



APPROVED

**CITY OF YPSILANTI
COUNCIL SPECIAL MEETING and WORK SESSION MINUTES
COUNCIL CHAMBERS - ONE SOUTH HURON STREET
TUESDAY, AUGUST 22, 2017
7:00 P.M.**

I. CALL TO ORDER –

The meeting was called to order at 7:08 p.m.

II. ROLL CALL –

Council Member Bashert	Present	Council Member Robb	Present
Mayor Pro-Tem Brown	Present	Council Member Vogt	Present
Council Member Murdock	Present	Mayor Edmonds	Present
Council Member Richardson	Present		

III. INVOCATION –

Mayor Edmonds asked all to stand for a moment of silence.

IV. PLEDGE OF ALLEGIANCE –

"I pledge allegiance to the flag, of the United States of America, and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all."

V. AGENDA APPROVAL-

Council Member Richardson moved, seconded by Mayor-Pro Tem Brown to approve the agenda.

Council Member Richardson moved, seconded by Mayor Pro-Tem Brown to remove Resolutions No. 2017-193 and 2017-194 from the agenda.

Council Member Vogt opposed the removal of Resolutions No. 2017-193 and 2017-194, but he is not opposed to moving the resolutions after discussion on the police review board discussion. The point of the resolutions is to deal with a matter that came up suddenly regarding the Peninsular Dam. The alternative to removing the resolutions would be to hold another special meeting. Council Member Richardson responded the County Park and Recreation Director Coy Vaughn says this same grant will be available next year. The letters Council has received regarding the removal of the dam demands Council give this matter greater attention.

Mayor Pro-Tem Brown stated the residents of this community have raised issue with the lack of communication and community involvement. To rush through this does a disservice to the community by not providing the transparency the demand, which is why she supports removing the resolutions from the agenda. Council Member Vogt responded the discussion on the resolutions is a relatively small matter for a potential grant that Council can decide if it would like to pursue. The grant would cover part of the study regarding the Pen Dam and not a decision on the removal of the dam. Council Member Bashert agreed, and said the grant will assist in the financing of the study. Postponing the study is frustrating to the City and the region affected by the dam and its removal. She said the grant money to remove the dam is time sensitive and the next meeting will not be until September.

Mayor Edmonds stated she would support either removing the resolutions or moving the resolutions to later in the agenda. This meeting was specifically scheduled to discuss the development of a police review board she wants Council to have its full energy. Council Member Bashert stated she would agree to move the resolutions to later on the agenda. Council Member Richardson stated she understands there are audience members that are present for the resolutions regarding Pen Dam. However, after reading letters sent from people with concerns about the dam she feels these resolutions deserve a full community public meeting. Ms. Bashert stated these resolutions are not about the removal of the dam it is about a grant to finance the study, which has already been approved. Council Member Vogt stated Council has already approved to complete the study, and this will help to fund it. The issues raised by individuals about the dam removal are not relevant to these resolutions in all respect.

On a roll call, the vote to amend the agenda was as follows:

Mayor Pro-Tem Brown	Yes	Council Member Robb	Yes
Council Member Murdock	No	Mayor Edmonds	Yes
Council Member Richardson	Yes	Council Member Vogt	No
Council Member Bashert	No		

VOTE:

YES: 4 NO: 3 ABSENT: 0 VOTE: Carried

On a voice vote, the motion carried, and the amendment was approved as amended. Council Member Bashert voted against the approval of the amended agenda.

VI. PRESENTATIONS –

2017 Byrne Grant Application – Police Chief Tony DeGiusti

Chief DeGiusti provided a presentation of the 2017 Byrne Grant Application.

VII. AUDIENCE PARTICIPATION -

1. Jon Lusk, 1111 W. Clark Rd, stated if the dam is removed it will destroy the only kid friendly boat launch and recovery site because of the current. If the Border to Border funds are used for this study it will make it more difficult to access funds for another project. The residents who live along the river are concerned with the scope of work and how it will affect the property. He asked why this study is covering all issues of the dam instead of selecting the top items and funding them independently.
2. Rhonda Wolff, 1308 N Huron River Dr., has concerns if the dam is removed. If the dam is removed it could create marshes which would be dangerous to resident.
3. Delruss Wolff, 1308 N. Huron River Dr., wonders why not consider studies that have already done on dam removal in order to compare what maintenance costs. He was shocked to learn the maintenance funds were used for a study regarding the removal of the dam. He asked how a grant for parks can be used for this study asking if it is a misappropriation of funds. He asked when considering costs have cost for litigation been factored for law suits that could result in the removal of the dam.
4. Neil Bastian, 1284 Huron River Dr., stated if the dam is removed it will still be difficult to canoe the Huron because of the rocks. The dam keeps the water deep enough so a person can canoe in that area and it should be kept.
5. Veronica Ervin, 1564 Village Lane #101, stated there is a serious problem with speeding on Hawkins on the south side of Ypsilanti. The police are never there to stop speeding

only for other reasons. She said 422 Hawkins St, a Beal Property, has abandoned cars up and down the street and the house is in disrepair. She asked for the home to be addressed as well as the cars along the street.

6. Sally Lusk, 1111 W. Clark Rd., stated she was present when Council approved using the Dam and Maintenance Fund to finance the study about Pen Dam. The estimate for the cost of the study now is \$6,500 more than at that point, which will deplete that fund to a greater extent. The extent of the scope of work is unknown by the City, nor if the study will produce data to help support a decision. She does not believe any funds should be used to fund a study without an understanding of what that study could produce. She suggested an incremental approach to the study.
7. Deb Walker, 6180 1st Rd, Superior Township, opposed the additional funding to a study to an undefined additional scope of work.
8. Brian Athey, 6180 1st Rd, Superior Township, stated it is grossly premature to do a study of the possibility of a trail in the riverbed.
9. Laura Lein, 1366 N. Huron River Dr., Ypsilanti Township, opposed the removal of the dam and those who would be affected by it should be included in the discussion.
10. Benjamin Kuipers, 1366 N. Huron River Dr., Ypsilanti Township, stated the resolution approving the study is essentially to study the feasibility of a walkway in the riverbed, which is premature. He does not believe the money for this grant can be applied to study if the dam should be removed. The statement of work of the study needs to be made public to make sure that it will address the questions being asked.
11. Stacey DeAngelis, 6140 1st Rd, stated there are also grants available for grant repairs not just dam removal.
12. Rob DeAngelis, 6140 1st Rd, stated agreed with his neighbors against the removal of the dam.
13. Merrellyn Lee, 1340 Huron River Drive, Ypsilanti Township, spoke against the removal of the dam. She is astounded this is the first she has heard of the possibility of dam removal, and few alternatives have been discussed.
14. Michael Simmons, 128 Bell St., asked who City Council spoke with to decide to move forward with the study. It is apparent that most residents do not want the dam removed so why is City going to allocate money to the study. There is something wrong when a City Council does not listen to its residents.
15. Allen Backster, 1284 N. Huron River Drive, spoke out against the removal of the dam.
16. Sue Melke, 330 Chidester #409, stated the City needs to move forward with a police review board. That board should have disciplinary power and not be structured like CoPAC.

VIII. REMARKS FROM THE MAYOR –

— The resolutions regarding the dam have been removed which she supported.

City Council Member Vogt stated there have been many thoughts and concerns expressed. He reassured the public they are not new to Council and have been discussed many times over the years. To date no decision has been made other than to

implement a study. The only thing that is currently known is the dam will either be repaired or removed, which both may be very expensive. If the dam is to be removed there are many other things that need to be decided.

City Clerk McMullan stated the reason why the City is going through this process is because there are issues with the dam and the Department of Environmental Quality (DEQ) directed the City to form a plan. Mayor Edmonds stated there was an initial study done and there is a general scope of costs. Mr. Simmons asked if the study will assist in the decision on if the City removes or repairs the dam. Ms. Edmonds responded in the affirmative. Mr. Simmons asked what would happen if the City does not complete the study within the timeline. Ms. Edmonds responded it is unknown at this time.

IX. MOTIONS, RESOLUTIONS, DISCUSSIONS -

1. ~~Resolution No. 2017-193, authorizing the Huron River Watershed Council (HRWC) to apply for the Connecting Communications grant on behalf of the City of Ypsilanti.~~ **(Removed from agenda)**
2. ~~Resolution No. 2017-194, approving funds not to exceed \$26,500 to allow the City to split the cost of the Peninsular Dam study with the Huron River Watershed Council (HRWC).~~ **(Removed from agenda)**

X. WORK SESSION:

Police Review Board Discussion

Mayor Edmonds stated there is a range of what different communities are doing in regards to police review boards. Some are just beginning and others have been around for some time, which makes it difficult to understand what best practices would be for a community of Ypsilanti's side.

Mayor Pro-Tem Brown provided an update of what she and Council Member Murdock had discussed prior to this meeting.

Council Member Murdock stated when the draft ordinance was first presented to Council the issue was there wasn't a complaint review.

Council Member Vogt asked if it is necessary for this group to monitor the Citizen's Police Academy. Council Member Murdock responded it is because the academy has not been held in some time. Chief DeGiusti stated the academy was planned to be held last year but there were only three applicants. Mayor Edmonds asked how many applicants would a full class consist. Chief DeGiusti responded around thirty to thirty-five. Council Member Richardson stated during one of the Task Force meetings the Chief envisioned this body reviewing the academy. Chief DeGiusti responded after each academy it is evaluated and that is something this body could complete.

Council Member Richardson stated she would prefer the items in "Purpose" to be organized by priority.

Council Member Murdock stated he and Mayor Pro-Tem Brown discussed creating the board and let it select from the four broad categories developed by the International Chiefs of Police for complaint review. The selection would be subject to approval by City Council. Council Member Robb stated asked if the board would select its purpose. Mr. Murdock responded no, it would select how to implement.

Council Member Vogt asked what would be the authority and role of the board. It would be helpful for a board to be established to review complaints, but what must be addressed is the scope of its power. There are many different models, however, they are from much larger cities with much larger budgets. He would like a process developed that when a complaint is developed it goes to the Chief of Police, and this board would assist the Chief in the review and make recommendations. This board would not have power to apply any disciplinary action ultimately Council should retain ultimate authority. This board should be relatively small and comprised of individuals that have experience, knowledge, and training necessary to perform the functions of the board.

Council Member Bashert suggested either class two or class three boards (see packet). Mayor Pro-Tem Brown led aloud both class two and three. Mayor Edmonds stated while doing more research class one she found it has a fulltime staff and budgets to support the body. That seems outside the scope of what the City can provide.

Chief DeGiusti provided a list of complaints from 2016 and 2017 to date. Only four officers had complaints filed against them in 2016 and in 2017 to date there have been five complaints. The complaints from 2017 mostly revolve around a disagreement with what was said by the officer. He said of those five complaints the have been partially substantiated, and explained the department does not just ignore any complaint and all are investigated. He said the department has not received a single complaint regarding use of force. In this year there have been over 500 arrests with only twelve uses of force. Mayor Edmonds asked how this compares to other police departments. Chief DeGiusti responded similar to the national average. Ms. Edmonds asked on average how many complaints the department receives per year. Chief DeGiusti responded on average five to ten since he has been chief. Ms. Edmonds asked if since the complaint process was changed if the Chief has noticed any change in how those complaints were submitted. Chief DeGiusti responded there have been several online submissions however, only two were complaints against officers. The other submissions were being used as online crime reporting. He said the police department is definitely in support of greater citizen involvement.

Council Member Bashert stated the amount of complaints the department receives seems manageable for a developing board. She stated she believes class one does too much, and would not fit in the City and class four does too little and would not fit in the City. She would like to find some way for citizens to be heard and participate as much as possible. Mayor Edmonds added while this board is not hearing complaints it would be able to review several other items as listed in "Purpose".

Council Member Murdock stated he would be in favor of developing a board based on class two, or a revised three. Council Member Robb asked if a citizen's board could overturn the Chief of Police's decision on discipline in an appeal. Chief DeGiusti responded if a complainant has issue with discipline given an appeal can be made to the City Manager. When discussing discipline public employees have a right to privacy in their public files. When making recommendations for discipline he thinks about what other disciplines are in that file. He believes the Charter states boards and commission can only have advisory authority. Mayor Edmonds responded by state statute the Historic District Commission has authority outside of Council. Chief DeGiusti replied he believes the Charter states unless otherwise provided by the state a board and commission can only operate at an advisory capacity. City Attorney Barr added the Charter was designed to place ultimate authority with Council, and provides unless the board is either quasi-judicial or given authority by state statute. Ms. Edmonds asked a review board would be considered quasi-judicial. Mr. Barr responded this issue was discussed in reference to the Human Relations Commission which has the power to review, and make recommendations, but does not enact discipline. Mr. Murdock stated this board would not have disciplinary power but can review a complaint and make recommendations to Council if it finds issue with the discipline administered.

Chief DeGiusti suggested keeping complaints in a third person to not violate an employee's privacy.

Council Member Robb stated he believes this board would be for show only, and power should fall to Council. He said Council has subpoena and investigative power and if Council would undertake investigation it would eliminate the concern of police investigating the police. He said the Purpose would not be to review complaints of police misconduct it would be to review findings of complaints. He believes a board such as that would not have authority and is not the way that Council or the public wishes it to be developed.

Mayor Edmonds stated the initial investigation should be performed by City staff.

Council Member Richardson stated she would like combine class two and three and include the investigative aspect of class one and Council would make the final decision if the body and the department did not agree. Chief DeGiusti stated both collective bargaining units is specific to whom can investigate complaints, and if a change is made it would first need to be negotiated. Currently both bargaining units are headed toward arbitration, and it is unlikely that would be considered.

Council Member Bashert stated it might be beneficial to use an example to understand the best course of action. Based on the limitations already defined this body will most likely serve at an advisory role, which can be involved early or later in the process. Chief DeGiusti stated if the body is going to be a part of the investigation it might cause issues of confidentiality. He believes the review process should make certain complaints are properly investigated.

Council Member Vogt stated he is not happy with any of the models in general. There are many extremely difficult legal issues that make it difficult to give this body any real authority. He takes no issue with "A through F", but when taking on a serious issue he has concerns with volunteers with no budget would do anything differently than Council. Part of the problem is deciding when this body should act, the beginning, middle, or end of the complaint process. Perhaps a useful function of this body is to provide mediation in complaint process rather than appeals.

Council Member Richardson stated this process began with the complaint resulting from an arrest made during a protest. If this body had been in place it would have been perfect to hear those complaints.

Council Member Robb stated this comes down to purpose and given what has been stated he does not think this body can review complaints. Once the purpose is defined it will assist in determining what kind of board is necessary. He said most complaints take around three weeks to investigate, and depending on the frequency this board meets the best course would be to review the findings. Once the review is complete that body would report to Council if it agrees or disagrees and why. It than would be up to Council to decide if further discipline is required.

Council Member Vogt stated he is hearing three options; his suggestion of a mediator, Council Member Richardson suggestion of a complaint liaison, and a body that reviews findings of the investigation. Council Member Richardson stated she is suggesting a group that must have some authority, not just a group that would hear the complaint. Mayor Edmonds stated if this body exists people will come to voice complaints during public comment. The body then could explain the procedure to file a complaint. Ms. Richardson stated the process she envisions is a person would make an appointment with the board to voice their complaint. Council Member Robb stated that would put a lot of pressure on a volunteer organization as opposed to a regularly scheduled meeting. Chief DeGiusti stated complaints can be made in many ways, but if a complainant is afraid to come forward they could ask a board member to file the complaint for them.

Mayor Pro-Tem Brown stated this board it can only act at an advisory capacity. As a result of that having this body hear complaints does not make sense because it would be unable to investigate. Council Member Richardson stated she is very disappointed that the Task Force was not designed to get outside input from Black Lives Matter and other stakeholders in the community. Council Member Robb stated those meetings were as interactive as any other meeting held in Council Chambers. The Task Force had open dialogue with all audience members when they were present. Ms. Richardson stated it is not the same as a person being part of the board.

Mayor Pro-Tem Brown stated a complainant could make an appointment to come before the said body, would then file the complaint with the police department. The investigation is completed by the police department and then reviewed by said body, which either agrees, or disagrees with the findings. Council Member Bashert stated there are a number of ways to submit a complaint and asked how this would be different. Chief DeGiusti interjected if discipline was already been applied as a result of a complaint additional discipline cannot be applied. Council Member Robb stated this body can only review the findings of complaints. If the body disagrees with the discipline it is transferred to Council.

Council Member Murdock asked if the police department makes a determination and the complainant is unsatisfied the complaint can be brought to said body to review. If the resolution is still not satisfactory it can be reviewed by Council.

Council Member Bashert stated the body should be notified as soon as a complaint is filed. Council Member Robb stated Council should be notified immediately if that is this body is.

Council Member Vogt stated for conversation he envisions this body acting in some ways as a liaison, and keep the complainant up-to-date on the status of the complaint, the body would make recommendations to Council if it disagrees with the findings of the Chief of Police and City Manager, which at that time would be too late. He is concerned at the time a recommendation is made to Council there will be little to Council can do for that specific complaint. The only difference than the current practice is a body will be in place that can disagree with findings. Council Member Bashert responded the difference is the complainant will feel like they have an advocate. Mr. Vogt asked if it is worth it to have a non-political body review the complaint. Ms. Bashert responded in the affirmative.

Mayor Edmonds asked if a complaint was forwarded to Council from this body after the administration of discipline what could Council do. Council Member Robb stated Council has the ability to change personnel if Council sees a pattern of inappropriate discipline applied. Mayor Edmonds added Council also has the ability to change policy. Chief DeGiusti responded a year ago he said ultimately he is responsible for the police department, and the trust is on him to do what is right.

Council Member Robb asked if a person comes before the body to file a complaint who will fill out the complaint. Council Member Vogt responded the body and staff only can explain the process of the complaint, the complainant must fill out the complaint form. He explained it would be city staff filling out a form, which would be a conflict of interest. Chief DeGiusti stated anyone can file a complaint, even a third party complaint. If a member of this body would fill out the complaint on behalf of the complainant that would be fine. Mr. Robb asked would there be an expectation if a complainant is brought before this board a complaint form would be filled out and filed. Council Member Bashert recommended allowing the body to develop some of its methods, while Council sets its broad parameters. Mayor Edmonds explained this body would not shepherd the process, instead only help to facilitate and make the process accessible. Council Member Robb asked if the complainant's expectation would be that this body would file the complaint. Council Member Richardson responded if a person came before this body and did not have the ability to fill out the form this body would perform that service. Mr. Vogt replied

this body would not fill out the complaint, but a staff member could. Ms. Richardson stated the board itself should fill out the complaint while hearing for the complainant. Mayor Edmonds stated that should not be a role completed at the table, but a member could make themselves available to assist in the complainant preparation. Council Member Vogt stated concern about police officers assisting in complaint form preparation as well as other city staff and this body. If a complaint goes to a civil lawsuit what would happen in this case. Council Member Murdock stated if a person voices a complaint before this body the first question asked should be was a formal complaint filed. If not that process should be explained not necessarily write it for them. Mr. Barr responded generally one body should not be given the power to prosecute, investigate, and make decision. He has no issue with this body assisting in the filing of a complaint, however, if it also makes decisions about complaint that could cause a problem.

Council Member Murdock asked what will be the name of this body. Mayor Edmonds suggested Civilian Complaint Review Board. Council Member Bashert suggested Citizens-Police Advisory Board.

Mayor Edmonds asked what will be the composition of the board. Council Member Richardson suggested two members from each ward and three members at large. Council Member Murdock stated he proposed five because he felt the original proposed eighteen was too large. Council Member Bashert stated five is too small because if more than two people are sick the board will not meet quorum. Mr. Murdock suggested seven. Ms. Edmonds responded seven is a reasonable size. Ms. Bashert stated she liked how Newark decided its board members through recommendations of various organizations in the community with certain job descriptions omitted from serving as a member. Chief DeGiusti stated he would encourage a broad group and encouraged a youth member and a person from the business community. Mr. Murdock stated appointments are made through the nominations by the Mayor with concurrence by Council. Who is nominated should be left up to the Mayor, if it is restricted it could create issue. Ms. Edmonds agreed with the Chief to have a youth member. Council Member Vogt disagreed strongly, because cases can be extremely difficult and a youth would be inadequately experienced and educated. Ms. Edmonds responded she is currently working with a teen leaders group and is impressed at the level of understanding they possess. She is more inclined to have one member from each ward and the remaining positions can be filled as the Mayor sees fit.

Council Member Murdock suggested board members serve three year terms, and at the inception of the board the terms are staggered one, two, and three years.

Council Member Robb asked if members should be only able to serve one term, instead of having the ability to serve indefinitely. Council Member Richardson stated she would like for members to serve at least two terms. Council Member Murdock suggested members being allowed to serve two full terms. Mayor Edmonds suggested members be not allowed to serve more than eight years.

XI. AUDIENCE PARTICIPATION –

1. Sue Melke, 330 Chidester #409, stated the summary of complaints provided by the Chief provides no explanation of findings, and asked how the board could review a complaint be that information.

Chief DeGiusti responded this is just a summary provided to Council, the board would be provided with greater detail of the complaint. Ms. Melke said if the board finds issue with discipline applied it is already too late to amend that discipline.

2. Shirley Backler, 3912 Sparrow Wood Dr., Ann Arbor, stated she met with the former City Manager because she was concerned about the current curfew because that is how many young black males get into the system. She is interested in creating a similar

board in the system. Also, she received a complaint from a mother that reported her daughter missing and the police refused to have an Amber Alert and that complaint is not included in the summary. It is important to have an oversight board in order for citizens to make complaints.

Council Member Vogt asked what should be done with youth curfews. Ms. Backler responded it should be eliminated because only black males are being arrested not white males.

3. Gretchen Marshall-Tothfejel, 217 N. Washington #4, expressed gratitude for this conversation to take place. She asked that the complaint process be accessible and public made aware.
4. Kyle Hunter, 109 Ferris St., stated one purpose of this board is to strengthen the relationship between the police department and the community. However, a goal that would be better suited is to reestablish trust instead of strengthen the relationship.
5. Audience Member, Ann Arbor, had concerns about how a police review board can be apolitical and educated because they are not the only people the police will interact with on a day to day basis. This board should be used to protect the most vulnerable people.

XII. REMARKS FROM THE MAYOR –

— Thanks the audience for their comments.

Council Member Bashert stated one of the outcomes of the development of this board is there might be more complaints. However, it should be thought of as a positive not a criticism of the police department, but a reflection of doors opening between the police and the community.

XIII. ADJOURNMENT -

Resolution No. 2017-195, adjourning the City Council Meeting.

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

That the Special Meeting and Work Session be adjourned, on call, by the Mayor or two (2) members of Council.

OFFERED BY: Mayor Pro-Tem Brown

SECONDED BY: Council Member Vogt

On a voice vote, the motion carried, and the meeting adjourned at 10:00 p.m.