



City of Greensboro

Melvin Municipal Building
300 W. Washington Street
Greensboro, NC 27401

Meeting Minutes - Final City Council Special Meeting

Monday, May 9, 2016

1:30 PM

Council Chamber

Special Budget Development Session

1. Call To Order

This City Council meeting of the City of Greensboro was called to order at 1:30 p.m. on the above date in the Council Chamber of the Melvin Municipal Office Building with the following members present:

Present 8 - Councilmember Marikay Abuzuaite, Mayor Nancy Vaughan, Councilmember Nancy Hoffmann, Councilmember Jamal Fox, Councilmember Sharon Hightower, Councilmember Tony Wilkins, Mayor Pro-Tem Yvonne Johnson, and Justin Outling

Absent 1 - Councilmember Mike Barber

Also present were Assistant City Manager David Parrish, City Attorney Tom Carruthers, and City Clerk Elizabeth H. Richardson.

Moved by Councilmember Wilkins, seconded by Councilmember Outling to postpone the budget portion of the meeting. The motion carried by voice vote.

Moved by Mayor Pro-Tem Johnson, seconded by Councilmember Wilkins to excuse Councilmember Barber from attendance at the meeting. The motion carried by voice vote.

Mayor Vaughan announced that Council would not hold the budget discussions today. Discussion took place regarding the timeline for adoption of the budget; suggestion to hold a meeting before the May 17th meeting; and possible dates for the budget discussion.

Mayor Pro-Tem Johnson stated she would be out of town the week of May 15th.

Moved by Mayor Pro-Tem Johnson, seconded by Councilmember Abuzuaite to recess to closed session to preserve the attorney-client privilege between the City Attorney and Council pursuant to N.C.G.S. 143-318.11(a) (3); to prevent the disclosure of information that is privileged or confidential pursuant to the law of this State and is not considered a public record within the meaning of Chapter 132 of the General statutes pursuant to N.C.G.S. 143-318.11(a) (1). The motion carried by voice vote.

Councilmember Wilkins voiced that he struggled with the term maintain public confidence; stated he had yet to see it rise to that level; and asked City Attorney Carruthers for a legal description.

City Attorney Carruthers spoke to the definition of public confidence; and read a statement from Sir Robert Peele's Principal of Law Enforcement.

Mayor Vaughan reminded Council that information had been released with regard to the David Wray and the Bennett College incidents.

Discussion took place regarding the video; standards that needed to be met for release; every request of this kind being a separate request; if the request of the family to see the video fell under the City's procedures; and if the family did, in fact, request the release of the video.

City Attorney Carruthers reminded Council of their role to determine if the release was essential to maintain public confidence; spoke to City Manager Westmoreland's opinion being provided if needed; the process of determining

what was, and was not essential to maintain public confidence; to the wishes expressed by the family through their attorney; explained that Attorney Nguyen was securing representation of Ms. Vo's estate; and stated he had prepared a resolution contingent on Attorney Nguyen's securing the estate representation.

Councilmember Outling provided his interpretation of the law regarding consent to release information as it existed under the current standard; asked for clarification; inquired if Council could adopt and apply the proposed policy; and voiced appreciation for City Attorney Carruthers' work on the proposed policy.

City Attorney Carruthers spoke to what his focus had been; to the framework and guidelines prepared by Mayor Vaughan and Councilmember Outling; and reminded Council they would consider the proposed policy on May 24th.

Councilmember Outling verified that City Attorney Carruthers had taken his guide from draft policies.

Councilmember Abuzuaiteir inquired if there could be civil litigation as a result of releasing the video.

Attorney Carruthers stated it was apparent that the Vo family was requesting disclosure; spoke to the position of the estate of Ms. Vo; stated that they could obtain the video through a court order; and verified that was not a factor for release or non release. City Attorney Carruthers referenced communication from the Vo family's attorney; interpretation of the video by the Vo family; spoke to the nature of the dispute as he understood it today; reviewed a statement by the Special Bureau of Investigation regarding Officer Bloch meeting the requirements of the law; referenced N.C.G.S. 15A-401.d2; and added that disclosure would not harm the reputation of Officer Bloch or Ms. Vo.

Councilmember Hightower referenced the policy development; verified that a future request would fall under the policy; asked if City Attorney Carruthers could foresee that Council would be stopped by anything if they made a decision to release the video; and spoke to the pending legislation.

City Attorney Carruthers confirmed the pending legislation would not have a direct impact on this case; spoke to the preferred path; and to the inadequacy of state law.

Discussion took place regarding the impact of the pending legislation on the release; authority of Council to maintain public confidence; support by Police Chief Wayne Scott of the proposed policy; the current City policy with regard to public confidence; established method of acting that created a de facto policy; and if it was realistic to expect City policy adoption prior to action by the Legislature.

Councilmember Outling verified that the City had a de facto policy based on prior action but no clear guidelines for how it was used; and that the current policy was a de facto policy that was not clear as to what to do next.

Council recessed to closed session at 1:55 p.m.

2. Presentations

1. [ID 16-0435](#) Consideration of the Release of the Vo Video

Council reconvened at 2:47 p.m. with all members in attendance except Councilmember Barber.

Moved by Mayor Pro-Tem Johnson, seconded by Councilmember Outling to return to open session. The motion carried by voice vote.

Moved by Councilmember Outling to adopt the most recent policy.

Mayor Pro-Tem Johnson interjected that her name was listed to speak.

Moved by Mayor Pro-Tem Johnson, seconded by Councilmember Abuzuaiteir to release the video to preserve public confidence.

Discussion ensued regarding concurrence by the City Manager; a memo prepared in anticipation by direction from the body; staff having direction under public confidence; the need to explore adoption of a policy prior to taking a vote to release the video; this being a one-time situation that stood apart; discussing the policy at a later time; and the need to follow through.

Mayor Vaughan voiced agreement with the need for a policy adoption; spoke to the process for Council's release of the Wray and Bennett College information; to public confidence changing when the family saw the video and disputed some of the facts; and stated she believed the City had a policy in place that would allow for the release of the video.

Councilmember Outling respectfully disagreed; emphasized Council had authority but did not have a policy or criteria to do so; and voiced that the better course would be to adopt a policy and apply the facts here.

Discussion took place regarding moving on the video release; this being a different type of media; the need to develop a policy on body worn camera videos; timeframe for release of the video; and whether Council was ready to vote on a policy today.

Mayor Vaughan voiced appreciation to Officer Bloch for allowing Council to view the video; and spoke to this being a difficult time for the Vo family and Officer Bloch.

Councilmember Abuzuaiter emphasized that Council had not discussed the final proposed policy; asked that Council be allowed to provide further suggestions and comments to the policy; and verified the video could be released on the public confidence scale.

Discussion continued around the length of time a proposed policy had been under consideration; the need for Council to take the discussions seriously; staff providing their response if the policy was ready; discussion and adoption of a policy today; and preference and/or goal being to vote to release the video.

Councilmember Outling stated he felt Council was ready to adopt the policy; and should vote today.

Councilmember Hoffmann stated some members were ready to vote on the policy last week; voiced agreement with release of the video; and stated she was ready to vote on a policy.

Councilmember Fox informed Council they had talked about this over several weeks; referenced phone conversations; and suggested that a policy enactment and/or discussion be added to the motion made by Mayor Pro-Tem Johnson.

Moved by Councilmember Fox, seconded by Councilmember Outling to amend the motion to add adoption of the proposed policy and release the video immediately thereafter.

City Attorney Carruthers interjected that staff was prepared with a policy proposal pursuant to the direction of Council; distributed the proposed policy he had prepared; verified it matched Mayor Vaughan's and Councilmember Outling's intent; and stated he would be happy to discuss the proposed policy with Council.

Mayor Vaughan emphasized the need to address the release of the video.

City Attorney Carruthers provided an overview of the question before Council with regard to public confidence; outlined the items in the proposed policy; factors to be utilized in deciding if the video should be released; read the conditions of the policy; the authority of the City Manager to release information; to factors proposed by the State; provided his advisory position; informed Council that Police Chief Scott was comfortable following the City Manager's lead; spoke to public confidence when to release information; outlined the framework provided by the proposed policy; provided the history of the disciplinary action taken involving Officer Bloch; and stated he felt Council could get to their desired result.

Mayor Vaughan asked the audience to excuse Council's side conversations; stated she would like to hear the City Manager's statement; and added that speakers from the floor would not be heard today.

Additional discussion took place regarding Council not having time to review the proposal handed to them; the proposal being subsequently the same as previous proposals; the proposed policy not being placed in the agenda packet; the need for Council to give the policy the gravity it deserved; not voting on information just handed to them; if the State could overrule the proposed policy; and the need to have a policy with teeth.

City Attorney Carruthers provided an overview of the differences in the proposal and previous proposed policies; spoke to the impact on criminal investigations; authority provided by the State; and to the Council/Manager form of government.

Mayor Pro-Tem Johnson stated she understood the alternative motion was to adopt a policy and release the video; asked if Council could vote on the policy with the understanding that it would take a second vote for it to be final; and stated she was not interested in delaying release of the video but would like the option to tweak the proposed policy if necessary.

Discussion continued regarding if two separate votes could be taken; clarity that the video could be released under public confidence; two motions being on the floor; voting on both issues separately; what the proper procedure was; and having the ability to go back and tweak the policy later.

Mayor Vaughan reminded Council that there were two motions on the table; and asked if they could be withdrawn.

City Attorney Carruthers stated he understood Councilmember Fox's motion to be a friendly amendment to adopt the proposed policy and review it at a later date if needed; and to release the Vo video by adoption of a proposed resolution which he would distribute to Council outlining specific direction for Police Chief Scott.

Discussion continued asking for clarification on which policy Councilmember Fox meant in his amendment; Councilmember Fox making a motion on the new policy before he had reviewed it; confirmation that the proposed policy was the one to adopt with the exception of one difference; clarification of the difference in Section 1.4; and adopting a policy without allowing speakers from the floor.

Councilmember Abuzuaiter referenced good suggestions when Council allowed input from the public prior to adopting policy; emphasized concern with this being combined into one vote; and reminded Council that the meeting was to consider the release of the video.

City Attorney Carruthers concurred that the meeting was to discuss the release the Vo video; stated that the question was should a policy be adopted while releasing the Vo video; spoke to the requirements of State law; and to the past process when Council had invited public comment.

Councilmember Hightower voiced concern regarding the discussion taking place; emphasized a policy needed to be in place before moving forward; stated that Council had received public input; and voiced the need for the Vo family's wishes to be heard.

City Attorney Carruthers suggested both pending motions be withdrawn; and Council move to two separate motions with the consent of the two moving parties.

Councilmember Fox stated he would like a vote.

Councilmember Hoffmann spoke to the policy before Council with regard to the City Manager's authority.

Councilmember Outling emphasized that the proposal was a reflection of the comments received from the public; and referenced the desires of the public and Council for a broader release.

Councilmember Fox called the question.

Discussion continued regarding the vote on the proposed motions; lack of a second on Councilmember Fox calling the question; the receipt of public comment by Council; the purpose of Councilmember Fox's amendment; reservations with the proposed policy; definition of what immediate release looked like; the need for the video release to meet the threshold of public confidence; process for getting to the end result; and clarity as to which

policy Council was being asked to vote on.

Mayor Vaughan emphasized that Council had received public comment; asked the audience to be respectful; and asked for clarification on the motions.

City Attorney Carruthers stated the motion was amended to adopt the policy presented by the City Attorney today and to direct the City Manager to give his opinion so that the Vo video could be released; and stated that if Council were to adopt that, he would distribute the findings of the City Manager and the proposed resolution to Council.

Council discussed the motions; what voting 'no' would mean; changes to sections 1.4 and 1.8 in the policy presented today; and other amended portions of the policy.

Mayor Pro-Tem Johnson voiced the need to have more discussion on the proposed policy.

Officer Bloch requested to speak.

Moved by Councilmember Wilkins, seconded by Councilmember Abuzuaiter to allow Officer Bloch to speak. The motion carried by voice vote.

Officer Bloch referenced the incident being silent for about a year; spoke to the victim's family attorney contacting Council; voiced concern with where the video would be broadcast; with the assumption that an agency was trying to hide something when information was not made public; that he was one of the first officers in the State to wear a body worn camera and be involved in a shooting; expressed compassion for the Vo family; explained that the body worn cameras did not show the entire picture, nor tell the whole story; stated he had been very open about the incident; emphasized that body worn cameras could be a great tool when used correctly; provided an example of a portion of the events that took place that day; verified he had utilized his training; stated everyone had been heard but the officer involved; and stated he had been advised not to attend meetings.

Councilmember Wilkins invited Officer Bloch to speak at the Public Safety Committee meeting this afternoon.

Councilmember Abuzuaiter stated the Public Safety Committee would receive information with regard to the body worn camera technology; had not planned to have speakers; and stated that the Committee would not be discussing the specific case.

Officer Bloch requested that prior to the release of the video he be allowed to reveal his side of the story as it could be valuable for people who did and/or did not support the video; and emphasized he wanted people to hear what he had to say.

Discussion took place regarding the venue for Officer Bloch to provide his story; and the authority of the Public Safety Committee to decide whether to hear from Officer Bloch.

Discussion took place regarding Officer Bloch having the opportunity to speak; the majority of Council agreeing that the video should be released; possibly waiting until next week to release it; the need for the release to be in a setting with a total explanation and not just the raw footage; high emotions in the room; the need for respect for everyone; and a request for Police Chief Scott to explain the process for the release.

Councilmember Wilkins stated he would ask the Public Safety Committee to allow Officer Bloch to speak at the beginning of that meeting.

Police Chief Scott stated this was one piece of the evidence; that he would share the remaining parts of the evidence that would include the 911 call, audio traffic, as well as a slowed down version of the video; spoke to the need for a format for those viewing it to have a full understanding of what took place; and that it would be appropriate to hold a press briefing conducted by him that would be available in its entirety for public viewing.

Mayor Vaughan confirmed that the video would have an explanation; be in real time as well as slowed down; and that the public would hear what Officer Bloch heard as he arrived on the scene.

City Attorney Carruthers outlined the resolution he had prepared for disclosure of the video; and spoke to the public confidence issue. A copy of said resolution and the memo from the City Manager were provided to Council. City Attorney Carruthers explained his reason for drafting the resolution; stated he had reviewed the facts; and referenced comments made by the Vo family after viewing the video.

Mayor Vaughan requested the audience be quiet; and asked that the resolution be placed on the overhead.

Councilmember Wilkins spoke to what the resolution applied to; and asked if the Vo family had asked to see the video at any point before this or to have it released in the two year period.

City Attorney Carruthers provided the history of the City's contact with the Vo family regarding the case up to this point; and discussions with the American Civil Liberties Union (ACLU).

Councilmember Wilkins voiced concern that Attorney Nguyen could have a financial element, possible financial gain; and spoke to the City allowing him to manufacture a case trying to get to the point that the video be released to the community.

City Attorney Carruthers emphasized the need for the elected body to make that determination in their own minds and in their own thoughts; spoke to the compliance of the law; and verified that the City Manager, with the concurrence of Council, must agree that the release was necessary to maintain public confidence.

Mayor Vaughan spoke to the length of time the case had been dormant; voiced concern with the change in public discussion after the family had viewed the video; spoke to Attorney Nguyen's statements to Council regarding significant developments; voiced that some in the community had raised concern about said developments; and emphasized it was the responsibility of Council to address said concerns.

Councilmember Wilkins clarified that his remark was only for comment, not an accusation.

Discussion took place regarding clarification of the numerous media and individual requests that had been made; release allowance under personnel law; the process for allowing the Vo family to release the video; and commendation to Officer Bloch for allowing the video to be viewed.

City Attorney Carruthers explained the process for allowing the Vo family to view the video.

Mayor Vaughan explained that there were two motions on the floor.

Council discussion took place regarding the motion to release the video; tweaking the policy at a later date; and the proposed resolution.

Councilmember Fox stated he was in favor of release of the video along with the policy moving forward.

Mayor Pro-Tem Johnson called the question.

Mayor Vaughan clarified the amendment was made by Councilmember Fox and seconded by Councilmember Outling.

City Attorney Carruthers verified that the motion was to adopt the proposed policy; adopt the City Manager's findings which the Council would be concurring with through the resolution provided; and provided an overview of the operative portion of the resolution regarding release of the video.

Councilmember Wilkins inquired if that wording could be added to the amendment made by Councilmember Fox.

City Attorney Carruthers responded in the affirmative with Councilmember Fox's consent.

Councilmember Abuzuaiter reminded Council of the purpose of the meeting; stated discussion of the policy had been scheduled for May 24th; emphasized that discussion and/or adoption of the policy was not on the agenda;

stated her vote for releasing the Vo tape was null and void should she vote not to adopt the policy; and voiced concern that the two items were being combined.

Discussion continued regarding the ability of Council to amend the policy; voting on what Council had told they public they would vote on today; concern with setting policy in a work session setting; members voting their conscience; policy adoption prior to the release of a video; knowledge that the video could be released under public confidence without the adoption of a policy; clarification on the need for the adoption of a resolution; the motions on the floor; concern with backing members into a corner; Council making the matter more difficult than it was; and number of motions Council would need to vote on.

City Attorney Carruthers spoke to his understanding of the motion; to the two page memo from the City Manager; and read the following operative portion of the resolution: contingent on the demonstration that Tin Nguyen is the attorney for the estate of Chieu-di Thi Vo and the Vo family and that the recent communications to the City Council are reaffirmed, then City Council concurs with the City Manager and determines that in order to maintain public confidence in the actions of the Greensboro Police Department it is essential to release the body worn camera recording and related records of Chieu-di Thi Vo. Chief of Police Wayne Scott is directed to conduct a media briefing in an appropriate manner which will include disclosure of the 911 recordings, the radio communications, portions of the body worn camera recording and related necessary information. This briefing will be recorded by Greensboro Channel 13 and released onto the City website. Copies to the 911 recordings, the radio communications, portions of the body worn camera recording and related necessary information will also be released to Tin Nguyen, attorney for the estate of Chieu-di Thi Vo and the Vo family. City Attorney Carruthers confirmed that Council had heard from Officer Bloch as well.

Councilmember Wilkins spoke to Officer Bloch's request that he be heard prior to the release of the video; asked if the City would have a legal liability if the City opened Officer Bloch's personnel records without his permission.

Councilmember Fox and City Attorney Carruthers confirmed that Officer Bloch would speak at the Public Safety Committee meeting this afternoon.

Mayor Vaughan asked that Police Chief Scott get with Officer Bloch prior to the release if necessary.

Additional discussion took place regarding the process for the release; and concern that the release would go out in bits and pieces and not build public confidence.

Mayor Pro-Tem Johnson called the question.

Mayor Vaughan stated Council would vote on the amended motion.

The amended motion carried 6-2 on the following vote: Ayes: Mayor Vaughan, Mayor Pro-Tem Johnson, Councilmembers Fox, Hightower, Hoffmann, and Outling.

Nays: Councilmembers Abuzuaite and Wilkins.

Absent: Councilmember Barber.

City Attorney Carruthers stated that Police Chief Scott would release the video later in the week; and spoke to the ability of Attorney Nguyen to obtain the Testamentary letters.

(A copy of the handouts provided by City Attorney Carruthers are filed in Exhibit Drawer Y, Exhibit No. 21, which is hereby referred to and made a part of these minutes.)

130-16 RESOLUTION FOR DISCLOSURE OF VIDEO IN THE CASE OF CHIEU-DI THI VO

WHEREAS, on March 25, 2014, a use of force by Greensboro Police Officer T. J. Bloch resulted in the death of Ms. Chieu-di Thi Vo, and this encounter was recorded by body worn camera (BWC) used by Officer Bloch in compliance with the policies of the Greensboro Police Department (GPD); and

WHEREAS, under current State law and City policy the recording of the encounter with Ms. Vo is part of the

personnel record of a municipal employee and therefore declared a confidential record; and

WHEREAS, in compliance with GPD policies, Officer Bloch was transferred to administrative leave with pay as a result of the lethal use of force; that GPD placed Officer Bloch on administrative leave during the required investigation; that Officer Bloch acted consistent with GPD policies and state and federal law; that Officer Bloch was reinstated to full duty; and

WHEREAS, any further disclosure of the BWC footage may only be made if the City Manager, with concurrence of the Council, determines in writing that the disclosure of the 911 recordings, the radio communications, portions of the body worn camera recording and related necessary information is essential to maintaining public confidence in the administration of city services where such records relate to the employment, transfer and/or reinstatement of a city employee, and the reasons for these actions under G.S. § 160A-168; and

WHEREFORE, the City Manager has submitted these necessary findings which are adopted and incorporated;

ACCORDINGLY, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GREENSBORO:

1. The proposed policy outlined in the May 8, 2016 memo from City Attorney Tom Carruthers is hereby adopted.
2. Contingent on the demonstration that Tin Nguyen is the attorney for the estate of Chieu-di Thi Vo and the Vo family and that the recent communications to the City Council are reaffirmed, then City Council concurs with the City Manager and determines that in order to maintain public confidence in the actions of the Greensboro Police Department it is essential to release the body worn camera recording and related records of Chieu-di Thi Vo. Chief of Police Wayne Scott is directed to conduct a media briefing in an appropriate manner which will include disclosure of the 911 recordings, the radio communications, portions of the body worn camera recording and related necessary information. This briefing will be recorded by Greensboro Channel 13 and released onto the City website. Copies to the 911 recordings, the radio communications, portions of the body worn camera recording and related necessary information will also be released to Tin Nguyen, attorney for the estate of Chieu-di Thi Vo and the Vo family.

(Signed) Jamal Fox

2. [ID 16-0431](#) Fiscal Year 2016-17 Budget Discussion

It was the consensus of Council to delay discussion on this item to a later date.

3. Adjournment

Moved by Councilmember Fox, seconded by Councilmember Outling, to adjourn the meeting. The motion carried by voice vote.

THE CITY COUNCIL ADJOURNED AT 4:08 P.M.

ELIZABETH H. RICHARDSON
CITY CLERK

NANCY VAUGHAN
MAYOR