

**RILEY COUNTY LAW ENFORCEMENT AGENCY  
LAW BOARD MEETING  
City Commission Meeting Room  
1101 Poyntz Avenue  
Manhattan, KS  
November 16, 2009 12:00 p.m.  
Minutes**

**Members Present:** Bruce Snead Al Johnson  
Barry Wilkerson Gail Urban  
Connie Casper Jayme Morris-Hardeman

**Absent:** Mike Kearns

**Staff Present:** Director Schoen AD Doehling  
Captain Hooper Captain Grubbs  
Captain Moldrup Captain Nelson  
Captain Hegarty

**I. Quorum Established:** By Chairman Snead at 12:01 p.m.

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

**III. Consent Agenda:**

- A. Approve October 19, 2009 Minutes
- B. Approve 2009 Expenditures
  - a) 2009 Budget Expenditures
  - b) Facilities, Maintenance & Repairs Expenditures
  - c) Juvenile Transports
  - d) Seizure Expenditures
  - e) Edward Byrne Justice Assistance Grant( JAG)-Recovery Act
- C. County Inmate Medical Expenditures-*(Review)*
- D. 3<sup>rd</sup> Quarter Reports- *(Review)*
  - a) 82.1.4 Crime Statistics
  - b) 61.1.1 Traffic Accident & Enforcement Analysis
  - c) 84.1.8 Seizure & Forfeiture Report

Director Schoen explained that the Traffic Accident & Enforcement Analysis report shows that to date, violent crimes have decreased 14.8%, non-violent crimes have decreased 8.6% and overall part one crimes are down 9.3%. Schoen said it is often difficult to demonstrate a link between the practice of a particular policing style and any subsequent reduction in recorded crime absent a survey. The Department has contacted Kansas State University Associate Professor of Sociology and Criminal Justice Dr. Susan Williams to work with RCPD to conduct a survey.

Johnson moved to approve consent agenda items A and B as presented. Urban seconded the motion. The motion passed 6-0.

#### **IV. General Agenda:**

**E. Additions/Deletions:** Director Schoen requested the addition of page 11 of the Riley County Police Department Strategic Multi-Year Plan. When preparing the Law Board packets the page did not copy correctly and it was not included as intended.

**F. Public Comment:** Director Schoen announced that beginning December 5<sup>th</sup> through December 9<sup>th</sup>; CALEA assessors will arrive to begin conducting their on-site review of the Riley County Police Department. The Open Public Hearing will be held on Sunday, December 6<sup>th</sup>, at 4:00 p.m. in the Manhattan Fire Department Headquarters large assembly room, located at 2000 Denison Avenue, in Manhattan. Anyone who would like to provide comments is welcome. For those who are unable to attend the meeting, they may call (785) 537-2112 ext. 2270 on Sunday, December 6<sup>th</sup> from 10:00 a.m. to 2:00 p.m. and provide their comments to the assessment team.

**G. Substation Lease Agreement Renewal:** Director Schoen explained that this is an annual lease agreement for the Aggieville Substation. There is a \$300.00 annual increase (\$25.00 monthly increase) from last year's agreement. He recommended the Board vote to renew the agreement and forward to the county as it is considered a facilities issue.

Wilkerson moved to approve the renewal of the Substation Lease Agreement between GJL Real Estate and the Riley County Police Department pending the county's review. Morris-Hardeman seconded the motion. The motion passed 6-0.

**H. Mobile Device Ban:** Chairman Snead briefly explained the proposed ordinance that is before the City Commission for consideration which may ban use of cell phones, texting or the use of all hand-held communications devices while driving. A City Commission Work Session was recently held at which time input from the public and local emergency services directors pertaining to the ordinance was received. The Riley County Police Department was also solicited for input regarding the potential ordinance. Key issues that were raised dealt with the type of devices that may be prohibited in use and whether it would be considered a primary or secondary offense with regard to enforcement. Snead deferred to Director Brad Schoen for additional comment.

Schoen said at this time it is uncertain what precisely will be included in the ordinance as they are still in the discussion phase. It is his position that if the ordinance bans the use of cell phones or all hand-held devices while driving, that it be considered a primary offense. If it is determined that it should be a secondary offense, it will only be enforceable subsequent to a traffic violation. There is already an inattentive driving ordinance that addresses those types of occurrences.

The topic has been discussed by the Kansas State University Student Senate who is reserving judgment until they know exactly what the ordinance will entail. However, they have expressed their opinion that if the ordinance bans all devices, it should be considered a secondary offense. If it is a primary violation, they believe K-State should be exempt from the ordinance.

Schoen said some people view Manhattan as being on an island with respect to the cell phone ordinance; it existing apparently nowhere else in the state, and he has some concerns with that. In all fairness to the people who visit the community, it would be incumbent upon the Department to be rather selective in the enforcement of the ordinance. If K-State property is exempt from the ordinance it is going to be even more confusing. Police officers in general are more comfortable working in areas where there are well defined ordinances that, given time, everyone can come to understand. There is potential for this ordinance to turn out quite the opposite of that.

Schoen said he is not certain that there is a substantial difference between driving and using an iPod or a cell phone. He is troubled by the texting only ban simply because it will be difficult for officers to discern whether the individual was texting, dialing or using the one touch feature to voice dial. From the law enforcement perspective he prefers that the ordinance ban the activity rather than the use of a certain device. Again, there is a lot of potential for confusion. Depending on how the ordinance is written, there may or may not be a practical way for RCPD to enforce it.

Cpt. Hegarty reiterated the comments made by Director Schoen with regard to the difficulties enforcing such an ordinance. Hegarty said the nexus for this should be a desire to increase public safety. Most recent studies have shown that it is not the activity with the hands that is the chief concern, but rather the distracted attention. Whether the driver is changing the radio station, looking down or talking on a hands free communications device, the danger is the distracted attention. Police officers may or may not take enforcement action unless there is some sort of safety issue. Additionally, if an ordinance is passed, he would suggest a grace period to allow people to become familiar with the ordinance particularly if it is considered a primary offense.

Schoen concurred with Cpt. Hegarty and stated that many times those are going to manifest as other violations of traffic ordinances which officers have the ability to take action anyway.

Snead stated the core issues are inattentive driving and what is deemed a safe, tolerable level of activity while driving. He understands the manifestation of inattentive driving. If there are ways to address clear directives to pull people over for inattentive driving that is certainly what they are after.

Urban commented that she believes resources could be better utilized in other ways, primarily on education. In her opinion there is no difference in using a cell phone, hands free device, GPS navigational system or eating a hamburger while driving. Each action distracts the driver's attention. The core is distracted attention. The lack of enforcement ability, the energy and financial effort that it will take to enforce such an ordinance, it does not seem like the resources are being used in the best way possible.

Casper asked if there are other cities that have enforced this type of ban.

Schoen said he is not aware of any cities in Kansas that have adopted an ordinance such as this.

Snead noted that there are states that have adopted a hands free ordinance, but none in Kansas that he is aware of.

Wilkerson expressed his belief that the ordinance will prove to be problematic in a number of ways. There are going to be proof issues for officers as to whether the driver was in fact texting or using their cell phone while driving. Distracted attention has been an issue for drivers since the installation of radios in vehicles. Billboards are placed along highways for the sole purpose of distracting a driver's attention. He does trust that banning the device is going to make Riley County safer to any great degree. One cannot legislate common sense. Common sense tells the driver to not text or talk on a cell phone while driving. Unfortunately, drivers are going to continue to change CD's and talk on the phone while driving. It will be a never ending battle.

Johnson asked if there is a standard traffic ordinance that addresses inattentive driving and identifies it as a violation. Perhaps modifying the standard traffic ordinance pertaining to inattentive driving would be the best action rather than to outlaw a specific device.

Morris-Hardeman said it would make more sense to approach it from that direction as opposed to banning cell phones specifically. If distracted driving is the concern, then inattentive driving should be addressed. She is discussing the matter with city staff to see if there is a way to change the standard traffic ordinance to allow inattentive driving to become the primary focus. She said she was glad to hear the Board and RCPD Administration feel that is an appropriate alternative.

Schoen said if that is the decided approach he would strongly encourage the Board give a great degree of thought as to who might speak for the city. Ultimately officers need to be able to issue citations for violators, but it also has to stand up in court.

Snead appreciated the feedback provided. The information shared will be forwarded to the City Commission at the next available opportunity.

**I. Multi-Year Plan:** Assistant Director Doehling addressed the Riley County Police Department Strategic Multi-Year Plan for the years 2010 through 2014. As stated in the report, the Department is in the midst of change and transition. The organization's structure, key personnel, facilities and equipment, and most importantly, core philosophies have been changed or face proposed alteration. The Strategic Multi-Year Plan attempts to identify and prioritize issues and tasks integral to the successful implementation of change and well-managed transition to the ideal law enforcement agency of the future.

This transition period has generated many innovative ideas, some of which have developed into initiatives that will provide a smarter, more economical, or efficient method of conducting business. Principal initiatives the Department will undertake through the next five years include full implementation of the Citizen's Advisory Board (CAB), Intelligence Led Policing (ILP), Repeat Offender Program (ROP) and integration of new technology.

Assistant Director Doehling explained that accomplishment of the many tasks of the Department is directly affected by the successful integration of technology into the business plan. In the past, the Department has been slow to integrate proven and innovative technology primarily due to cost. The Department plans to implement Mobile Data Terminals (MDT), and paperless criminal

reports system. Other technology based tools such as data analysis software, fingerprint identification systems, and information sharing and dissemination programs are on the horizon.

With the forecasted increase in the overall population of Riley County throughout the planning period, certain staffing and facility requirements will need to be met. The following personnel alterations and the precipitating events are anticipated for the year indicated.

#### 2011

- Addition of five dispatchers necessitated by the consolidation of dispatch duties for all public safety entities across the jurisdiction.
- Addition of one shift-level supervisor to the dispatch center, necessitated by the transition of the current dispatch supervisor to a managerial function.
- Addition of one police officer necessitated by the projected population increase.

#### 2012

- Addition of one Computer Systems Administrator necessitated by the incorporation of technology into the work environment.
- Addition of one non-sworn employee to transition primary crime scene investigation duties from sworn function (which will result in the):
- Addition of one police officer necessitated by the projected population increase.

#### 2013

- Addition of one police officer necessitated by the projected population increase.

#### 2014

- Addition of eight sworn officers and one sworn supervisor to staff a quality of life unit (traffic enforcement, nuisance abatement, etc.).
- Addition of one police officer necessitated by the projected population increase.

Assistant Director Doehling briefed the Board on the following anticipated capital improvement projects.

#### 2011

- Electronic ticketing software and hardware
- State of Kansas interface for RMS for Motor Vehicle and Driver's License records.

#### 2012

- P25 compliant radio replacement (phase 1 of 3).
- Jail kitchen and laundry upgrade.

#### 2013

- P25 compliant radio replacement (phase 2 of 3).

#### 2014

- Five fully equipped police sedans for the deployment of a quality of life unit.
- P25 compliant radio replacement (phase 3 of 3).

- Expansion of administrative facilities of the law enforcement center.

Snead suggested members of the Board take the report to their respective city and county staff to obtain feedback. He recommended the Board review and adopt the multi-year plan sometime after January when they review the Department's annual goals and objectives.

Johnson requested the Department assign a cost value to the different initiatives and capital improvement projects. The Department operates under a 10% tax cap and he would like to be certain that these goals can be accomplished. The Department should take into account inflation and other financial obligations as outlined in contract with the Fraternal Order of Police.

Snead asked that the topic reappear on the December Law Board Meeting agenda.

**J. Executive Session:** At 12:55 p.m. Johnson moved to go into executive session for the purpose of discussing attorney client privilege, non-elected personnel matters and FOP contract negotiation issues not to exceed 20 minutes. Wilkerson seconded the motion. The motion passed 6-0.

At 1:15 p.m. Johnson moved to return from executive session. Casper seconded the motion. The motion passed 6-0.

Johnson moved to go back into executive session until 1:35 p.m. Urban seconded the motion. The motion passed 6-0.

At 1:34 p.m. Johnson moved to return from executive session. Urban seconded the motion. The motion passed 6-0.

**K. Affirmation or Revocation of Discipline:** Johnson moved to affirm the Directors disciplinary actions. Wilkerson seconded the motion. The motion passed 6-0.

**L. Adjournment:** Urban moved to adjourn the meeting. Johnson seconded the motion. The motion passed 6-0. The November 16, 2009 Law Board meeting adjourned at 1:35 p.m.