

CITY OF SALISBURY
WORK SESSION (VIA ZOOM MEETING)
JULY 20, 2020

Public Officials Present

Council President John “Jack” R. Heath
Councilwoman Angela M. Blake
Councilwoman April Jackson (left at 5:45 p.m.)

Council Vice President Muir Boda
Councilwoman Michele Gregory

Public Officials Absent

Mayor Jacob R. Day

In Attendance

City Administrator Julia Glanz, Deputy City Administrator Andy Kitzrow, Colonel Dave Meienschein, Lt. Jason Yankalunas, Captain Howard Drewer, City Attorney Mark Tilghman, City Clerk Kimberly Nichols, interested citizens, and members of the press.

On July 20, 2020 the Salisbury City Council convened in a Work Session at 4:30 p.m. via Zoom. The following is a synopsis of the topics discussed:

Ordinance accepting grant funds from Governor’s Office of Crime Control and Prevention under the FY21 Body Armor Program and amending FY21 Grant Fund Budget to purchase (8) bullet proof vests for Salisbury Police Officers

Colonel Dave Meienschein reported on the grant received from the Governor’s Office for a 50% match on (8) bullet proof vests. Federal grant funds would cover the remaining costs of the vests.

Colonel Meienschein said that all of the 84 or 85 sworn officers had vests, and they were replaced every five years.

Council reached unanimous consensus to advance the ordinance to legislative session.

Budget Ordinance appropriating insurance proceeds to purchase new Police Fleet vehicle

Colonel Meienschein explained SPD Patrol Unit #1474, a 2014 Chevrolet Caprice, was totaled in a motor vehicle accident. He requested the insurance proceeds of \$13,050 be transferred to the SPD Police Services Vehicle Account to be used towards the purchase of an additional vehicle in FY21.

Council reached unanimous consensus to move forward with the ordinance.

Charter Updates- City Clerk, City Administrator and Deputy City Administrators and adding language allowing for video participation by the public, Council and staff outside of a pandemic or public emergency

City Administrator Julia Glanz said that the City Charter still referred to Deputy City Administrators (plural). The City had (2) deputies several years ago and found it was best suited with only one.

She reported the City would also like to add language to permit Council participation via Zoom or another electronic method after the State of Emergency was lifted. PAC14, IT and Administration were working on improvements to Council Chambers to ensure a seamless transition to allow for electronic meetings.

Mr. Tilghman said the Charter did not specifically prohibit electronic meetings, and the method currently used was in accordance with the opinions of the Attorney General's Office in regards to Open Meetings. If the definition of a meeting was ever questioned, the City Charter basically called for the Council to meet, but the Code could define the type of meeting and allow for participation by electronic means.

Mr. Boda appreciated the flexibility of being able to meet electronically and said it would be helpful during the winter in inclement weather to not have to cancel their meetings. He indicated in § SC8-2 - City Clerk, under qualifications, the line read, "The City Clerk may be the same person who is the Treasurer for the City." He noted the City did not have a Treasurer, but rather a Finance Director. This phrase was missed in the re-organizational charter amendments and needed updating.

Mses. Jackson, Blake and Gregory agreed to the discussed changes.

President Heath noted the Zoom meetings received more public participation than when the meetings were held in person.

Warrant Service

President Heath stated that after all of the situations around the United States, Salisbury was one of the first cities to put together a task force to examine and work with the Police Chief and staff, Council and Administration to review policies and procedures.

Chief Duncan introduced SPD team members Colonel Dave Meienschein, Captain Howard Drewer, and Lt. Jason Yankalunas. She reported that over the past five (5) years, 115 warrants were served by Tactical Unit, of which forty (40) were signed as No Knock Warrants. However, only (36) were served as no knock warrants. One warrant was upgraded on the scene as the situation evolved from a Knock and Announce to a No Knock Warrant.

Lt. Yankalunas made a presentation on the warrant procedure. The police deliver the warrant to a judge to be signed which then allows them to conduct the search. He reported the majority of warrants served by the Criminal Investigation were served every day for things such as DNA, computer files, paper work, evidence related to thefts, etc. and were not served by the Tactical Unit.

Lt. Yankalunas further explained that after a judge signed a warrant, it was taken to the Police Department for determination as to how it would be served – either by members of the Tactical Unit or by detectives and officers. A consultation occurred to discuss manpower and safety prior to serving the warrant. If the Unit was to serve the warrant, it went to Lt. Yankalunas and commander

for threat assessment, investigation including surveillance, contingency plans, and other safety and case-related work. When served, the Knock and Announce or No Knock aspect can be changed at the time of the service. The SPD serves warrants for other departments with the same procedure being the same regardless of jurisdiction.

Lt. Yankalunas explained the purpose of the team was to save lives and do so in a safe manner. There was intensive training and selection standards for the team members. They have much more experience and conduct more prep work before serving warrants. Chief Duncan said the Team spent many hours per month together training and preparing.

President Heath opened up the discussion to Council members. The following comments were made by Council:

- Mr. Boda said it was a very informative presentation. They should discuss the City's limits within the State law. The SPD was not the only agency issuing warrants for the City of Salisbury. He asked if Mr. Tilghman could provide input, and would probably research before steps were taken. Mr. Tilghman said there was a Court of Appeals decision that tried to set the bounds for the No Knock Warrants and shortly thereafter legislature passed a law that regulated the warrants. Locally, we could impose additional requirements, but the SPD already had measurements in place for the appropriateness of No Knock Warrants.
- Ms. Jackson said they needed more information. She said she saw people murdered because of No Knock Warrants. She asked Lt. Yankalunas if she heard correctly that if there was a signed Knock and Announce Warrant, it could be changed to a No Knock Warrant. She asked, if the judge determined it to be a Knock and Announce Warrant, what would necessitate the change to a No Knock? Lt. Yankalunas said that a signed warrant was good to be served for (15) days, and a lot could change during that period. At the time the warrant is signed by the judge, there was no way of knowing what the conditions would be (15) days later. The courts have said, because of that, the officers have the discretion to change the type of warrant at the time of the service. He said the Unit frequently downgraded warrant services from No Knock to Knock and Announce because they realized the threat that existed at the time the warrant was signed no longer existed when it was served.

Ms. Jackson said more case studies should be done due to the fact that she knew someone murdered during this type of warrant and to ensure the City made the right decisions.

- Ms. Blake thanked Chief Duncan and staff for the educational presentation. She received many emails about legislation Council would be voting on, and legislation has not been yet presented. She asked if this discussion would decide about putting the No Knock Warrant on the legislative agenda. Mr. Boda answered it was more of a discussion to see what direction the Council wanted to go, and no legislation was yet written. President Heath reminded the City had the Task Force of volunteers, and Council needed their input first. Ms. Blake said she thought it was reasonable and prudent to allow the path for the Police Accountability Task Force, along with the SPD and City officials to meet and share their recommendations, understandings, or ideas for changing things.

Ms. Blake asked Lt. Yankalunas if the threat assessment was a check list or standardized from the National Tactical Association. Lt. Yankalunas said they followed their

recommendations when it was put together, borrowed from several other agencies, and followed best practices. It was a living document over the last ten to fifteen years. This part was completed in the early part of a warrant. If it did not meet the threat levels, the officer could change it. It was done like this every single day. Ms. Blake reiterated that it was a collective effort, not made by only one officer.

- Ms. Gregory thanked Lt. Yankalunas for the presentation. She asked what qualified a warrant to become a No Knock. Lt. Yankalunas said if a judge signed it as a No Knock, it was not up to them to ensure any threshold was met, as it was up to the judge. If an officer delivered a warrant to a judge and requested it be No Knock, it would be between the officer and the judge. The judge alone makes the determination. If the judge signed it as a Knock and Announce, and they determined it should be No Knock, the decision would not be based on any one thing or magic number but on a combination of factors and the totality of the circumstances at the time. They were not upgraded often, but frequently were downgraded.

Captain Drewer discussed the Millers case in which certainty was outlined. The Supreme Court said there was an amount of certainty that had to be present in order to elevate it.

Ms. Gregory asked, when serving a No Knock Warrant, if the person was already in custody or engaged elsewhere, how quickly did that information travel. Was there a time limit between the person being arrested or taken into custody and the team being out in the field? Was there a specific guideline for how fast they had to communicate to those in the field that the person had been brought in? Lt. Yankalunas said every case was different. They had murder suspects where they had their houses under 24-hour surveillance for days, and would normally know if they had moved on. She asked if someone was arrested and in process, was there a method to communicate that he was in custody. Lt. Yankalunas said on a local level, if he was picked up, they would know about it.

Ms. Gregory asked what the average level of training for a Tactical Unit looked like. Lt. Yankalunas said they did not take anyone on probation unless they had some unique experience that qualified them for the Unit. Generally, they would have to have been an officer for at least two years. The selection process had a lot of moving parts to it, and many years they had try-outs with nobody accepted. They received sixteen hours of training per month with additional training throughout the year. The team worked together all the time and functioned as a larger force than their number would indicate because of their level of training. Their average officer had about seven years on, with corporals and officers being much longer. Captain Drewer discussed the rigid training and said each member initially went through a 40-hour SWAT course.

Ms. Gregory voiced her main concern was that they said they would cooperate with Federal Marshals, and yet Federal Marshals were being seen in places like Portland doing black bagging operations. She was concerned that if something happened between now and the Task Force providing its recommendations, it would be on the Council.

- Ms. Jackson said there had to be discussion on this, and the Council could not pass legislation without doing it correctly. She asked Lt. Yankalunas how many times had he served a warrant (either type) and felt threatened. He said he had been on literally hundreds

of warrants. Every time he served a warrant he knew he or one of his men could potentially get hurt 100% if the time. However, he knew that because of their professionalism and training they would be calm and capable to do exactly what had to be done. He did not know how many times he personally felt threatened. Captain Drewer added that he worked with and for him for many years. In situations that could be dangerous, Lt. Yankalunas had a way of controlling the incident and the scene. It was not so much about rushing into danger, but was to bring those people to his or the officers' position. With No Knocks, Lt. Yankalunas honored the warrant but controlled the incident without putting anybody on the scene in jeopardy. He added that Lt. Yankalunas had done an outstanding job as team leader.

- Chief Duncan said that those who made the career path decision of law enforcement understood the inherent risks and relied on training, education, mentorship, field training, etc. They were constantly in the training cycle since City officers seemed to move on.
- Ms. Jackson asked when a judge signed a warrant, if he considered the person's criminal background when deciding how the warrant was to be served. Lt. Yankalunas replied the justification for the warrant had to be in the paperwork, and the judge had to go by what was written and could not ask the officers additional questions. If the person's criminal history has been included in paperwork, the judge would have it and could take it into consideration.
- President Heath asked if there were debriefings held after serving warrants. Lt. Yankalunas said there was a physical briefing between the team members where they meet, and then the officers wrote a report of incident. He also wrote a report.

The presentation and discussion were for informational purposes and Council did not reach consensus during the discussion.

Council Code Of Conduct

President Heath said the current Council Code of Conduct went back to the days of former Council President Louise Smith and discussed the need to address the addition of social media and possible consequences for violating the code.

Mr. Boda thought they could add a requirement to attend social media classes. Mr. Heath asked if he would check with MML to see if there were examples of consequences.

Mses. Jackson, Blake and Gregory concurred that the Code of Conduct should be updated to include electronics and social media.

Public Comments

Seven (7) members of the public provided the following comments:

- Asked Council to look carefully at history of No Knock Warrants. The SPD report was their perspective- what if it happened in our community.
- Spoke on behalf of 171 residents and business owners of Salisbury who signed the petition to ban No Knock Warrants. Police Officers get injured in No Knock Warrants, too. This is an issue that protects both Police Officers and the general public and would bring them

together. Legislation like this would build trust in the community. Our 4th Amendment is being removed right before our eyes. Asked Council to act on legislation.

- Thanked Ms. Gregory and Mr. Boda for bringing this to the attention of the activists in the community. Asked Council to think about the legislation and listen to the requests of the community regarding banning No Knock warrants. The Criminal Justice Reform Task Force is a great initiative and needed in the City, but it was not formed yet. City Council had a responsibility to listen to the community's demands. A ban on No Knock Warrants was a direct request from the community protestors, not because they did not trust the police or the City Police Department, but wanted the City Police Department to set the example. Was offended by the official offense made by the Police Department because it did not help the community. There were many young black people hurting and she did not think requesting a ban on No Knock Warrants was putting the cart before the horse. If the City Council wanted to say they were listening to the community, then to say "no" was to say "we don't care."
- It was important to consider the racial history behind the motivation of No Knock Warrants. It was clear that the protesters wanted Salisbury to serve as the best example for our nation.
- Agreed with former speaker. The community has brought up an issue where people were being murdered. The Police was defensive and claimed they had trainings and protocol in place. Was concerned they did not address the racial history of why the protocol was in place. Although they followed the judges' orders, the judge's motivations could not always be trusted. If they wanted to listen to the people, this was what the people wanted. She hoped it passed. The power of the Portland police was extremely scary.
- Several weeks ago, Chief Duncan indicated she wanted to improve relationship between the Police Department and the community, but the existence of No Knock Warrants invariably creates distrust. It was vital that these conversations continued and action taken to ban No Knock Warrants. The Task Force did not exist yet, and waiting to ban No Knock Warrants would only cause more distress and distrust in the community.
- Had respect for everyone in law enforcement and the military, but echoed the mention of racial history. The issues of No Knock Warrants came from the Nixon Administration which did not have the best track record for equitable solutions for all people. He highlighted that the conversations brought up by community activists tended to shift the focus from the ideas we wanted to convey onto the safety aspect of the police officers. We needed to hear from the officers, but the issues raised by them as the reasons for No Knock Warrants were for officer safety. He said that was not accurate because if someone entered someone's home in clean clothes, forcibly and unannounced, a response would be triggered whether or not they were a criminal. Exercising these types of warrants put police officers in danger. If the Police Department and City Council were concerned with officer safety, banning No Knock Warrants would ensure their safety. Chief Duncan would like to provide more training, but the City budget would not allow it. That was another point, and he was sure everyone received emails from him concerning the fact that the Police Department took around 34% of the City's budget. He did not want this conversation or any conversations in the future to turn into an opportunity to increase the funding for the Police Department in any way.

Council Remarks

Mr. Boda thanked everybody for participating in the dialogue. There were several factors on this issue, and what City Attorney Mark Tilghman came up with would determine the direction Council

would go. He asked everyone to support local businesses, stay safe and wear masks to be respectful of others. Stay cool and have a good week.

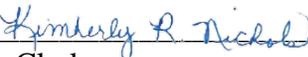
Ms. Blake thanked everyone for the discussion and clarified that there was no legislation to be voted on this evening. This was the first discussion Council had on the issue and they needed to act prudently because of the magnitude of these possible changes. She wanted to do it the right way. She encouraged those healthy to donate blood. The region was still very low on supply.

Ms. Gregory thanked those for attending voicing their opinions. There would be more conversations about this. Black Lives Matter, be kind to each other, wear your masks over your nose and mouth.

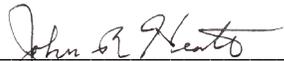
President Heath thanked all of the participants for stating their positions. They discussed changing the Charter to include having Zoom meetings, and the amount of participation they had this evening was a shining example. He did not think they would have had so many participants in Council Chambers. Give blood if you were able, as there was a desperate need. Be kind to each other.

Adjournment

With no further business to discuss, the Work Session adjourned at 6:07 p.m.



City Clerk



Council President