

**RILEY COUNTY LAW ENFORCEMENT AGENCY  
LAW BOARD MEETING  
City Commission Meeting Room  
1101 Poyntz Avenue  
Manhattan, KS  
June 18, 2012 12:00 p.m.  
Minutes**

**Members Present:**

Karen McCulloh	Loren Pepperd
Richard Jankovich	Dave Lewis
Wynn Butler	

**Absent:**

Barry Wilkerson	John Matta
Captain Moldrup	Captain Nelson

**Staff Present:**

Director Schoen	Assistant Director Doehling
Captain Hooper	Captain Fink
Captain Hegarty	

**I. Establish Quorum:** By Chairman McCulloh at 12:00 p.m.

**II. Pledge of Allegiance:** Led by Director Schoen.

**III. Consent Agenda:**

- A. Approve May 21, 2012 Law Board Meeting Minutes
- B. Approve 2012 Expenditures
  - a) 2012 Budget Expenditures
  - b) Juvenile Transports
  - c) Seizure Expenditures
  - d) Statutory Registrations Fund
- C. County Inmate Medical, Facilities, Maintenance & Repairs Expenditures- (*Review*)

Pepperd stated that expense voucher #6051 payable to Mercy Health Center appeared quite high for the month of June. Included as part of the overall expense were charges for DUI blood draws. He wished to know if the Department is reimbursed by the individual for those expenses.

Schoen said he was not aware of any cost recovery process in place for DUI blood draws. He will follow-up on the matter and report back to the Board.

Lewis moved to approve the consent agenda as presented. Jankovich seconded the motion. The motion passed 5-0.

**IV. General Agenda**

**D. Additions/Deletions:** Director Schoen requested to add Governor's Input following item I. Employee Services Project on the general agenda.

Jankovich moved to approve the general agenda as amended. Pepperd seconded the motion. The motion passed 5-0.

**E. Public Comment:** Janet Benson, Member of the Flint Hills National Alliance on Mental Illness inquired about the status of the task force that is to be formed and tasked with reviewing mental health situations in Riley County.

McCulloh responded that the topic was addressed at a recent County Commission Meeting. A meeting has been tentatively scheduled for July 23, 2012 with Pottawatomie and Geary County to get an idea of those who might be interested in such a task force. The meeting will be open to the public. McCulloh explained that they continue to gather data, identify the overall costs of mental health, as well as potential future savings. She anticipates that the formation of the task force will occur sometime in the fall of 2012.

**F. Contract for Service Country Stampede L.L.C.:** Director Schoen briefed the Board reference the proposed contract between the Riley County Law Enforcement Agency, Riley County Police Department, and Country Stampede, L.L.C. The contract proposes Country Stampede, L.L.C. reimburse RCPD for expenses to deploy manpower and equipment associated with providing security and traffic control at the event. Schoen stated that the Department has provided this service for a number of years. Minor changes were made to the 2012 contract and were met with approval from Attorney Michael Gillespie. He recommended the Board authorize the Chair to sign the contract.

Lewis moved to approve Chairman McCulloh to sign the agreement between the Riley County Law Enforcement Agency, Riley County Police Department, and Country Stampede, L.L.C. Jankovich seconded the motion. The motion passed 5-0

**G. Outside Employment:** Director Schoen was recently contacted by Dr. Victoria McGrath of McGrath Consulting to inquire as to his availability to consult with her firm on a project for which the firm is bidding in Wisconsin. McGrath Consulting is in a rather unique position of bidding for a contract in a jurisdiction that is considering consolidation of law enforcement services and they believe Director Schoen's services may be of value to the project.

There exists a provision in the Director's contract that prohibits outside employment other than that at RCPD without prior approval from the Law Board. Schoen stated that he has expressed interest in consulting with the firm in this capacity. It would be a short-term working relationship, and should the Board approve, one that would likely have him in Northern Wisconsin for 2-3 days this summer or fall. He requested the Board authorize the Chair to sign a letter authorizing the employment agreement with McGrath Consulting.

Pepperd sought clarification regarding liability and workers compensation insurance as they pertain to outside employment for RCPD employees. He wished to know who would be liable should an officer become injured while working a second job as a bouncer, just by way of example. He wanted to know if RCPD could be sued for actions taken by an officer during the course of their outside employment. Additionally, he wanted to know if an employee would be eligible for disability or workers compensation benefits should they become injured while engaging in risky hobbies such as skydiving.

Schoen said that Department policy prohibits certain outside employment that is incompatible with the duties, functions, or responsibilities of either the employee or the Department, bouncer being

one of them. He deferred to Attorney Michael Gillespie to address the legal ramifications should an off-duty employee become injured during the course of secondary employment.

Gillespie clarified that employees may engage in off-duty security employment. However, policy states that while so engaged, employees are not to exercise police powers or authority. While employed in security work, employees only have those powers an ordinary citizen would have in similar circumstances. However, if the employees identify themselves as an RCPD officer and make an arrest, liability shifts back to the Department. Off-duty employees who engage in risky activities such as skydiving and become injured, are not acting within the scope of their employment and the Department would not be responsible for their injuries. However, their injuries would be covered by the Department's health insurance plan.

Lewis moved to authorize the Chair to sign the letter authorizing the employment agreement between Director Brad Schoen and McGrath Consulting. Jankovich seconded the motion. The motion passed 5-0.

**H. Kansas Workers Compensation Fund Update:** Jim Wilson, President and CEO of Assurance Partners of Salina, KS and Business Analyst Leslie Webb provided the Board with an update on the Kansas Workers Compensation Fund of which RCPD was previously a policy holder. Wilson said that although Assurance Partners was not the broker that placed the Department's insurance with the Kansas Employers Workers Compensation Fund, they have partnered with RCPD to do a variety of things. They assisted with the Department's exit from the fund approximately 2 years ago, monitored the dissolution of the workers compensation fund, and they continue to manage open claims.

Webb explained that RCPD was a policy holder of the Kansas Employers Workers Compensation Fund from September 2008 through September 2010. The Kansas Employers Workers Compensation Fund was a self insurance program, and as is the case with any self insurance program there is continuing liabilities until all of the claims reach a resolution.

Effective May 15, 2012 the fund made the decision after a long sustained period of financial trouble to discontinue writing workers compensation coverage. They made an application to the Kansas Insurance Department to be in a runoff mode. Effectively what that means is that they feel they have enough assets to pay their outstanding liabilities. They have submitted a business plan that is currently pending approval with the insurance department. The insurance department will review the plan and continue to monitor the financial condition of the fund. If at any point they feel that they do not have enough money to pay liabilities, they will reassign direction. Until such a time, the fund will continue their Board of Trustees and their management of the workers compensation claims that are open for all policy holders of the fund.

Webb said that one of the important aspects of being in a self insurance fund is the joint and several liability, which is a financial responsibility of the policy holders to make the fund whole and pay any statutory responsibilities that they have associated with workers compensation claims. That does not stop when a fund goes into a runoff position. She assured the Board that Assurance Partners will continue to monitor the situation. The fund appears confident that they have enough money; however, Webb does not share that opinion at this moment. Assurance Partners has made a request for a copy of the business plan so they may review the financials and advise RCPD with regard to the potential and the impact of any future assessments that they might be subject to.

**I. Employee Services Project:** The Board may recall that over the last year Director Schoen mentioned that the Department was beginning to take a holistic approach to what needs to be done with respect to not just workers compensation, but health insurance, employee benefits, fitness and overall wellness of its employees. The goal being to identify how each of those interact with one another in an effort to get a better handle on what is an issue for government everywhere, which is the increasing price of health insurance.

Director Schoen explained that the leg work on the Employee Services Project began when then Lieutenant Fink attended the Northwestern University School of Police Staff and Command in 2011. At that time he was given a final project to review the possibility of establishing a wellness program for the Department aimed to promote physical fitness and healthy lifestyles for all employees. The project, as it turned out was the nexus for developing the concepts that have led to the proposal that is now before the Law Board. Given the relationship between RCPD and Assurance Partners and given their track record, Administration approached the firm seeking assistance in developing a coherent, comprehensive wellness/fitness plan.

Schoen addressed an email he received from City Manager Ron Fehr regarding the Department's desire to work with Assurance Partners on the project. In the email Fehr acknowledged that while it is a good idea to look into the matter further, he recommended the Department send out a Request for Proposals (RFP) for the service. Fehr further indicated that the City would be interested in having a discussion about rolling the Department's health insurance in with the City's. Schoen said that nothing the Board is to discuss today will preclude the potential for future involvement with the City in terms of joining forces in the provision of health insurance. In fact, this is would be a necessary precursor should that be the direction the Board wishes to go.

Lastly, in July 2010 the Law Board made the motion to authorize the Director to handle all matters as they relate to entering into insurance contracts that are in the best interest of RCPD. Schoen stated that what is being proposed to the Board would not complicate the concerns voiced by Mr. Fehr. He believes the best direction for RCPD at this time is to contract with Assurance Partners to broker the Department's insurance issues, administer the Cafeteria and Medical Reimbursement plans, and assist with the development and management of a comprehensive wellness/fitness plan.

Captain Fink briefly recapped the research conducted over the past 13 months on the subject. During his research he found it difficult to locate any single company that had an off-the-shelf wellness/fitness program that would fit the needs of RCPD; police departments being rather unique largely due to the nature of the work and hours of operation. He did find numerous companies that offered bits and pieces, but not a complete package for law enforcement. He contacted various police departments to see if they had a wellness/fitness program in place similar to what RCPD would like to implement. Those that were contacted responded that they did not have such a program in place, and if RCPD were to locate a provider to let them know. It quickly became apparent that it would take a very dedicated team of professionals skilled in various areas to put together a package and manage it. It is something that the police department simply cannot do.

Assurance Partners in consultation with the Athletic & Rehabilitation Center (ARC) developed a plan to address the Department's needs. Through a series of meetings, facility tours, and viewing of the Department's fitness and agility course, Assurance Partners and ARC developed a program designed to save money and improve the health of RCPD employees. President and CEO of Assurance Partners Jim Wilson, Business Analyst Leslie Webb, and ARC Owner Jeff Weeks presented the program to the Board.

Pepperd sought input from Cathy Harmes, Director of Human Resources for the City of Manhattan and Lauren Palmer, Assistant City Manager regarding the email authored by Ron Fehr.

Palmer stated that the City simply wanted to raise a couple points of concern to the Board and suggest that they consider doing a competitive process; either a request for qualifications or a request for proposals, to consider other firms that might be able to provide the services. The City has worked with Assurance Partners and they have had a very positive experience. It may turn out that they are the best provider for the services, but it is smart to go out competitively and see what else is available. Palmer said that while she does not want to second guess the research that was conducted by RCPD, she just finds it difficult to believe that there aren't other firms that can provide comparable services.

Palmer added that the City currently has a fairly aggressive, comprehensive wellness plan for employees, spouses and families. Their plan has a version of all of the services that were outlined in the presentation given by Assurance Partners. The City works with Harrington Health and to her knowledge there are a number of other providers that do consulting and brokerage work in the health insurance field. She believes the Department would receive responses if an RFP was sent out. It is smart to see who can offer the best package at the most competitive price.

Butler stated that references are often made regarding the uniqueness of RCPD due to the hazardous nature of the work. He wanted to know how that tracks with what the City does for the Fire Department.

Palmer responded that the City has employees who work shift schedules and in dangerous environments. The City has an annual physical assessment for firefighters. She is sure that there are some unique aspects to the police department that might not be comparable to the City, but there are some elements that are the same.

Harmes added that insurance actuaries likely would indicate that police officers are at the highest risk for injury next to firefighters. For a number of years the City has had firefighters participate in an annual physical assessment.

Butler said that during budget preparation the Law Board discussed the possibility of consolidating services in an effort to save money for the City, County and RCPD. The City, County and RCPD likely have 3 different insurance providers. He asked if it would be possible to send out an RFP with the goal to consolidate services and accomplish savings without destroying benefits.

Schoen said it may be possible. That is something that he has discussed with Assurance Partners and the Department may eventually end up there, but again nothing that is being considered with respect to the wellness/fitness plan precludes doing that. If the City would like to schedule some meetings to talk about partnering in health insurance that can be done. The presentation provided by Assurance Partners pertains to how the Department deals with workers compensation issues, work related injuries, training injuries and a wellness/fitness plan. He is not certain whether the Departments wellness/fitness plan will be more or less stringent than that of the City's, but the Department should get started on it.

McCulloh recalled previous conversations about consolidating health insurance for the County and RCPD. To her recollection it there were multiple reasons why it could not be done.

Harmes stated that she could not recall whether it was ever spelled out that it could not be done. There are models out there that can be used. There are multi-employer welfare plans that are an option to look at in which one can be individually rated, reap the benefits of the group as a whole, but still be protected from the losses of another. There are ways that it can be structured.

Jankovich said the main issue for the City was one of transparency. Captain Fink and Assurance Partners did a nice job putting something together that meets the goals of RCPD, but from the City's perspective it was done in a way that was not very transparent on the part of the Department.

In order to make the City, County and Law Board feel more comfortable, and in an effort to resolve the transparency issue, Director Schoen agreed to send out RFP's for the service. He will present the results to the Law Board for consideration along with the research conducted by Captain Fink at a future meeting.

As a point of clarification Schoen asked if the Board was interested in pursuing the issue of health care as a joint project between partners or just the City taking over health insurance for RCPD.

Butler stated his preference that it be a partnership.

Jankovich said if RFP's are being requested then one would need to go to the City's provider to see what they can provide. There should be some communication between the City and RCPD in the matter.

**J. Governor's Input:** Director Schoen informed the Board that he has been selected to serve on the Kansas Commission on Peace Officer Standards & Training (KS CPOST). The Commission is charged with reviewing training requirements for Kansas police officers to ensure citizens of Kansas have qualified, trained and professional police officers. As a member of the Commission Director Schoen will attend approximately one week's worth of meetings spread out over the course of the year. He simply wanted to apprise the Board of the commitment.

**K. Executive Session:** At 1:20 p.m. Lewis moved to go into executive session for the purpose of discussing attorney client privilege and non-elected personnel matters not to exceed 10 minutes. Jankovich seconded the motion. The motion passed 5-0.

At 1:30 p.m. the Board returned from executive session.

**L. Affirmation or Revocation of Discipline:** Lewis moved to affirm the Directors disciplinary actions. Jankovich seconded the motion. The motion passed 5-0.

**M. Adjournment:** Pepperd moved to adjourn the meeting. Jankovich seconded the motion. The motion passed 5-0. The June 18, 2012 Law Board Meeting adjourned at 1:31 p.m.