could be in a suspended application hold period where they would not issue those permits, and the Commission would not care about that status until another permit seeker was prejudiced by their failure to move forward. Mr. Myers explained how they can sit on the D-2 and D-3 application indefinitely as long as there is nobody behind them. It is when someone gets behind them and is ready to go, the Division of Liquor Control would put heat on the Post to make a decision. President Michael expressed she is looking to Council, because there needs to be some decision whether to object or not object on whether we want a hearing. If there is a hearing, the odds are not very good that we will prevail because

there are no negatives in the prior history of being in the community.

Ms. Dorothy asked what the normal conditions are for requesting a hearing. Mr. Myers replied that typically the objections for a new permit are if the applicant is not qualified and has a bad track record or number of felony convictions. On this one, it is a hybrid because it is a new application but the applicant has a track record. The only way you could sustain an objection is that you would have to show issuance of the permit would have a substantial and adverse effect upon the neighborhood. In order to try and prove that, you would have to show that the D-2 and D-3 would attract potential sales to non-members that could cause traffic problems and adverse effects on the neighborhood. The evidence is that the operation of the Post has not had any effect on the neighborhood in the years since they have held a permit. The chances in prevailing in an objection are probably pretty slim. The only avenue you could attack it is the adverse effect on the neighborhood.

Mr. Bucher expressed his appreciation of all this information tonight. He believes we need to move to not object at this point given what we have been told. If this does move forward, we would have opportunity to engage the community and the applicant on how to do this correctly for the neighborhood.

MOTION: Mr. Bucher moved, seconded by Ms. Dorothy to not request a hearing.

Mr. Robinson stated for the record that he has come to appreciate the meaning and role of the Post in our community. He is committed to working to secure their financial future, but he does not believe the event space facility with liquor licenses is advantageous for the Post and is fundamentally inappropriate for the neighborhood. He is very much opposed to the Post operating an event space there, but he believes the good news is that he does not believe they will need to. He will abstain on the vote and his hope is that in the coming months we can further talk with the Post and we can develop a plan where the interests of the Post and neighborhood will both be met without the need for liquor permits. President Michael brought up a text message from Commander Luksik that the Legion has had their liquor permit for over 30-years.

Mr. Smith said he does not believe we should object, but there will be some significant issues in the neighborhood if it does go through if it becomes an event space. Through our planning and conditional use process, he hopes we can help facilitate that in the neighborhood. Anything we can do to help the Post be more financially viable, he is in favor of that.

The motion carried by a voice vote with an abstention

b. Permission to Bid - 2021 Street Improvement Program

Minutes:

Mr. Greeson detailed how historically we have conducted group driving tours to observe the roads being re-paved. However due to the pandemic, we distributed the plan and asked that Council do their own self driving tour. He does not know if we have had any substantive commentary on the proposed plan, but we are

prepared to answer any questions.

Ms. Dorothy asked when this was also sent over to the Bike and Pedestrian Committee on how to achieve bike and pedestrian accommodations in Worthington.

Mr. Whited responded that he put a brief presentation together and will answer Ms. Dorothy's question as a part of that. We have 167 or so lane miles of roadway we take care of every year, and use the PASER program that lets us evaluate the conditions of the roadways. The Worthington PASER program takes the scale indicators and makes the applicable to our community. We try to keep our pavement in the good to satisfactory range to control costs and maintain best pavement maintenance program possible. Only 1% of our roadways are in the poor condition category. We are starting to make some headway on the pavement preservation and the positives that come from that. Tonight we are asking to bid and will come back to verify funding legislation for the work itself. The bid opening will be on June 2nd and anticipate awarding the bid on June 28, starting construction in July that would end in mid-October. We did coordinate with the Parks Department to make sure that Bike and Pedestrian Committee was involved, but there were not a lot of opportunities to do that due to the continuous nature of the project. However, we are open to suggestions moving forward and if there are any projects from Bike and Ped that can be rolled into this project.

Ms. Dorothy said she is very appreciative of that coordination and hopes that it continues. In the spirit of coordination she asked if we are now overlaying this pavement repair with our waterlines and the gas line repairs. She knows that Riverlea recently worked closely with Columbia Gas on the gas lines. Mr. Whited replied that we do that as much as possible and our GIS team focuses on that. Monitoring how this SIP would integrate with other projects, when we did the waterline master plan, we specifically identified what we thought would be the future roadway projects. We do the best we can to anticipate how projects could interfere with each other, so we do not rip up freshly laid pavement.

Ms. Kowalczyk asked for an explanation on the sidewalk maintenance part of this project and how it works. Mr. Whited replied that our sidewalk maintenance program is based on identifying what roads our contractors are working on and evaluating the sidewalks on those roads at the same time. We then send letters to property owners if there is a safety issue identified, notifying them that it needs to be fixed. It can be done on their own or the City can have our contractor do it and bill the property owners for the work.

Ms. Dorothy when our map will be updated with the Northeast Gateway's new roads. Mr. Whited replied that will be done as soon as they are done and our GIS has that information ready for when it is completed.

MOTION: Mr. Robinson moved, seconded by Mr. Bucher that we approve the request to advertise for bids for the 2021 Street Improvement Program.

The motion carried unanimously by a voice vote.

8. Discussion Item(s)

a. Proposed Body Worn Camera Program

Minutes:

Chief Ware thanked Council for their willingness to engage over the past year around the issues of use of force and body cameras. After the robust debate last month and discussion about report writing, he felt like he needed to go into a discussion about report writing, how we use it, and how that ties into the use of body cameras.

There are several types of reports, first is the incident report written by an officer who may or may not have been there when the activity was occurring and is often after the fact. Supplements would be written by other officers involved and investigative notes on the follow-up investigation. If an incident results in an arrest, there is an arrest report written, and then there are force reports. Reports are important, and serve as documentation, allowing a case to be adjudicated and can be used as a referral. The public and media are often interested in what types are being taken in town, the most recent area of interest was the fraudulent unemployment claims that have affected so many residents. The essential questions asked in reports are: who, what, how, when, where, and why. The who includes everyone from offenders, bystanders, officers, and others, and we want to capture anything that is relevant to that event. It is important that reports are complete, concise, clear, correct, and objective. They need to be detailed and factual, and also void of personal opinion. The facts as articulated in a well written report, provide the officer's justification for seizing persons, places, or things under the Fourth Amendment to the Constitution. It is very critical that a report is accurate. Often times, memory alone is not enough. Officers are going to have their observations, but are not necessarily going to remember all the details and will often use the camera footage as a clarification or verification, helping to capture what happened from the beginning to the end. Body camera footage is just one piece to be used to write an accurate report.

He underlined how force is one of the types of reports we do because he thinks after talking to several Councilmembers, force is where we have concerns about officers reviewing video. He provided an update on the frequency of force, citing numbers from 2019. There were 24,865 calls for service with 1,504 reports taken. There were 472 arrests with 75 being felonies, 254 misdemeanors, 247 juveniles, and 116 operating a vehicle under the influence. Out of all of those, 17 were force incidents, which accounted for 2.5% of arrests. Five were persons in crisis and were referred for evaluation. Three persons engaged in a crime of violence, six were under the influence. Two had the application of a taser, and two were warned with use of a taser. Our last serious use of a force involving a Worthington officer was in 2002 with the discharge of a firearm against an armed robbery suspect, resulting in an injury. Officer involved shootings or

deaths is a traumatic experience for all and the video footage can assist with recall for the officer and witnesses. Each requires an incident report separate from other investigations that occur. Policies are informed by law, standards, best practices, values, experiences, safety, and risk reduction. The Officer Involved Shooting and Death Policy is still in development and he shared that one serious use of force in nearly two decades is a very good thing. The seriousness is that it can occur at anytime and we need sound policy. Within that policy, anything that results in serious injury or death where law enforcement is involved, he will request outside investigation by an agency such as BCI. It will also require an uninvolved officer completing the incident report, hoping to reduce the subjectivity of the report.

Video review by officers is supported by the Ohio Collaborative and many of the agencies he has talked to allow review at all levels. However, recognizing that the available literature recognizes potential benefits as well as potential detriments, more research is needed. He spent a lot of time reviewing and talking to other law enforcement officers and Councilmembers, and after that careful review, his position is that it is appropriate for video review to occur. Our policies undergo an annual review, so the portable video policy will undergo the same review as the force policy. He will continue to follow the law, research, and recommended best practices. As research is completed, best practices may change, and if they do he will follow that recommendation.

Mr. Oliver overviewed the revised quote for body worn cameras and how we examined two options for the cameras, one was on-premise and the other was platform as a service. The on-premise solution means that we are responsible for all aspects of the infrastructure and service delivery in terms of stewarding the recordings and backups. While that had a lower initial cost, the lifecycle cost was higher. The platform, cloud-hosted service has a slightly higher initial purchase, they would also take on in-car video storage which will reduce IT costs by approximately \$2,000 per year. We did seek to renegotiate their quote and they came back with a quarter-end incentive of \$135,000 if we complete the purchase by May 28th.

Ms. Kowalczyk asked for clarity that the incentive would apply to the cloud-based option. Mr. Oliver confirmed that was correct and that is the option staff is recommending. It is the better way both financially and technically. Ms. Kowalczyk asked for the 5-year lifecycle cost for the cloud based option. Mr. Oliver responded that with the incentive, it is the \$135,000 in comparison to the \$201,000 option for on-premises.

Ms. Dorothy commented that she appreciates comparing the lifecycle costs and she is not surprised how when we include the cost of storage, it is almost triple the initial cost we looked at. However, she does not see the costs of the people who will be viewing the tapes and redacting. She appreciates looking at this more holistically.

Mr. Robinson commented he was frustrated that Council was not provided more

information in the packet in order to study and prepare for tonight's discussion. Going back to the first meeting where body cameras were discussed, he sent emails to the City Manger expressing this was very complicated and he wanted information with plenty of time to study and discuss with one another. His understanding is that next week is when Council is being asked to vote on this and he would ask that whatever information accompanies that vote, be included in the next week's packet and emailed as soon as possible.

He asked what would happen hypothetically if access to video footage is not granted to a reporting officer following a use of force incident. He wondered how that would look and if for example the report exhibited that the memory of the officer was not entirely accurate, and that the video showed some facts that were contradicted or omitted that were important., what would that mean for the legal case or the police department. Perhaps this would show the report need not be looked at as the absolute truth of things, but reflects a subjective recollection of the officer, complimented by the relatively objective evidence of the video. What would the worst case scenario be if the video was not provided to reporting officer. Chief Ware responded that the uninvolved officer is the author of the report, they would have access to all the material. The involved officer is not going to be the one writing the incident report, therefore their initial statement would be brief. The primary report author may or may not have access to the video, that is part of the ongoing process we are undergoing with legal counsel when drafting a report for those types of situations. Mr. Robinson asked if the policy that will be proposed next week is access to the video is given to the reporting officer in use of force officers. Chief Ware replied there is no policy being proposed next week, what is being proposed is the purchase of the body cameras. The officer involved shooting and death policy is still in the development stage. Mr. Robinson said as a Councilmember, the point of greatest influence to shape policy is this point and time where we are getting ready to authorize expenditure. He would hope there would be a greater certainty about what the initial policy is going to be before we fund the purchase. You are expecting us to approve without clarity about the policy. Chief Ware explained that the body worn camera policy is in place now and allows for review. In the event of a serious death, injury, or officer involved shooting there is a separate policy that governs the activities of the officers and the investigation as it relates to those incidents. That is the policy still in development. Mr. Robinson asked in the case of a shooting, would the officer have access to the video prior to writing a report and will they already be serving in a secondary report writing function. Chief Ware replied that as a matter of authority, with or without the policy, an uninvolved officer writes the report. As it relates to when a video is used, that is part of the discussion we are having with legal counsel. Mr. Lindsey replied that the policy is under consideration with himself, but primarily Dan Guttman who is our personnel and labor counsel. When it comes to officer reviews and potential discipline related to those incidents, that policy has to

take into account existing contract and labor law in terms of what can be done with or without negotiation and discussion with the union. Under state law, the police officers have a right to union representation, that process is a little more involved and is why it has not moved forward in terms of finalizing. Mr. Robinson asked if body cameras are addressed with our current labor contract with the police. Mr. Lindsey responded that the body cameras themselves are not addressed in terms of the contract language, but the process of investigation of complaints and actions of officers is part of the existing contract. He pointed out for clarity, we look at these issues from a couple of different standpoints, there is a prosecutorial interest in having a factually accurate report, there is also the liability of the City should someone take legal action against the City regarding what occurred, there is also the question of reviewing officer behavior from both a training and disciplinary perspective. If you talk to most prosecutors and defense counsel, you will probably find uniformity, they want a report that does not conflict with video evidence. On the employment side, you may find lawyers who see it differently and they want the report to be an impression without the benefit of the review. What the Chief and his research has found is that all the surrounding jurisdictions allow their officers to review. As more evidence comes in and more jurisdictions experiment, our annual review of policies will allow the Chief to evaluate whether to make a change. Where the Chief is looking at this expectation, is that when we have a shooting or death, that we at least separate the reporting officer from the involved officer and there is good value there that will not impact the prosecutorial aspects or the liability standpoint, consistent with the labor viewpoint as well. Mr. Greeson replied that he would expect we would have that policy in place before we deployed and trained on the cameras. We are pledging to include those provisions that address some of the issues raised.

Ms. Kowalczyk commented that she appreciates all of the work and research that Chief Ware has done, especially in response to the concerns that Councilmembers have brought up. She thinks it makes sense to have the exception in the situation where the perception of the officer may be at issue because they are involved and part of the report. That addresses some of the concerns she had about that particular situation.

Ms. Dorothy thanked the Chief for acknowledging that these cameras can influence people's memory and she believes that it is appropriate that the officer involved does not view the camera footage. She is interested in future research because memory is very malleable and can be influenced. She appreciates the steps we are taking right now.

President Michael expressed how she supports having the most accurate report possible, and if that includes having the officer review the tapes so that the report is tight and correct that is the most important because if you go forward and are in the court of law, you want to have the most accurate report possible. She thinks outside of the one exception we have been discussing, it is best for

the officer to be able to review that footage. She knows that Mr. Myers stated the same thing when we discussed this. You want to have the strongest and most accurate case possible.

Chief Ware closed by saying that he really appreciates all the Councilmembers who have been asking robust and difficult questions over the past year on two very important topics. Sometimes within our own realm, we only see things through our lens and do not always understand the lens that others look through. The ability to have that open dialogue and communication forced him to look at a lot of variables to come up with the best product for our City and police force.

Reports of Council Members

9. Reports of Council Members

Minutes:

Ms. Dorothy asked when the Sharon Township Fire Contract will be talked about with Council. Mr. Greeson replied he was unsure, we were just providing information about the cost of providing fire services to the Township and the need for that contract to be updated and renegotiated. That process has begun and the memo was meant to refresh Council's memory. Ms. Dorothy asked if it would be discussed later this year. Mr. Greeson said that he anticipated that it would be.

Mr. Robinson asked whether there has been any action regarding community outreach relating to the DORA. Mr. McCorkle responded that staff has started drafting some outreach communications, we have updated the website with quite a bit of information, anticipate putting an article in the ThisWeek News, and sending out mailers to households around Old Worthington.

President Michael mentioned that she attended the COMMA meeting last Friday and there is still a lot of concern about HB 157 about tax collections. There is talk about having a mid-year deadline for when things change as opposed to a calendar year deadline which most cities and businesses operate on. If anyone has a chance to talk to any legislators, that would be helpful. There was a presentation on diversion programs set up for youth to avoid them being brought into the system. She said that there was recently a lawsuit that Columbus lost about the use of force, and there was information about the liability of anyone who provides mutual aid in a use of force situation. If we had even provided traffic control, there would be downline implications. She asked Mr. Lindsey to find out more information about this. President Michael asked if someone could check into the City receiving a refund of administrative fees as a result of the lawsuit the state lost. Mr. Greeson replied that we have received that in an amount just over \$1,000.

Other

Executive Session

Adjournment

10. Motion to Adjourn

Minutes:

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

President Michael declared the meeting adjourned at 9:39 p.m.

Contact: D. Kay Thress, Clerk of Council (Kay.Thress@worthington.org (614) 436-3100) | Minutes published on 05/25/2021, adopted on 06/07/2021

/s/ Ethan C. Barnhardt
Management Assistant

Attest

/s/ Bonnie D. Michael
President of Council