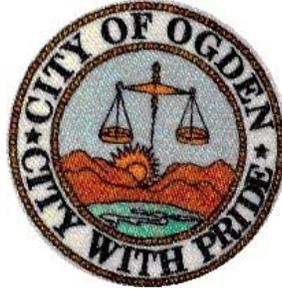


Attached is an agenda for a combined Special Meeting with the City of Manhattan Commission, the City of Ogden Commission, and the Board of Riley County Commission who are expecting to meet together and recess into Executive Session and discuss the joint defense aspects regarding the Lowery case. Attached to the agenda is a Joint Defense and Common Interest Agreement that will have been executed by the various attorneys prior to the meeting.



Agenda
Special Joint Meeting
City of Manhattan Commission,
City of Ogden Commission,
and
Board of Riley County Commission
Wednesday, November 12, 2008
Board of Riley County Commission Chambers
115 N. 4th Street, First Floor
6:00 P.M.

Recess into Executive Session until ____ p.m. for the purpose of discussions with the Attorneys for the City regarding pending legal matters that need to be confidential and that are deemed privileged in the attorney-client relationship. At the close of the Executive Session, the Governing Body will reconvene and take action as deemed appropriate.

This meeting will not be televised.



assistance.

This meeting is being held in the Board of Riley County Commission Chambers, 115 North 4th Street, First Floor. In accordance with provisions of the ADA, every attempt will be made to accommodate the needs of persons with disabilities. Please contact the Human Resources Department (587-2440) for

JOINT DEFENSE AND COMMON INTEREST AGREEMENT

The undersigned counsel ("Counsel") and their respective clients (the "Clients") enter into this Joint Defense and Common Interest Agreement (the "Agreement") pursuant to their defense of the claims by EDDIE JAMES LOWERY AND AMANDA MARIE LOWERY, made in an action against Clients filed in the United States District Court for the District of Kansas (the "Action"), original case number 04-3101-JTM-DWB. This Agreement shall remain in force so long as the Action or any related appeal or other related proceeding is pending, or until terminated as set forth below.

By signing this Agreement, we, as legal counsel for our respective clients, confirm that we have established a joint defense. This Agreement memorializes the terms and conditions of the preexisting joint defense. We wish to continue to pursue our individual, but common, interests; to cooperate in the defense of our clients; and to avoid the waiver of any privilege with respect to any communications by and between us. This Agreement covers all participating clients, attorneys, their employees and agents. Accordingly, we agree as follows:

1. Any communication, including any documents or other information exchanged, between Counsel with respect to the Action shall be considered confidential and subject to the attorney-client privilege, the joint defense privilege and any other applicable privileges, and may be shared only among Counsel and with the Clients, except as set forth below. The parties to this Agreement expressly state that the sharing of such documents and information pursuant to this Agreement does not waive any applicable privilege.
2. Any documents or information exchanged pursuant to this Agreement shall be used solely in connection with the Action, and are exchanged in the course of the joint defense effort, for the purpose of furthering that effort. The parties hereto are barred from using documents or information obtained or disclosed pursuant to this Agreement in a manner that is adverse to any co-party.
3. The privileges and confidentiality obligations set forth herein shall survive any party's withdrawal from the joint defense.
4. Nothing contained herein obligates any party to divulge, communicate, or exchange any confidential documents and/or information.
5. Our respective Clients will not seek, by virtue of this Agreement or any information exchanged pursuant to this Agreement, the disqualification of the other law firm or office as counsel for the Client that it represents in this matter in the event of a future adversity of interests between or among our respective Clients.
6. Disclosure of any communication in violation of this Agreement will cause the parties hereto to suffer irreparable harm for which there is no adequate remedy at law. Each party hereto acknowledges that immediate injunctive relief is an appropriate and necessary remedy for violation of this Agreement.
7. To the extent that Counsel have already been in communication with one another since

the commencement of the Action concerning the subject matter of this Agreement, their previous communications and joint work product are subject to the joint defense privilege and now are subject to this Agreement.

8. Negotiations with adverse parties is not barred by this Agreement; however, in the event that any party engages in negotiations, or enters into any agreement with any adverse party, such party shall notify the other parties. If any party engages in negotiations or enters into any agreement with any adverse party that is in any respect actually or potentially inconsistent with the continued sharing of information under this Agreement, such party shall be deemed to have withdrawn from the Agreement, and shall immediately, through Counsel, inform the other parties of such withdrawal, return to the remaining parties all joint defense communications furnished or obtained pursuant to this Agreement, and refrain from disclosing to the adverse party or anyone else any joint defense communications furnished or obtained pursuant to this Agreement. Withdrawal of a party as the result of negotiations and agreement with an adverse party does not relieve the party from its continuing obligations under this Agreement.
9. Any modifications to this Agreement must be in writing and signed by all Counsel.
10. This document may be signed in separate counterparts. All signed copies shall be circulated to all signatories to this Agreement.
11. The signatures of Counsel to this Agreement represent a certification that Counsel have explained the Agreement to each of their Clients and that the Clients agree to abide by the understandings and undertakings herein.
12. This Agreement shall continue until it is terminated by agreement of the Clients still participating in the joint defense effort. If this Agreement is terminated, all Clients and Counsel shall continue to be bound by its provisions with respect to any documents or information shared pursuant to this Agreement.
13. As the need arises, the parties may decide to enter into more detailed supplemental agreements, as appropriate, regarding protection of documents, the return of documents, or any other pertinent matter.
14. Nothing contained in this Agreement shall be deemed to create an attorney-client relationship between any attorney and anyone other than the attorney's pre-existing Client as indicated in the signature blocks below. Furthermore, this Agreement does not create a duty of loyalty between any attorney and anyone else but his or her respective Client.
15. Nothing in the Agreement is intended to interfere with Counsel's obligation to ethically and properly represent each of their Clients.

Each party hereby acknowledges and agrees to the terms and conditions set forth herein, as evidenced by their signatures below.

David R. Cooper
Fisher, Patterson, Sayler & Smith L.L.P.
3550 SW 5th Street
P.O. Box 949
Topeka Kansas 66601-0949
Attorneys for Board of County Commissioners of the
County of Riley, Kansas; Riley County, Kansas; City of
Manhattan, Kansas; City of Ogden, Kansas

Clancy Holeman
Riley County Counselor
RILEY COUNTY, KANSAS
115 N. 4th Street, 3rd Fl. West
Manhattan, KS 66502

William L. Frost
City Attorney
CITY OF MANHATTAN, KANSAS
323 Poyntz Ave., Ste. 204
Manhattan, Kansas 66502-6003
Manhattan City Attorney

P. Bernard Irvine
MORRISON, FROST, OLSEN, & IRVINE, L.L.P.
323 Poyntz Ave., Suite 204
Manhattan, Kansas 66502-6387
Ogden City Attorney