

**Minutes of the Meeting of the Safety Committee of Council  
Held in the Council Chambers of the Municipal Building  
On Monday, November 6, 2023, at 7:00 P.M.**

Scott Radcliffe, Chair of the Safety Committee, called the meeting to order.

**Committee Members Present**

Chair, Ward 4 Councilman Scott Radcliffe

Council President Brian Fischer; Councilwoman-at-Large Tammy Holtzmeier

**Others in Attendance**

Councilman-at-Large Craig Witherspoon; Clerk of Council Barbara Brooks; Ward 1 Councilwoman Jennifer Demaline; Ward 2 Councilman Dennis McBride; Law Director John Gasior; Mayor Bryan Jensen; Ward 3 Councilman Tony Moore; City Engineer Ryan Cummins; Planning/Economic Development Coordinator Pam Fechter; Finance Director Steve Presley; Safety/Service Director Duane Streater; Tom Stringer, Magistrate, Mayor's Court; Chief of Police Dan Fischbach; Mason Jones, Chronicle Telegram; Kevin Urig, KMU Trucking & Excavating; Residents Larry Escalante, Pan Jankowski, Mary Berges, and Chris Barnaro

**Discussion of Fines for Violations Regarding School Buses**

Mr. Radcliffe stated that the main point of this meeting was to gather some information and talk about people passing the school buses. So tonight we have Police Chief Dan Fischbach and the Magistrate of Mayor's Court, Tom Stringer, to give us some background on some data on this. He asked Mayor Jensen if he had anything to say before he asked Chief Fischbach to come forward.

Mayor Jensen said, no, we have asked both the Chief and the Magistrate to be here just so they could answer some questions and give us an overview of what they do and what they are looking for. He thought that in order for Council to ask questions, it would be helpful for them to kind of see how the Magistrate handles cases individually and also how the Chief instructs his officers.

Chief Fischbach thanked the Committee for having him. He said that he does not have many statistics because it is pretty open and shut for the Police Dept. He said that he could tell them that for this calendar year, January through today, they have had 24 violations that they have issued citations for. The vast majority of those come from the bus garage calling the Police Dept. when they have a violation. The law allows for a bus driver to report these traffic violations after the fact and the Police Dept. has the authority to issue citations based on the bus driver's statement. He would say that they have had an uptick in these violations being reported to them from the bus garage; however, he does not believe it is a case of frequency. He believes it is a case of technology helping them get identification of the vehicles and the drivers.

Chief Fischbach said, as they know, most of our school buses are equipped now video cameras both inside and out. He cannot speak to the particulars on that as far as how many buses have them because that is something done strictly by the Board of Education and the bus garage. What he can tell them is the majority of those 24 cases, if not all of them, we are able to solve based on the video on the buses. Without a license plate on a vehicle it is hard for them to determine who owned the vehicle and who was driving the vehicle. So to have the video on the bus has greatly increased their chances of making identification, both on the vehicle and who was driving that vehicle.

The Chief stated that they do have their officers follow school buses when they have time. They try to hit that heavy at the beginning of the school year. Also, they put out public service announcements through their social media to the general public reminding them about what the law says: trying to slow down, being more attentive, and they do give extra attention to all our school zones both morning and afternoon. But obviously when the police cars are out is when people are driving at their best so rarely do the officers actually see these violations happening in front of them. Again, the Chief said that he would say that 99% or more of these violations are reported to them after the fact. There have been 24 violations year to date and that is accurate as of today. That covers the end of the last school year and going into the beginning of this school year. Starting at the end of August for this school year, 2023-2024, they have had 10 violations so far that they have cited for passing a stopped school bus. There really is not much to it outside of they are mainly reactive from the bus garage calling in the complaints.

Mr. Gasior asked the Chief if, when the call comes in from the bus garage, does an officer go to the bus garage, use video and then write the citation? Chief Fischbach said that they have a pretty good process in place with the bus garage. They understand what we would like to see. Typically the bus driver will come back to the bus garage. They have the ability to essentially put a bookmark on their video system on their buses when a violation does occur so it just helps them to go back and retrieve that video faster without having to watch the whole morning or afternoon route. So the driver will come back and they have our statement form already on file at the bus garage. They will have a written statement ready for us when they call us and have the video ready as well. They typically put it on a thumb drive or a CD. We bring that video back to the Station and play it into evidence. Mr. Gasior stated, so it is ultimately the officer who views the offense on the camera and then writes the ticket. Chief Fischbach said that was correct, and as he said, the law does allow the issuance of the citation just strictly off the bus driver's statement but obviously the video is great to have.

Mr. Fischer stated, so say someone drives by a stopped school bus and the officer is not the one who views it and Ohio law says that a bus driver can give the Police Dept. video evidence; is that similar to traffic cameras or how does that work legally? Chief Fischbach responded that, as he said, the violation does not even need to have video; they do not have to have a video of the infraction. The Ohio Revised Code does allow for the issuance of the citation based on a written statement from the bus driver and that is actually right in the Code for the violation of passing a stopped school bus. So we do not need the video. It is obviously nice to have as it is hard to dispute the video but we can issue a citation just based on the written statement from the bus driver.

Mr. McBride asked the Chief, of those violations that you have written thus far, are these mostly just adults? Are any of these new drivers? Chief Fischbach said that out of the 24 violations for this year only 2 of them have been juveniles. He would say the violation is definitely caused by distraction. Most people, in his opinion, are not purposely running red school bus lights. Most of the reactions they get from people are that they are honestly shocked and embarrassed and usually they know they did it after the fact. Mr. McBride stated that they might be good actors because he does not know how you can be surprised going left of center around a big yellow bus with its front flashers on. Chief Fischbach said that the majority of these violations are opposite-direction violations. They do see some where a person is actually going out and around the bus but that is obviously a lot more blame; it takes a lot more thought process to actually go out and around a bus.

Mr. Fischer asked if 24 violations is a large number compared to previous years? The Chief answered, as he said, they have seen an increase but he does not believe it is necessarily an increase in frequency of

occurrence; he thinks it is more just getting better at being able to identify because of the video on the buses. When the buses were first outfitted with video, we had a two-plate law in Ohio and you had front and rear plates so the buses were configured with the assumption that vehicles were going to have front plates on because that was the law at the time. Since then the law for front plates has changed and now they are not required. He knows that the bus garage has been doing some work to try to reconfigure the cameras or add additional cameras to help catch the license plate that is now only on the rear of the vehicle.

Mr. Gasior said that he would imagine we have some violations where you have the three lanes and some people do not know..... Chief Fischbach said, yes, some of it he believes is not knowing the law. He said that they always try to do educating at the beginning of the school year. They will put out the graphics and show when you are required to stop. So some of it is education but again, he thinks that some of it is just distracted driving. People are in a hurry to get everywhere. Mr. Fischer asked if there were any accidents involved with any of those citations? The Chief responded that they have not had any school bus accidents this year.

Mayor Jensen asked the Chief if he had seen with these citations, any times where it was just a blatant blowing by of the bus? He knows that a lot of the concern is if the fine is high enough to deter these violations. We are trying to change what is happening. As the Chief has said, most of the violations have been because of distracted driving but most of our concern is with is with people that just disregard the law and go by a stopped bus. He asked the Chief if he had any idea of what that count would be in terms of the 24 violations we have had. The Chief said that he did not have a solid number on that but from watching people's reactions on the video, a lot of them will actually stop after they pass the school bus, realizing what they had just done. He does not think the majority of them are blatantly making conscious effort decisions to see the red light and go through it anyway. As far as the fine being a deterrent, that is why we have the fine: to be a deterrent to try and stop that behavior. He does not think that someone is going to make a conscious decision to pass a bus based on whether the fine is high or low. Again, he truly thinks the majority of the people are not doing it intentionally; he would say the underlying cause for most violations is distracted driving.

Mayor Jensen stated that we are going to make a decision on giving part of the money or all of the money from fines to the schools and he asked Mr. Gasior if that had been done. Mr. Gasior answered that he thought that we made an appropriation earlier this year of some of the funds. Mrs. Holtzmeier stated that we did. That was approximately \$9,600 through Ordinance No. 46-23 in March. Mr. Gasior added that was for passing a school bus – fines to cover the cost of the additional cameras because of the loss of the front plate. Mr. Presley added what we have not done is to establish an Ordinance separating those funds. What we did was go back to the court records to come up with the numbers that are included in that Ordinance. If Council desires to do that officially every time one of these is issued and paid, we could do it with the court records and would have a known number at any point in time that the school is looking to purchase additional cameras or be reimbursed whatever funds we might have for cameras being purchased.

Mr. Radcliffe asked Magistrate Tom Stringer to give them an explanation of some things that he sees when the violation comes to court. Mr. Stringer, 2732 Jaycox Road, Avon, Ohio, stated that, based on his experience in handling these cases, everything the Chief just said is spot on. He thinks it is important to know that these folks are not doing this intentionally. They appear in court and they are very upset. Oftentimes we are dealing with Avon residents, parents who have their own children in our schools. He further agrees with the Chief with respect to fines. He thinks the main objective here is deterrence; we

do not want to see this happening; we want to minimize it happening. And he does not think folks consider what the fine potentially might be in determining whether or not they are going to actually commit the infraction. He has had mothers before him in tears because they are so distraught and upset for what they did and he has never experienced anyone who he thought intentionally meant to just fly past a stopped school bus.

Mr. Radcliffe asked Mr. Stringer if he could give them the range of fines that can be levied for this violation. Is there anything outside of the fine that he asks those people to do in terms of the repercussion for the passing of a bus?

Mr. Stringer answered that the maximum fine is \$500 here in Avon and that fine varies from municipality to municipality. It is rare that he would max out the fine. His approach is that they enter their plea of no contest or guilty and he finds them guilty. We then enter into what is referred to as "mitigation" and that is describing what happened, how it happened, what were the circumstances surrounding what happened and he takes all that into consideration. He assesses the individual's credibility and sincerity, in what they tell him and furthermore he always reviews the driving record of the individual. That is critically important to get a sense of whether they are good drivers or bad drivers. He weighs all that in determining what fine he imposes that he deems to be appropriate. Typically it hovers around \$300. And that is how he handles these cases. Again, with an eye on deterrence, he does not think that just maxing out the fine across the board is going to make this happen less. And when these folks are in front of him, he cannot say this enough: they are really apologetic and distraught and they feel awful that they did it. And no one ever is doing anything that would intentionally put a child in harm's way. And that has been his experience and how he handles the imposition of fines.

Mr. McBride stated, so he has heard both Mr. Stringer and Chief Fischbach say that most of the time people are distracted so that is basically a violation of full-time attention driving a car. Personally, he would start the fine at \$500. Yes, they did not mean to go past the school bus but had they been paying attention? Basically, you are driving a big weapon and people are clueless. He has no sympathy for anyone that is not driving a car with full attention. He said that he thinks the fine should be a mandatory \$500 fine the first time, \$1,000 for the second one and on up. That is just his opinion.

Mayor Jensen said that he was just talking to the Magistrate the other day and the one thing he is seeing more and the Mayor thinks the Police are seeing more and more, is people speeding. They would like to see more mandatory court appearances for people because a lot of times you can just waive the penalty and sometimes money does not have anything to do with the recklessness. And some of the speeding is in school zones. He thinks there is remorse with the school bus violations but some of the other ones if they can just waive the fine it is like the money is not an issue. Making them come to court would make them aware that we are not going to allow those kind of things in town. The school bus violations are very important but they are a small percentage of the citations that are issued. He thought we would like to look at some of the ones that we send more tickets out for, such as people that are just deliberately speeding and thinking they will just pay a fine; they do not care. He asked the Chief how the school bus tickets compare to the other tickets issued and the Chief responded for all the other violations, it is 50-fold compared to passing a stopped school bus. Passing a stopped school bus is a very small percentage of the violations that they encounter on a regular basis.

Mr. Moore stated that what he is getting on this is that we need to have more of an education of what our residents should be doing. If they are texting, he gets that but what if there are serious problems on their minds such as a job layoff or a death in the family and they just did not pay attention. We are all

guilty of getting distracted. He is hearing from people that there is sincerity in their remorse in the violation. He does not think that fines are going to be the deterrent. We are not here to rake our residents over the coals if they are having a day where they are just really distracted. He knows that is not an excuse but why don't we think about ways of educating our residents. Mr. McBride said so what he was hearing is the mandatory court appearance is probably a better vehicle and he would be amenable to that. But when a video clearly shows someone passed a stopped school bus, he has no sympathy for that.

Mr. Radcliffe stated that Mr. Stringer must talk to other cities and he asked him if he was aware of programs or educational things or mandatory court appearances that were found in other cities to help deter this thing? Mr. Stringer said that if you pass a stopped school bus, it is a mandatory court appearance and that is critical. You have to make people show up in court; they appear, read the offense and it can be humiliating. Mr. Moore is correct in that oftentimes they are distracted, something is going on in their family, they have some crisis of sorts. He said that he was not justifying or excusing the conduct but we are human and things like that happen. To answer Mr. Radcliffe's question with respect to programs, etc., in other cities, he does not know of any but he can assure them that once a person is in court for that offense, they are not doing it again; there are no repeat offenders for passing a school bus. In his experience and opinion, the fact that someone is cited and has to appear in court and pay whatever the fine is, is enough of a deterrent that that individual will not commit that offense again.

Mrs. Holtzmeier said so we have talked a bit about the experience of the driver and their intent and what their state of mind might have been. She just wanted to give a little bit of point to the experience of the child who is waiting for the bus. This is only a violation when the bus is stopped and the lights are on and the red stop sign is out; is that a fair circumstance? Chief Fischbach said, that is correct. Mrs. Holtzmeier noted so those things are only happening when a bus is at a stop where they are ready to pick up a child who is ready to cross the street or get onto the school bus. We are trying to protect that child; we want there to be a safe passage for them and if drivers are not paying attention, prevention is not going to help. They are already at a place where they are not paying attention to a young person who is just trying to go to school. So we are left with deterrents. She is attracted to the point of education. She was intrigued to hear that we are at 24 citations for the year at roughly 10 months so far.

Mrs. Holtzmeier said that she pulled up information that was available from 2020 just to be able to see if these numbers are going up. So we are at 24 violations in the 10 months of this year; in 2020 for about the same 10 months, we were at 24 as well. This year there were 2 juveniles; in 2020, there were 3 so we are roughly tracking around the same behaviors, the same citations, and what she would want to see is, are the behaviors changing? So it tells her that we still maintain a problem. What she wanted them to come together for was to learn about that and to discuss how we can reduce these numbers. The cameras help us determine who does deserve a citation but she is really looking at making a safer crossing for someone just trying to get on the school bus and go to school. And wanting to hear in the limited time that we have, how best we can make that happen if it is not increasing the fine, if it is not increasing more cameras or having more police. So how do we reduce the rise and make a safer passage when our young people are just trying to get on the bus and these numbers stay consistent. She does not want to have an accident; she does not want to have this meeting after something bad happens. She would like to do our best to see what we can do to reduce those numbers now.

Mayor Jensen stated that the next newsletter is going to do a spot regarding the school buses, just to remind people that they are supposed to stop for the buses. He thinks that our bus drivers do a great job; they wait and make sure that the cars coming forward are stopped. The Mayor said that he does not think that there is a magic bullet that we can do that will alleviate people running the bus.

Mr. Stringer said that his role as a judicial official in our Mayor's Court is just to take a plea from the defendant and impose what he thinks is a reasonable fine; that is his role in the process. He does not know that there is going to be a solution coming through our Mayor's Court unless they decide to go the route of a mandatory \$500 fine. Mrs. Holtzmeier said, so now Mr. Stringer is exercising the discretion that the law provides and Mr. Stringer said, yes he is. Mrs. Holtzmeier asked Mr. Stringer if he had that higher ceiling to use at his discretion, if he would have any objection to doing so and Mr. Stringer responded, not at all.

Mr. Witherspoon suggested that a possible deterrent is to tell everybody that there are cameras on the buses as he does not think that the average person in the City knows that. Maybe that is one way of educating the general public. So that might be one thing to put in the newsletter that, yes, there are cameras on the school buses and a violation is more than likely to be caught.

Mr. Radcliffe stated that if they felt there is more conversation to be had on this issue, the Safety Committee could be regrouped, and he closed the meeting.

Respectfully submitted by Gail Hayden, Assistant Clerk of Council