

INDEPENDENT AUDIT REPORT

Chief Michael Hunter
Fairmont Police Department
201 Lake Ave., Suite 199
Fairmont, MN 56031

Dear Chief Hunter:

An independent audit of Fairmont Police Department's Portable Recording System (body-worn cameras (BWCs)) was conducted on August 13, 2024. The objective of the audit was to verify Fairmont Police Department's compliance with Minnesota Statutes §§13.825 and 626.8473.

Data elements the audit includes:

Minnesota Statute §13.825

- Data Classification
- Retention of Data
- Access by Data Subjects
- Inventory of Portable Recording System Technology
- Use of Agency-Issued Portable Recording Systems
- Authorization to Access Data
- Sharing Among Agencies

Minnesota Statute §626.8473

- Public Comment
- Body-worn Camera Policy

Fairmont Police Department is located in Martin County, Minnesota, and employs eighteen (18) peace officers. Fairmont Police Department utilizes WatchGuard body-worn cameras and Evidence Library management software. BWC data is stored on a local file server hosted by Martin County. The audit covers the time period September 1, 2022, through July 31, 2024.

Audit Requirement: Data Classification

Determine if the data collected by BWCs are appropriately classified.

BWC data is presumptively private. All data collected by Fairmont Police Department during the audit period, is classified as private or nonpublic data. Fairmont Police Department had no instances of the discharge of a firearm by a peace officer in the course of duty, use of force by a peace officer that resulted in substantial bodily harm, requests from data subjects for the data to be made accessible to the public or court orders directing the agency to release the BWC data to the public.

No discrepancies noted.

Audit Requirement: Retention of Data

Determine if the data collected by BWC's are appropriately retained and destroyed in accordance with statutes.

Fairmont Police Department utilizes the City of Fairmont Records Retention Schedule and agency specified retention periods in WatchGuard. At the conclusion of a BWC recording, a WatchGuard category type is assigned. Each category type has an associated retention period. Upon reaching the retention date, data is systematically deleted. Active BWC data is accessible in the WatchGuard Evidence Library.

Server log reports consisting of BWC data collected and deleted during the audit period were produced. Records from the server log report were selected and the record date was verified against the purge date. All records were retained purged in compliance with the records retention schedule and were maintained for at least the minimum ninety (90) days required by statute.

Active BWC data is accessible in the WatchGuard Evidence Library. The server log maintains a listing of all active and deleted BWC data with associated meta data.

Fairmont Police Department has received no requests from data subjects to retain BWC data beyond the applicable retention period.

Records staff monitor proper categorization of BWC data to ensure data are appropriately retained and destroyed.

No discrepancies noted.

Audit Requirement: Access by Data Subjects

Determine if individuals who are the subject of collected data have access to the data, and if the data subject requests a copy of the data, other individuals who do not consent to its release must be redacted.

BWC data is available to data subjects and access may be requested by submission of a Fairmont Police Department Data Request Form. During the audit period, Fairmont Police Department had received no requests to view but did receive and fulfill requests for copies of BWC data from data subjects. Data subjects who had not consented to the release of data were redacted. The data request is documented in the records management system and a copy of the request form is retained.

No discrepancies noted.

Audit Requirement: Inventory of Portable Recording System Technology

Determine the total number of recording devices owned and maintained by the agency; a daily record of the total number of recording devices actually deployed and used by officers, the

policies and procedures for use of portable recording systems by required by section 626.8473; and the total amount of recorded audio and video collected by the portable recording system and maintained by the agency, the agency's retention schedule for the data, the agency's procedures for destruction of the data, and if the data are available to the public.

Fairmont Police Department's BWC inventory consists of sixteen (16) devices. Device inventory is maintained in a Microsoft Word document.

Fairmont Police Department's BWC policy that governs the use of portable recording systems by peace officers while in the performance of their duties. The policy requires officers to ensure their recorder is in good working order. If the recorder is not in good working order, or the officer becomes aware of a malfunction at any time, they are required to promptly report the failure to their supervisor and obtain a functioning device as soon as reasonably practicable.

Peace officers were trained on the use of the BWC system by a WatchGuard trainer during implementation. Newly hired officers are trained as part of their field training program.

Officers working on randomly selected dates were verified against the server log reports and confirmed that BWCs are being deployed and officers are wearing and activating their BWCs.

The total amount of active data is accessible in the WatchGuard Evidence Library. Total amount of active and deleted data is documented in the server log reports.

Fairmont Police Department utilizes the City of Fairmont Records Retention Schedule and agency specified retention in WatchGuard. BWC video is fully deleted from server upon reaching its scheduled deletion date. Meta data information is maintained on the server. BWC data is available upon request, and access may be requested by submission of a data request form.

No discrepancies noted.

Audit Requirement: Use of Agency-Issued Portable Recording Systems

Determine if peace officers are only allowed to use portable recording systems issued and maintained by the officer's agency.

Fairmont Police Department's BWC policy states that officers are prohibited from using personally owned recording devices while on duty without the express consent of the Chief of Police or designee.

No discrepancies noted.

Audit Requirement: Authorization to Access Data

Determine if the agency complies with sections 13.05, Subd. 5, and 13.055 in the operation of

portable recording systems and in maintaining portable recording system data.

Supervisor and the Chief of Police conduct reviews of BWC data to ensure BWCs are being utilized in compliance with policy.

Nonpublic data is only available to persons whose work assignment reasonably requires access to the data. User access to BWC data is managed by the assignment of group roles and permissions in WatchGuard. Permissions are based on staff work assignments. Roles and permissions are administered by IT under the direction of the police captain. Access to BWC data is captured in the audit trail. Access to Evidence Library is password protected and requires dual authentication.

The BWC policy governs access to BWC data. Authorized users may access BWC data pursuant to lawful process and in accordance with policy, statute, and the Minnesota Data Practices Act. Access to data is captured in the audit log. The BWC policy states that any member who accesses or releases recordings without authorization may be subject to discipline.

When BWC data is deleted from WatchGuard, its contents cannot be determined. Fairmont Police Department and Martin County have had no security breaches. A BCA CJIS security audit was in process at the time of this audit.

No discrepancies noted.

Audit Requirement: Sharing Among Agencies

Determine if nonpublic BWC data is shared with other law enforcement agencies, government entities, or federal agencies.

The BWC and the Records Maintenance and Release policies govern the sharing of BWC data. BWC data may be shared with other agencies and governmental entities pursuant to lawful process and in accordance with policy, statute, and the Minnesota Data Practices Act. Sharing of data is documented in iCrimeFighter software.

No discrepancies noted.

Audit Requirement: Biennial Audit

Determine if the agency maintains records showing the date and time the portable recording system data were collected, the applicable classification of the data, how the data are used, and whether data are destroyed as required.

WatchGuard Evidence Library and the server log reports document the date and time portable recording system data was collected and deleted. All BWC data collected during the audit period is classified as private or nonpublic data. The audit log, the records management system, and iCrimeFighter software document how the data are used and shared.

No discrepancies noted.

Audit Requirement: Portable Recording System Vendor

Determine if portable recording system data stored in the cloud, is stored in accordance with security requirements of the United States Federal Bureau of Investigation Criminal Justice Information Services Division Security Policy 5.4 or its successor version.

Fairmont Police Department's BWC data is stored on a local file server hosted by Martin County. The server is located in a secure area, and access to the server is password protected.

No discrepancies noted.

Audit Requirement: Public Comment

Determine if the law enforcement agency provided an opportunity for public comment before it purchased or implemented a portable recording system and if the governing body with jurisdiction over the budget of the law enforcement agency provided an opportunity for public comment at a regularly scheduled meeting.

Fairmont Police Department solicited for public comment on the agency's website. The public was invited to provide public comment by online questionnaire, by mail, email or telephone. Fairmont City Council held a public hearing at their October 9, 2017, meeting. The body worn camera program was fully implemented August 1, 2018.

No discrepancies noted.

Audit Requirement: Body-worn Camera Policy

Determine if a written policy governing the use of portable recording systems has been established and is enforced.

Fairmont Police Department's BWC policy is posted on the agency website. The policy was compared to the requirements of Minn. Stat. § 626.8473. The policy includes all minimum requirements of Minn. Stat. § 626.847, Subd. 3(b) with the exception of Subd. 3(b) (3).

Discrepancy noted.

This report was prepared exclusively for the City of Fairmont and Fairmont Police Department by Lynn Lembcke Consulting. The findings in this report are impartial and based on information and documentation provided and examined.

Dated: March 27, 2025

Lynn Lembcke Consulting

Lynn Lembcke

Lynn Lembcke



STAFF MEMO

Prepared by: Michael Hunter, Chief of Police	Meeting Date: 04/14/2025	<input type="checkbox"/> Consent Agenda Item <input checked="" type="checkbox"/> Regular Agenda Item <input type="checkbox"/> Public Hearing	Agenda Item # 9.A.1
Reviewed by: Jeff O'Neill, Interim City Administrator	Item: Consideration of the Fairmont Police Department Body Worn Camera (BWC) Audit, dated March 27, 2025		
Presented by: Michael Hunter, Chief of Police	Action Requested: Motion to Approve the Body Worn Camera Audit, as Presented, and Direct Staff to Submit the Audit Report to the State of Minnesota Legislative Commission on Data Practices and Personal Data Privacy		
Vote Required: <input checked="" type="checkbox"/> Simple Majority <input type="checkbox"/> Two Thirds Vote <input type="checkbox"/> Roll Call	Staff Recommended Action: Approval Board/Commission/Committee Recommendation:		

PREVIOUS COUNCIL ACTION

Approval of BWC Audit on March 8, 2021 for August 1, 2018 through August 30, 2020
 Approval of BWC Audit on February 27, 2023 for August 1, 2020 through August 31, 2022

REFERENCE AND BACKGROUND

The Fairmont Police Department was one of the first agencies in southern Minnesota to deploy body cameras on patrol with our officers: The program started with body cameras in use by officers on August 1, 2018. Under Minnesota State Statutes § 13.825, subd. 9, agencies who utilize body cameras must complete an audit every two years. The audit is to be presented to City Council.

The audit was initiated on August 13, 2024 and concluded with the written report dated March 27, 2025. The time frame for the audit was September 1, 2022 through July 31, 2024. One discrepancy was noted in the audit. Minnesota Statutes § 626.87, subd. 3(b)(3) had some language updated by the State in 2023 and needed to be referenced in our Department Policy. The language is regarding body camera use by officers working under the direction of another law enforcement agency or assisting a federal agency. It has since been updated to reflect the change in statute.

BUDGET IMPACT

\$1,000 cost to outside auditor Lynn Lembcke Consulting for conducting the audit

SUPPORTING DATA/ATTACHMENTS

- Letter to the City Council from Chief Hunter
- Copy of the Body Worn Camera Report dated March 27, 2025
- Copy of Minnesota Statutes § 626.8743
- Copy of Updated Fairmont Police Policy 434



Police Department

April 3, 2025

Fairmont City Council

Ref: Fairmont Police Body Camera Audit

Good Evening Mayor and Council,

In accordance with MN 13.825 Sub 9(c), please accept our bi-annual audit for the Fairmont Police Department's Body Worn Camera Program included with this correspondence. The audit covers the time frame September 1, 2022 through July 31, 2024. The audit was conducted by Lynn Lembcke Consulting starting August 13, 2024 and was completed March 27, 2025. In accordance with Minnesota Statute 13.825 Sub 9, upon review and approval by the City Council, the report is then submitted to the State of Minnesota Legislative Commission on Data Practices and Personal Data.

The audit shows one discrepancy that we addressed as a result of the audit. Language in Minnesota State Statute 626.8743 Sub 3(b)(3) was updated during 2023 and needed to be referenced in our policy. The language was regarding the use of body cameras by our officers working under the direction of another law enforcement agency or assisting a federal agency. It has since been updated to reflect that change in statute.

I greatly appreciate your support of our body worn camera program for the Fairmont Police Department. They have been a great tool to provide objective documentation of our calls for service and transparency in policing for our community.

Please feel free to contact me if there are any issues or questions about the audit or our body worn camera program.

Respectfully,

A handwritten signature in black ink, appearing to read "MH", with a long horizontal flourish extending to the right.

Michael Hunter V37
Chief of Police
Fairmont Police Department
mhunter@fairmont.org
507-238-3178

Office of the Revisor of Statutes

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2024 Minnesota Statutes

[Authenticate](#)  [PDF](#)

626.8473 PORTABLE RECORDING SYSTEMS ADOPTION; WRITTEN POLICY REQUIRED.

Subdivision 1. **Definition.** As used in this section, "portable recording system" has the meaning provided in section [13.825, subdivision 1](#).

Subd. 2. **Public comment.** A local law enforcement agency must provide an opportunity for public comment before it purchases or implements a portable recording system. At a minimum, the agency must accept public comments submitted electronically or by mail, and the governing body with jurisdiction over the budget of the law enforcement agency must provide an opportunity for public comment at a regularly scheduled meeting.

Subd. 3. **Written policies and procedures required.** (a) The chief officer of every state and local law enforcement agency that uses or proposes to use a portable recording system must establish and enforce a written policy governing its use. In developing and adopting the policy, the law enforcement agency must provide for public comment and input as provided in subdivision 2. Use of a portable recording system without adoption of a written policy meeting the requirements of this section is prohibited. The written policy must be posted on the agency's website, if the agency has a website.

(b) At a minimum, the written policy must incorporate and require compliance with the following:

(1) the requirements of section [13.825](#) and other data classifications, access procedures, retention policies, and data security safeguards that, at a minimum, meet the requirements of chapter 13 and other applicable law. The policy must prohibit altering, erasing, or destroying any recording made with a peace officer's portable recording system or data and metadata related to the recording prior to the expiration of the applicable retention period under section [13.825, subdivision 3](#), except that the full, unedited, and unredacted recording of a peace officer using deadly force must be maintained indefinitely;

(2) mandate that a portable recording system be worn at or above the mid-line of the waist in a position that maximizes the recording system's capacity to record video footage of the officer's activities;

(3) mandate that officers assigned a portable recording system wear and operate the system in compliance with the agency's policy adopted under this section while performing law enforcement activities under the command and control of another chief law enforcement officer or federal law enforcement official;

(4) mandate that, notwithstanding any law to the contrary, when an individual dies as a result of a use of force by a peace officer, an involved officer's law enforcement agency must allow the following individuals, upon their request, to inspect all portable recording system data, redacted no more than what is required by law, documenting the incident within five days of the request, except as otherwise provided in this clause and clause (5):

(i) the deceased individual's next of kin;

(ii) the legal representative of the deceased individual's next of kin; and

(iii) the other parent of the deceased individual's child.

A law enforcement agency may deny a request if the agency determines that there is a compelling reason that inspection would interfere with an active investigation. If the agency denies access, the chief law enforcement officer must provide a prompt, written denial to the individual who requested the data with a short description of the compelling reason access was denied and must provide notice that relief may be sought from the district court pursuant to section [13.82, subdivision 7](#);

(5) mandate that, when an individual dies as a result of a use of force by a peace officer, an involved officer's law enforcement agency shall release all portable recording system data, redacted no more than what is required by law, documenting the incident no later than 14 days after the incident, unless the chief law enforcement officer asserts in writing that the public classification would interfere with an ongoing investigation, in which case the data remain classified by section [13.82, subdivision 7](#);

(6) procedures for testing the portable recording system to ensure adequate functioning;

(7) procedures to address a system malfunction or failure, including requirements for documentation by the officer using the system at the time of a malfunction or failure;

(8) circumstances under which recording is mandatory, prohibited, or at the discretion of the officer using the system;

(9) circumstances under which a data subject must be given notice of a recording;

(10) circumstances under which a recording may be ended while an investigation, response, or incident is ongoing;

(11) procedures for the secure storage of portable recording system data and the creation of backup copies of the data; and

(12) procedures to ensure compliance and address violations of the policy, which must include, at a minimum, supervisory or internal audits and reviews, and the employee discipline standards for unauthorized access to data contained in section [13.09](#).

(c) The board has authority to inspect state and local law enforcement agency policies to ensure compliance with this section. The board may conduct this inspection based upon a complaint it receives about a particular agency or through a random selection process. The board may impose licensing sanctions and seek injunctive relief under section [214.11](#) for an agency's or licensee's failure to comply with this section.

History: [2016 c 171 s 6](#); [2023 c 52 art 10 s 19](#)

Official Publication of the State of Minnesota
Revisor of Statutes

Body-Worn Cameras

434.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the use of a body-worn camera (BWC) by members of this department and for the access, use, and retention of department BWC media (Minn. Stat. § 626.8473).

The provisions of this policy, including notice, documentation, access, and retention, also apply to other portable audio/video recording devices used by members, where applicable.

This policy does not apply to undercover operations, wiretaps, or eavesdropping (concealed listening devices).

434.1.1 DEFINITIONS

Definitions related to this policy include:

Activate - To place a BWC in active mode (also called event mode). In active mode, the BWC records both video and audio.

BWC media - The video, audio, and images captured by department BWCs and the associated metadata.

BWC media systems - Any software, including web-based programs and mobile applications, used by the Department to upload/download, store, view, transfer, and otherwise maintain BWC media.

Deactivate - To place a BWC in buffering mode (also called ready or pre-event mode). In buffering mode, the BWC records video (without audio) in short, predetermined intervals that are retained only temporarily. However, when a BWC is activated, the interval recorded immediately prior to activation is then stored as part of the BWC media. Deactivate does not mean powering off the BWC.

Event - A general term referring to a set of circumstances that may, but does not necessarily, correlate directly to a single public safety incident.

434.2 POLICY

It is the policy of the Department to use BWCs and BWC media for evidence collection and to accurately document events in a way that promotes member safety and department accountability and transparency while also protecting the privacy of members of the public.

434.3 RESPONSIBILITIES

434.3.1 BWC COORDINATOR RESPONSIBILITIES

The Chief of Police or the authorized designee should delegate certain responsibilities to a BWC coordinator (Minn. Stat. § 13.825; Minn. Stat. § 626.8473).

The responsibilities of the coordinator include:

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- (a) Serving as a liaison between the Department and the BWC manufacturer/distributor and any third-party media storage vendor.
- (b) Developing inventory and documentation procedures for issuing and tracking BWC equipment, including properly marking BWCs as property of the Department, recording the date each BWC is placed into or taken out of service, and maintaining the following information:
 - 1. The total number of devices owned or maintained by the Fairmont Police Department
 - 2. The daily record of the total number deployed and used by members and, if applicable, the precinct or district in which the devices were used
 - 3. The total amount of recorded audio and video data collected by the BWC media systems and maintained by the Fairmont Police Department
- (c) Assisting with troubleshooting and maintenance of BWC equipment and media systems and, when necessary, coordinating the repair or replacement of BWCs.
 - 1. All equipment and system malfunctions and their resolutions should be documented, and maintenance and repair records should be maintained for all BWCs.
- (d) Managing BWC media systems so that:
 - 1. Access is limited to the minimum necessary authorized users and user privileges are restricted to those necessary for the member to conduct assigned department duties.
 - 2. Security requirements, such as two-factor authentication and appropriate password parameters, are in place for user credentials.
 - 3. Procedures include a process to obtain written authorization for access to non-public data by FPD members and members of other governmental entities and agencies.
- (e) Configuring BWC media systems, or developing manual procedures, so that media is appropriately categorized and retained according to the event type tagged by members.
- (f) Retaining audit logs or records of all access, alteration, and deletion of BWC media and media systems, and conducting periodic audits to ensure compliance with applicable laws, regulations, and department policy.
- (g) Developing and updating BWC training for members who are assigned a BWC or given access to BWC media systems.
- (h) Coordinating with the community relations coordinator to (see the Community Relations Policy):
 - 1. Provide the public with notice of the department's use of BWCs (e.g., posting on the department website or social media pages).
 - 2. Gain insight into community expectations regarding BWC use.

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- (i) Coordinating with the Captain to (see the Records Section, Records Maintenance and Release, and Protected Information policies):
 - 1. Determine and apply proper retention periods to BWC media (e.g., firearm discharges, certain use of force incidents, formal complaints).
 - 2. Develop procedures for the appropriate release of BWC media.
 - 3. Ensure procedures comply with the requirements of the Minnesota Government Data Practices Act and other applicable laws (Minn. Stat. § 13.01 et seq.).
- (j) Coordinating with the Property and Evidence Section to develop procedures for the transfer, storage, and backup of evidentiary BWC media (see the Property and Evidence Section Policy).
- (k) Preparing the biennial audit required by Minn. Stat. § 13.825, Subd. 9.
- (l) Notifying the Bureau of Criminal Apprehension (BCA) in a timely manner when new equipment is obtained by the Fairmont Police Department that expands the type or scope of surveillance capabilities of the department's portable recorders.

434.3.2 MEMBER RESPONSIBILITIES

Every member issued a BWC is responsible for its proper use, safekeeping, and maintenance.

At the beginning of each shift or period of BWC use, the member should inspect their assigned BWC to confirm it is charged and in good working order. As part of the inspection, the member should perform a function test by activating the BWC and recording a brief video stating their name, identification number, assignment, and the date and time (Minn. Stat. § 13.825; Minn. Stat. § 626.8473).

Members shall wear their assigned BWC on their outermost garment positioned at or above the mid-line of the waist (Minn. Stat. § 626.8473). Members are responsible for ensuring there are no obstructions and that the BWC remains in a position suitable for recording.

When a BWC is not in the physical possession of the member to which it is assigned, it should be placed on the charging dock and stored in a secure location.

Members shall report any malfunction or damage to the BWC coordinator or on-duty supervisor as soon as practicable and, if possible, obtain a functioning BWC to use either temporarily while repairs are being made to the member's BWC or as a permanent replacement (Minn. Stat. § 626.8473).

Members shall comply with this policy's provisions while performing law enforcement activities under the command and control of another law enforcement agency or federal law enforcement official (Minn. Stat. § 626.8473).

434.4 BWC USE

The following guidelines apply to the use of BWCs:

- (a) Only department-issued BWCs should be used without the express consent of the Chief of Police or the authorized designee (Minn. Stat. § 13.825).

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- (b) BWCs should only be used by the member or members to whom it was issued unless otherwise authorized by a supervisor.
- (c) The use of department-issued BWCs shall be strictly limited to department-related activities.
- (d) Members shall not use BWCs or BWC media systems for which they have not received prior authorization and appropriate training.
- (e) Members shall immediately report unauthorized access or use of BWCs or BWC media systems by another member to their supervisor or the Chief of Police.

434.4.1 PROHIBITIONS

BWCs should not be used to record:

- (a) Routine administrative activities of the Department that do not involve interactions with the public. Care should be taken to avoid incidentally recording confidential documents that the Department has a duty to keep secure (i.e., criminal justice information).
- (b) Areas within the department facilities where members have a reasonable expectation of privacy (e.g., locker rooms or dressing areas, breakrooms) unless responding to a call for service or conducting an investigation.
- (c) Conversations of other members without their knowledge.
- (d) When a member is taking an authorized break or otherwise engaged in personal activities.
- (e) In a courtroom unless responding to a call for service or emergency situation.
- (f) Interactions with undercover officers or confidential informants.
- (g) Strip searches.

BWCs shall not be used for the purpose of embarrassment, harassment, or ridicule of any individual or group.

434.5 ACTIVATION OF BWC

Members should activate their BWC during all calls for service and the performance of law enforcement-related functions. Members are not required to activate their BWC during casual or informal contacts with members of the public that are not part of or related to law enforcement functions. However, members should activate their BWC any time a contact with an individual becomes hostile or adversarial.

Unless otherwise authorized by this policy or approved by a supervisor, BWCs should remain activated until the call for service or law enforcement-related function has concluded. A member may cease recording if they are simply waiting for a tow truck or a family member to arrive, or in other similar situations.

At no time is a member expected to jeopardize their safety to activate their BWC. However, the BWC should be activated as soon as reasonably practicable in required situations.

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If a member attempts to activate their BWC but the BWC fails to record an event, the member should notify their supervisor as soon as practicable.

434.5.1 NOTICE OF RECORDING

Unless otherwise approved based on unique circumstances, a member should wear the BWC in a manner that is conspicuous and shall answer truthfully if asked whether they are equipped with a BWC or if their BWC is activated.

434.5.2 PRIVACY CONSIDERATIONS

Members should remain sensitive to the dignity of individuals being recorded and should exercise sound discretion with respect to privacy concerns.

When responding to a place where individuals have an expectation of privacy (e.g., private residences, medical or mental health facilities, restrooms) or to a sensitive situation (e.g., individuals partially or fully unclothed), members are permitted to mute or deactivate their BWC if it reasonably appears that the privacy concern outweighs any legitimate department interest in recording the event. Members may also mute or deactivate their BWC:

- (a) To protect the privacy of a victim or witness.
- (b) When an individual wishes to provide information anonymously.
- (c) To avoid recording a confidential informant or undercover officer.
- (d) When discussing case tactics or strategy.
- (e) During private conversations with other members or emergency responders.

Members should choose to mute rather than deactivate BWCs when practicable. Deactivation should only be used when muting the BWC will not accomplish the level of privacy necessary for the situation.

Before muting or deactivating their BWC, the member should verbally narrate the reason on the recording. As soon as possible once the privacy concern is no longer an issue, or when circumstances change so that the privacy concern no longer outweighs the department's interest in recording the event (e.g., the individual becomes combative, the conversation ends), the member should unmute or reactivate their BWC and verbally note that recording has resumed.

434.5.3 LIVESTREAMING

Livestreaming enables authorized individuals to remotely view the audio and video captured by a member's BWC in real time. Only supervisors and dispatchers approved by the Chief of Police or the authorized designee shall have access to livestreaming capabilities.

Livestreaming should only be activated:

- (a) For purposes of member safety when the member is not responding to their radio or there is some other indication of distress.
- (b) To assist with situational awareness or tactical decisions during a significant incident.
- (c) When requested by the member.

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434.5.4 DOCUMENTATION

Members are encouraged to provide narration while using a BWC when it would be useful to provide context or clarification of the events being recorded. However, the use of a BWC is not a replacement for written reports and should not be referred to in a written report in place of detailing the event.

Every report prepared by a member who is issued a BWC should state "BWC available" or "BWC unavailable," as applicable, and should document:

- (a) To the extent practicable and relevant, the identity of individuals appearing in the BWC media.
- (b) An explanation of why BWC media is unavailable including any malfunction, damage, or battery issue that resulted in the failure of the BWC to capture all or part of the event.
- (c) Any exigency or other circumstances that prevented the member from immediately activating the recording at the beginning of the event.
- (d) Any period of the event in which the member deactivated or muted their BWC and the reason for such action.
- (e) If livestreaming was activated during the event, the reason for livestreaming and the members who communicated or participated in the event through BWC livestreaming.

434.6 UPLOADING BWC MEDIA

Unless otherwise authorized by a supervisor, all media from a member's BWC should be properly uploaded and tagged before the end of their shift. BWC media related to a serious or high-profile event (e.g., search for a missing child, active shooter situation) should be uploaded and tagged as soon as practicable upon returning to the Department.

Following an officer involved shooting or death or other event deemed necessary, a supervisor should take possession of the BWC for each member present and upload and tag the BWC media.

434.6.1 TAGGING BWC MEDIA

Members should tag all media captured by their BWC with their name and/or identification number, the case or incident number, and the event type. BWC media should be tagged upon uploading or, if capabilities permit tagging in the field, as close to the time of the event as possible. If more than one event type applies to BWC media, it should be tagged with each event type. If BWC media can only be tagged with a single event type, the media should be tagged using the event type with the longest retention period.

BWC media depicting sensitive circumstances or events should be tagged as restricted. BWC media should be flagged for supervisor review when it pertains to a significant event such as:

- (a) An incident that is the basis of a formal or informal complaint or is likely to result in a complaint.
- (b) When a member has sustained a serious injury or a line-of-duty death has occurred.
- (c) When a firearm discharge or use of force incident has occurred.

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- (d) An event that has attracted or is likely to attract significant media attention.

Supervisors should conduct audits at regular intervals to confirm BWC media is being properly uploaded and tagged by their subordinates.

434.7 BWC MEDIA

All BWC media is the sole property of the Department. Members shall have no expectation of privacy or ownership interest in the content of BWC media.

All BWC media shall be stored and transferred in a manner that is physically and digitally secure with appropriate safeguards to prevent unauthorized modification, use, release, or transfer. Contracts with any third-party vendors for the storage of BWC media should include provisions specifying that all BWC media remains the property of the Department and shall not be used by the vendor for any purpose without explicit approval of the Chief of Police or the authorized designee.

Members shall not alter, copy, delete, release, or permit access to BWC media other than as permitted in this policy without the express consent of the Chief of Police or the authorized designee.

BWC media systems should not be accessed using personal devices unless authorized by the Chief of Police or the authorized designee.

434.7.1 ACCESS AND USE OF BWC MEDIA

BWC media systems shall only be accessed by authorized members using the member's own login credentials and in accordance with the Information Technology Use Policy.

BWC media shall only be accessed and viewed for legitimate department-related purposes in accordance with the following guidelines:

- (a) BWC media tagged as restricted should only be accessible by those designated by the Chief of Police or the authorized designee.
- (b) Members may review their own BWC media for department-related purposes. Members should document in their report if they reviewed BWC media before completing the report.
- (c) Investigators may review BWC media pertaining to their assigned cases.
- (d) A member testifying regarding a department-related event may review the pertinent BWC media before testifying.
- (e) Supervisors are permitted to access and view BWC media of their subordinates.
 - 1. Supervisors should review BWC media that is tagged as a significant event or that the supervisor is aware pertains to a significant event.
 - 2. Supervisors should conduct documented reviews of their subordinate's BWC media at least annually to evaluate the member's performance, verify compliance with department procedures, and determine the need for additional training. The review should include a variety of event types when possible. Supervisors should review BWC media with the recording member when it would

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be beneficial to provide guidance or to conduct one-on-one informal training for the member (Minn. Stat. § 626.8473).

3. Supervisors should conduct periodic reviews of a sample of each subordinate's BWC media to evaluate BWC use and ensure compliance with this policy.
- (f) The Captain may access BWC media when necessary to conduct department-related duties and periodic reviews or audits of members.
 - (g) The BWC coordinator may access BWC media and the BWC media system as needed to ensure the system is functioning properly, provide troubleshooting assistance, conduct audits, and fulfill other responsibilities related to their role.
 - (h) Any member who accesses or releases BWC media without authorization may be subject to discipline (see the Standards of Conduct and the Protected Information policies for additional guidance) (Minn. Stat. § 626.8473).

434.7.2 PUBLIC ACCESS

Unless disclosure is required by law or a court order, BWC media should not be released to the public if:

- (a) It is clearly offensive to common sensibilities (Minn. Stat. § 13.82, Subd. 7; Minn. Stat. § 13.825, Subd. 2).
- (b) It unreasonably violates a person's privacy or depicts the interior of:
 1. A private residence.
 2. A facility that offers health care, mental health or substance abuse treatment, or social services.
 3. A school building.
 4. Any other building in which public access is restricted or which implicates heightened security concerns.

Except as provided by Minn. Stat. § 13.825, Subd. 2 or pursuant to Minn. Stat. § 13.82, Subd. 15, BWC media is considered private or nonpublic data.

Any person captured on BWC media may have access to the BWC media. If the individual requests a copy of the BWC media and does not have the consent of other non-law enforcement individuals captured on the BWC media, the identity of those individuals must be blurred or obscured sufficiently to render the person unidentifiable prior to release. The identity of on-duty peace officers may not be obscured unless their identity is protected under Minn. Stat. § 13.82, Subd. 17 (Minn. Stat. § 13.825, Subd. 4).

Requests for the release of BWC media shall be processed in accordance with the Records Maintenance and Release Policy. The Captain should review BWC media before public release.

See the Officer-Involved Shootings and Deaths Policy regarding BWC media requests pursuant to Minn. Stat. § 13.825 relating to deaths by use of force.

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434.8 RETENTION OF BWC MEDIA

Non-evidentiary BWC media should be retained in accordance with state records retention laws but in no event for a period less than 90 days (Minn. Stat. § 13.825).

Unless circumstances justify continued retention, BWC media should be permanently deleted upon the expiration of the retention period in a way that it cannot be retrieved. BWC media shall not otherwise be deleted by any person without the authorization of the Chief of Police or the authorized designee.

If an individual captured on BWC media submits a written request, the BWC media shall be retained for an additional time period. The BWC coordinator should be responsible for notifying the individual prior to destruction of the BWC media (Minn. Stat. § 13.825).

Members shall not alter, erase, or destroy any BWC media, data or metadata, before the end of the applicable retention period (Minn. Stat. § 626.8473).

434.8.1 EVIDENTIARY BWC MEDIA

BWC media relevant to a criminal prosecution should be exported from the BWC media system and securely transferred to digital evidence storage according to established department procedures. Evidentiary BWC media is subject to the same laws, policies, and procedures as all other evidence, including chain of custody, accessibility, and retention periods (see the Property and Evidence Section Policy).

Evidentiary BWC media that documents an officer's use of deadly force must be maintained indefinitely (Minn. Stat. § 13.825; Minn. Stat. § 626.8473).

434.9 TRAINING

The BWC coordinator should ensure that each member issued a BWC receives initial training before use, and periodic refresher training thereafter. Training should include:

- (a) Proper use of the BWC device and accessories.
- (b) When BWC activation is required, permitted, and prohibited.
- (c) How to respond to an individual's request to stop recording.
- (d) Proper use of the BWC media systems, including uploading and tagging procedures.
- (e) Security procedures for BWC media, including appropriate access and use.

Members who are not issued a BWC but who have access to BWC media systems shall receive training on the BWC media system, including appropriate access, use, and security procedures.

PRESENTATIONS

Item 4.1

of Fairmont prior to inviting the community to the City of Fairmont Park Department’s annual Arbor Day Celebration on April 25 at 1:30 pm at Bird Point Park (591 Woodland Avenue).

Item 4.2

For the next item of business, Director Oman presented a matrix of grants/funding mechanisms received and a listing of funding opportunities under consideration. The matrix outlined the funding mechanisms applied for, their purpose, strategic objectives and administration details. Oman noted most grants listed were successfully written and received, with a few exceptions that were not awarded.

Next, Director Oman highlighted some legislative items for which there is support, along with a number of grant programs being pursued. Oman stated the list was not exhaustive and reflects efforts made in the first quarter of 2025 with staff actively reviewing potential grants for funding and match requirements related to ongoing projects.

Discussion centered around the City’s lobbyist involvement with acquiring funding for various projects. Director Oman stated they aid in obtaining information, connecting the City with important contacts and navigating the process of securing funding through important channels that the city cannot access on its own.

**PUBLIC DISCUSSION/
COMMENT**

Richard Bradley, resident of Fairmont, posed numerous questions to Council relating to the Fairmont Area Community Center draft agreement.

- Ownership: Who will own the proposed Community Center?
- Documentation: Who is the point person ensuring the FCC submits the necessary documentation to receive the promised \$12.6 million?
- Lease Exit: Why would the city cover debts incurred by FCC if it exits the lease early, as stated in the draft agreement?
- Reimbursement: Why is the city willing to reimburse FCC for investments if it exits the lease early?
- Redesign Costs: Who will pay for any redesign changes, considering the taxpayers have already spent a significant amount on architectural designs?

In concluding, Bradley urged these questions be addressed before the City Council allocates \$12.6 million of taxpayer funds to the FCC.

Darlene Lutz, resident of Fairmont commented and raised concern regarding who will be responsible for the soft costs (i.e. tables, chairs, exercise equipment) of the community center. Ms. Lutz stressed the need for clarity and transparency before sales tax money is distributed. The majority of councilmembers voiced concerns over the lingering Community Center project while emphasizing the need to establish a

timeline for concrete actions and decisions to be made regarding the project.

CONSENT AGENDA

Mayor Baarts introduced the consent agenda items as listed for consideration to be enacted by one motion unless requested that an item be removed and included under new business. Mayor Baarts reviewed the consent items, as follows:

- City Council Meeting Minutes from the Regular Meeting held March 24, 2025
- City Council Meeting Minutes from the Special Meeting held March 24, 2025
- An Event Permit for the Fairmont Lakes Foundation Spring Fishing Tournament on May 17, 2025
- An Event Permit for the Early Childhood Initiative Storybook Walk from July 1, 2025 to August 31, 2025
- An Event Permit for the City of Fairmont Live Art Installation on Jun 14, 2025
- An Application/Permit for the Large Outdoor Public Fireworks Display by J & M Designs for July 4, 2025
- A Tobacco License and a License to Sell Edible Tetrahydrocannabinol Infused Products for CAPL Retail, LLC., dba Express Lane at 407 E. Blue Earth Avenue
- A 3.2% Off Sale License for CAPL Retail, LLC., dba Express Lane at 407 E. Blue Earth Avenue
- The MNDOT State Airports Fund Equipment Grant Agreement/Resolution 2025-15 for Contract No 1059706 to Purchase a John Deere Zero Turn Mower and Declare the Current Unit as Surplus

Motion was made by Councilmember Maynard, seconded by Councilmember Kotewa to approve the consent agenda as presented. All present voted in favor. Motion carried.

NEW BUSINESS MOTION Item 9.A.1

Chief Hunter introduced agenda item 9.A.1: Consideration of the Fairmont Police Department Body Worn Camera (BWC) Audit, dated March 27, 2025. Chief reported that every two years, state law requires an audit of the body camera program with the findings presented to Council.

The Fairmont Police Department BWC Program has been in place since 2018, making the Fairmont PD one of the first departments to use body cameras in southern Minnesota. Chief Hunter provided a brief background on body camera usage, noting they provide an objective view of events, help clarify situations when perception may differ from reality

and are synced with the newer squad cameras in patrol vehicles to allow for comprehensive coverage, capturing both exterior and interior audio.

Motion was made by Councilmember Kotewa, seconded by Councilmember Kawecky to Approve the Body Worn Camera Audit, as Presented, and Direct Staff to Submit the Audit Report to the State of Minnesota Legislative Commission on Data Practices and Personal Data Privacy All present voted in favor. Motion carried.

**MOTION
Item 9.A.2**

Interim O'Neill provided background information on agenda item 9.A.2: Consideration to Adopt a Policy for Processing Multiple Retail Cannabis Registration Applications with a Single License Available. As the city has one retail cannabis license available and multiple candidates who have expressed interest, O'Neill outlined the proposed policy, as approved by the City Attorney. The proposed approach focuses on a first-come, first-served basis to manage applications, eliminate favoritism and ensure transparency for applicants.

Motion was made by Councilmember Kawecky, seconded by Councilmember Maynard to Adopt the Cannabis Local Retail Registration Process, as Presented. All present voted in favor. Motion carried.

**MOTION
Item 9.A.3**

Agenda item 9.A.3: Consideration to Authorize an Amendment to an Agreement with MSA Professional Services, Inc., dated 05/09/2022 regarding Updates to the Zoning Ordinance and Subdivision Regulation Updates was introduced to Council by Director Oman. Oman noted the proposed amendment will allow the city to manage the review process with MSA's support, leading to public review events where citizens can provide input prior to a formal public hearing process with an anticipated completion date of August 2025.

Motion was made by Councilmember Kawecky, seconded by Councilmember Kotewa to Authorize Amendment Contract No: 1 with MSA Professional Services, Inc. to Complete Chapter 26 Zoning Ordinance and Chapter 24 Subdivision Regulation Updates. All present voted in favor. Motion carried.

**MOTION
Item 9.A.4**

Director Oman introduced item 9.A.4: Consideration of an On-Call Planning Services Contract with MSA Professional Services, Inc. Oman stated the proposed agreement with MSA incurs no costs unless their services are used, providing for immediate support for any planning or zoning questions, with costs outlined in the agreement.

Motion was made by Councilmember Kawecky, seconded by Councilmember Kotewa to Approve a Professional Services Agreement with MSA Professional Services, Inc. for On-call Planning Services. All present voted in favor. Motion carried.

MOTION
Item 9.A.5

Interim O’Neill shared his background working with city engineers, primarily noting, regardless of how a city is set-up (with an engineer on staff or with public works people) the overall goal is to create a productive and efficient partnership between city staff, council and the city engineer for the benefit of the community.

A Request for Proposal was sent out on November 1, 2024 with proposals received from SEH, ISG and Bolton & Menk. The proposals were reviewed and interviews held by Councilmember Kaweck, Councilmember Kotewa, Interim O’Neill, Director York and Tyler Cowing. While each firm was qualified and capable, having a wealth of resources and the ability to offer various services beneficial to the city, ISG and Bolton & Menk were viewed as the top two firms for consideration.

While the majority in the work group recommended ISG, Councilmembers within the work group were split on their individual recommendations - Councilmember Kaweck voiced support for ISG noting it to be time for a change as Bolton & Menk has become complacent and Councilmember Kotewa voiced continued support for Bolton & Menk noting a strong sentiment in the community, given their long-standing presence and local workforce. Councilmembers Maynard and Hasek concurred with Councilmember Kotewa.

Prior to calling for a vote, Councilmember Kaweck voiced her frustration as a committee member who spent hours reviewing proposals, debating candidates and providing Council with a recommendation that fellow councilors appear not willing to consider.

Motion was made by Councilmember Hasek, seconded by Councilmember Maynard to Appoint Bolton & Menk as the Consulting Engineer for the City of Fairmont, as determined by City Council. On roll call, Councilmembers Hasek, Kotewa and Maynard voted in favor; Councilmembers Kaweck and Lubenow voted against. Motion carried.

MOTION
Item 9.B.1

While staff initially thought they could manage construction administration of the Gomsrud Park project, due to the size and complexity of another project Director York brought forth Task Order #11 with Bolton & Menk for Gomsrud Park Project Construction Administration for Council consideration.

Several councilmembers expressed concerns with the \$70,000 expense, raising questions on how the cost was determined and if there is the opportunity for negotiation with Bolton & Menk.

Motion was made by Councilmember Kotewa, seconded by Councilmember Maynard to table item 9.B.1 to a future meeting, directing staff to re-negotiate the dollar amount of Task Order #11. Councilmembers Hasek, Kotewa, Lubenow, and Maynard voted in favor; Councilmember Kawecki voted against. Motion carried.

**MOTION
Item 9.B.2**

Director York introduced item 9.B.2: Consideration to Approve the Purchase of a New Dump/Plow Truck and Snow Removal Equipment to replace a 1990 L8000 in excess of 152,000 miles for the Public Works Department.

Councilmember Kawecki inquired about the total number of dump trucks owned by the City and questioned why said truck had not been replaced despite historical replacement practices while appreciating the detailed information included in the packet for this agenda item. Councilmember Maynard reemphasized the need to replace aging equipment along with maintenance challenges of older equipment.

Motion was made by Councilmember Maynard, seconded by Councilmember Kotewa to Approve the Purchase of a Chassis from Truck Center Companies, Dump/Snow Removal Equipment from TBEI and Towmaster Truck Equipment and Declare a Truck as Excess Inventory to be sold at Auction. All present voted in favor. Motion carried.

**COUNCIL DISCUSSION
Item 10.1**

Councilmember Lubenow brought up designating revenues from from THC infused products to be sold at the Municipal Liquor Store be designated for specific projects – such as road repairs . Director Hoye reported the sale of those products will be accounted for in a specific fund and can be used as Council directs.

**STAFF/LIAISON
REPORT**

Director York reported the following:

- Adopt a Park program participants were recognized and those interested in adopting a park were encouraged to contact City Hall.
- The City will be performing maintenance (mowing and spraying) of City detention ponds, while being mindful of the timing to allow for pollinator growth.

- An email will be sent to Council on the courts at Veterans Park regarding prior conversations on resurfacing and/or reconstruction

Director Hoye reported that preparatory operations are underway for the upcoming season at the Fairmont Aquatic Park.

Director Oman reported the Region 9 Community Resiliency Planning Committee will be meeting on Thursday, April 24, at 5:00 pm.

Interim O'Neill listed preliminary dates for Council to hold strategic planning sessions to identify long term City goals. An email with more definite information will be sent.

Councilmember Kawecki reported on her recent attendance at the Library Board meeting and that One Watershed One Plan is moving forward with different capital projects for the City of Fairmont to focus on.

Councilmember Lubenow shared that Fairmont CER's summer on-line registration is LIVE and that local legislators will be in Fairmont on April 15, 2025 at 5:00 pm to hear from citizens on local concerns.

Councilmember Maynard reported the Airport Board did not meeting due to lack of a quorum and FEDA approved a façade loan.

Councilor Kotewa attended the Region 9 meeting with MNDOT presenting. MnDOT will be redoing Highway 15 from the railroad tracks to Goemann road Summer 2025.

Mayor Baarts stated that the Bravo Zulu House is seeking volunteers

ADJOURNMENT

Motion was made by Councilmember Maynard, seconded by Councilmember Hasek to adjourn the meeting, as there was no further business to come before the Council. All present voted in favor. Motion carried. The Fairmont City Council adjourned at 7:34 p.m.

ATTEST:

Lee C. Baarts, Mayor

Betsy Steuber, City Clerk