

**RILEY COUNTY LAW ENFORCEMENT AGENCY
SPECIAL LAW BOARD MEETING
City Commission Meeting Room
1101 Poyntz Avenue
Manhattan, KS
April 30, 2015 5:30 p.m.
Minutes**

Members Present:

Robert Boyd
Wynn Butler
Usha Reddi
Barry Wilkerson

Craig Beardsley
Karen McCulloh
Ron Wells (Left at 6:45 p.m.)

Absent:

Staff Present:

Director Schoen
Captain Fink
Captain Hooper
Captain Moldrup

Assistant Director Doehling
Captain Hegarty
Captain Kyle

I. Establish Quorum: By Chairman Boyd at 5:30 p.m.

II. Pledge of Allegiance: Led by Director Schoen.

III. General Agenda:

A. Public Comment: Loren Pepperd- Manhattan Resident: Mr. Pepperd spoke about the importance of improving the relationship between the Riley County Police Department and the various groups within the community. He specifically mentioned his desire for the Department to reach out to members of the Muslim community. Recently, ex-army recruit John T. Booker Jr., was charged with attempting to bomb the Ft. Riley military base. Booker was turned in by a Muslim cleric in Topeka as he was believed to be a radical. Pepperd suggested that the Law Board and RCPD form a committee to meet with members of the Muslim Church in Manhattan.

Brian Johnson- President, Fraternal Order of Police Lodge #17: Mr. Johnson asked that the Board consider having public comment following larger, potentially controversial meeting agenda items. He offered the 2016 budget development agenda item as an example. He explained that it can be difficult for the public to provide intelligent comment, offer insight or argument concerning the topic before they have heard the position of the Law Board.

B. Board Member Comments: Butler explained that the public comment section of City Commission Meetings is for the public to address topics that are not listed on the general agenda. The Commission then asks for public input following each agenda item. He assumed that is how the Law Board Meetings were also conducted.

Boyd said that is something that the Law Board could certainly do.

C. Possible City Delinquency/RCPD Fund: Director Schoen referred to a memo authored by City Manager Ron Fehr regarding anticipated shortfalls in the RCPD Fund by the end of the year due to delinquent property taxes. Schoen stated that the topic was broached at the April 20, 2015 Law Board Meeting at which time Chairman Boyd requested, and the Board agreed, to continue the discussion at the April 30, 2015 Special Law Board Meeting.

Fehr clarified that he in no way intended to imply that the City is not obligated to fund the full amount of what was budgeted. He was present to lobby the Law Board on whether the funds are to come out of the City's Reserve Fund to make full payment, whether it would be an eligible expense for the RCPD Emergency Reserve Fund, or both. The City fully intends to make its full payment one way or the other.

Reddi asked if the delinquent property taxes are eventually paid to the City.

Fehr stated that historically the City has experienced a year or so of delinquent property taxes. Presently that is not the case. The only way to collect delinquent property taxes is through a Sheriff's Sale which takes a minimum of three years. City is not receiving those follow-on taxes in a timely manner, which appears to be the current trend.

Schoen explained that when the topic initially came up he contacted the Riley County Treasurers Office. At that time, it was 2014 and the City was going through their budget cycle. Schoen said that he was informed by the County Treasurers Office that the vast majority of delinquent taxes are eventually paid. Mr. Fehr is correct in that some take quite a bit of time to be paid. When delinquent taxes are paid, the County Treasurers Office sends the money to the City. Schoen spoke with members of City Staff who indicated that delinquent property taxes are used to fund the next budget year for the City.

Boyd said that approximately ten years ago the County encountered a similar issue. The County did not pursue use of the RCPD Emergency Reserve Fund. They had to make reductions and take money out of their reserve rather than ask the Law Board to take it out of the Emergency Reserve Fund. In his estimation, use of the fund needs to remain within the discretion of the Law Board.

Schoen said that this is not the first time that use of the Emergency Reserve Fund to cover anticipated shortfalls in the City's RCPD Fund has been contemplated. In 2008 the Department received a letter from the City regarding a budget shortfall (approximately \$100,000) due to delinquent property taxes. He believes that the shortfall was eventually paid out of the City's General Fund.

Schoen explained that on this occasion by not budgeting for delinquent property taxes the amount has increased. In fairness to Mr. Fehr, the matter was aggravated by fact that the RCPD carryover wasn't as much as it had been in previous years. Schoen added that the carryover goes into the RCPD Fund. However, he was not certain if the delinquent property taxes once received are placed in the City's General Fund or RCPD Fund.

Fehr responded that the delinquent property taxes are eligible to be placed in the City's property tax funds. Obviously, the RCPD Fund is the largest property tax fund. The City determines where the need is then applies the funds. The City has some flexibility as to where the funds are credited. Fehr said that the City's General Reserve Fund currently has \$750,000. Should the shortfall be paid out

of that fund, it would take a rather significant hit. As a result, the Commission would hear him during his budget pitch state that they need to budget for the delinquency.

Butler commented that in essence the Riley County Police Department and Law Board are immune to fluctuations. They do not have to manage as well as the City and County Managers. No matter what transpires RCPD will get its money. If the police department were a part of the City or County, the manager would have to cut something from the budget. The Riley County Police Department is immune to that. Everyone else has to take a hit, which is not right. The Law Board and RCPD cannot be immune to fluctuations. If people do not pay their taxes something has got to give. Traditionally, it has been the City or County and the police department doesn't have to play.

Boyd said that the City has a little more flexibility than the police department. He considers the obligation to public safety sacrosanct. If budget cuts need to be made at the City or County then that is what needs to be done.

Butler asked how much money is presently in the RCPD Emergency Reserve Fund.

Schoen said that the fund has approximately \$668,000. The money in the Emergency Reserve Fund is from the RCPD budget which is funded 80% by the City and 20% by the County. If the fund were to be used to cover the City's delinquent property tax issue, then the Board may want to discuss how to track the money when it is eventually repaid. That has the potential to raise a number of questions about how the fund is managed.

Beardsley asked if there are any restrictions concerning the use of the Emergency Reserve Fund.

Riley County Law Enforcement Agency Attorney Michael Gillespie said that questions have been raised in the past with regard to possible use of the Emergency Reserve Fund, and what would qualify as an emergency to draw on those resources. He stated that over the years his opinion has not changed. Unfortunately, the statute that created the Emergency Reserve Fund did not define the word "emergency." When a critical term is undefined, the courts maintain that the common meaning is to be applied. An emergency is generally defined as something that occurs suddenly where harm is imminent and the event creating the emergency was unforeseeable.

The question that is being addressed by the Attorney General's Office is whether the Emergency Reserve Fund can be used to cure, at least temporarily, the shortfall. Gillespie said that the issue first appeared in a memo for the July 8, 2014 City Budget Work Session at which time five options were provided to the Commission on how to deal with the budget shortfall. In his opinion, this situation falls short of an emergency because the issue was foreseen as discussions were taking place nearly a year ago. There has been an Attorney General's opinion requested which is pending.

Butler commented that the Department utilized around \$500,000 from the Emergency Reserve Fund to take care of a computer problem that was, in his estimation, foreseeable.

Schoen stated that the computer project alone was estimated to cost between \$500,000 and \$600,000. It ended up coming in a little less than \$500,000. The Department used budgeted funds and \$32,000 from the Emergency Reserve Fund to complete the project. Schoen said that from his perspective, the situation was indeed an emergency for a couple of reasons. First, the Department had to stop expenditures over which it had control; such as overtime, training, etc. The second was the timeline that the Department had to complete the project.

With respect to the timeline, Schoen explained that the computer upgrade was necessitated by factors that were beyond the Department's control in that they were unknown until after the 2014 budget was set. In April 2012 Microsoft announced their decision to stop supporting Windows XP effective April 8, 2014. This change meant that Microsoft would no longer provide security guarantees or patches for Windows XP. Microsoft was not saying that they would not offer support, but rather it would not be provided for free. Schoen said that this change wasn't especially problematic as IT staff already had a plan to move away from Windows XP and replace the servers and desktop computers on their respective three and four year cycles.

In May 2013 the Law Board approved the 2014 RCPD budget. Then in February 2014 the Department's records management system vendor (Spillman) made a similar decision. Approximately one week later (still in February of 2014) the State announced that in order to remain connected to the Kansas Criminal Justice Information System (KCJIS) all law enforcement agencies had to move from XP to a supported Microsoft platform prior to December 31, 2014.

The changes necessitated the replacement of two of the Department's main servers, computers in the building and Uninterruptible Power Supply (UPS) systems. In an effort to comply with KCJIS regulations the Department utilized approximately \$32,000 from the Emergency Reserve Fund to complete the project, which was much less than originally anticipated. Schoen stated his belief that it was an appropriate use of the fund since the straw that broke the camel's back didn't occur until February 2014.

Butler suggested the Law Board establish a reserve fund for RCPD that would be continually replenished when delinquent property taxes are paid. The creation of such a fund would put the police department in the same leaky boat as the City and County.

Reddi concurred with Butler's recommendation to establish a reserve fund for RCPD.

Boyd asked Gillespie if the Board is limited by legislation with respect to funding.

Gillespie said that there is no provision in the statutory scheme for a more traditional reserve fund. That being said, if the Board wanted to create such a reserve fund it would be a fairly easy legislative fix.

McCulloh stated that the Law Board does not have a say in what the City or County Commissions choose to do. Should the City wish to establish a reserve fund for RCPD it would be entirely their decision.

Butler stated that City staff will tighten their belt if necessary to address the budget shortfall. He is not interested in having the Department make up the entire amount nor does he want to jeopardize public safety. He simply wanted to know what the police department could do to help alleviate the pain.

Schoen stated that there might be some relatively minor reductions that can be made. However, when preparing the budget the Assistant Director squeezed fairly hard. The only place left to squeeze that is not personnel related is the remaining 12% of the budget. He does not believe that he can squeeze hard enough to make a significant dent in the \$500,000 shortfall.

Butler responded that if the Department is able to squeeze \$2,000 it would help. Any contribution would make a difference.

Schoen professed some consternation not knowing what the City Commission's stance will be with respect to budgeting for future delinquent property taxes. He explained that if the Department were to use \$250,000 from the Emergency Reserve Fund and the City elects not to budget for delinquent property taxes again next year, there will be no way to replenish the fund. If the fund is drained at that rate, within two years it will be sitting at a very uncomfortable level. Schoen said that he would lose sleep at night worrying not just about a flood, but a relatively minor disaster. There are no provisions in legislation which allow the Department to go back to the City and County for more funding.

D. 2016 Budget Development: Director Schoen explained that at the March 23, 2015 Law Board Meeting members of the Board were provided copies of RCPD 2016 Budget Narrative and Proposed Budget Draft 1 for consideration. During the meeting, Assistant Director Doehling reviewed the budget narrative and explained each of the line items. The budget was again discussed at the April 20, 2015 Law Board Meeting at which time the Board was offered the opportunity to ask questions and provide input. Schoen noted that at the May 18, 2015 Law Board Meeting the Board must approve a budget of expenditures for publication prior to the mandatory public hearing.

Butler stated that the inflation rate to date for 2015 is -.19%. However, the Department is proposing a 1.5% Cost of Living Allowance (COLA) for employees in 2016. He feels that the COLA is excessive given the direction the economy is moving.

Schoen clarified that the Department uses the December Consumer Price Index (CPI-U) for the Midwest region which lags one year behind. The COLA that is being presented to the Board is what the rate was at the end of 2014. Schoen said that in looking over the course of his tenure as the Director (2008-2015) the net COLA numbers came out pretty much spot on in terms of what the COLA has been versus what the Board has approved for RCPD employees.

Butler inquired about the impact on the proposed budget if the COLA were reduced by .5%.

Schoen responded that a .5% reduction in the COLA would result in a .336% reduction in the overall budget increase.

Butler wanted to know if there are any reductions that can be made in the training and travel line item. He felt that this was a good starting point for the budget. From what he has heard RCPD administration is scrutinizing the budget at a pretty rough level. He is just asking administration to do a little extra and scrutinize the budget further in search of possible reductions.

Schoen said that he would take a look at the requested items and report back at the May Law Board Meeting.

Wilkerson moved to approve RCPD Budget Draft 1 for publication. McCulloh seconded the motion. A roll call vote was taken and the results are as follows:

Beardsley	No	Boyd	Yes
Butler	No	McCulloh	Yes

Reddi Yes Wilkerson Yes

The motion passed 4-2 (Wells was not present for the vote).

E. Executive Session: At 7:20 p.m. Wilkerson moved to go into executive session for the purpose of discussing attorney client privilege and non-elected personnel matters not to exceed 20 minutes. McCulloh seconded the motion. On a roll call vote, motion carried 6-0.

At 7:40 p.m. the open meeting reconvened.

F. Adjournment: The April 30, 2015 Special Law Board Meeting adjourned at 7:41 p.m.