

b) Public Comment: Brian Swearingen, Vice President of FOP Lodge #17 Incorporated: Swearingen shared with the Board a written statement on behalf of the members of the Riley County Fraternal Order of Police (FOP). His comments are as follows:

Last week the Riley County FOP was notified of the Law Board's intention to hold a Special Law Board Meeting to discuss remaining under the provisions of the Public Employer-Employee Relations Act (PEERA). The announcement was met with great frustration and angst. The most prevalent, and important thing that stuck out was the fact that the Director took the time to openly communicate with the Executive Board (E-Board) of the FOP before notifying anyone else, which was much appreciated.

What was most concerning was when Director Schoen sat with a discouraged look and informed the E-Board that he had personal sentiments to share, but at the advice of counsel, he could not. Even in the 11th hour, FOP President Steve Gregoire and Vice President Brian Swearingen scheduled a meeting with Director Schoen and Assistant Director Doehling in an attempt to foster a line of communication. They were certain that they had an opportunity to speak candidly outside the purview of attorneys, and attempt to talk the matter through. They had proffered everything they knew at that time in the hopes of encouraging trust, and open, effective communication.

FOP President Steve Gregoire and Vice President Brian Swearingen shared with the Director and Assistant Director copies of the FOP's application for an injunction that would blockade a vote at the Special Law Board Meeting, and maintain the status quo until it could be determined in court whether the Riley County Law Enforcement Agency is a state agency by definition, and subsequently not lawfully allow it to remove itself from under the provisions of PEERA. The FOP informed Administration that they were exploring all options for their preservation. During the course of the conversation they were once again told that personal sentiments remain, but would not be shared at the advice of counsel. Swearingen asked how they have been reduced to this.

Swearingen said this year more than ever, the Riley County FOP has gained a reputation as an adversary more than a representative of the employees of the Riley County Police Department. The perception has been that the FOP has broken up the RCPD family. Some of this has stemmed from the FOP's decision to dissolve its interest in negotiating for the non-sworn employees of the Department. To the FOP's detriment, they never really discussed the issue outside the purview of the membership meetings where they attempted to inform, and educate the affected membership as to what was happening. In reality, they are coming into accordance with state and national lodge standards of officers negotiating for officers. The FOP has been informed by the national lodge that officers cannot reasonably bargain for positions they know nothing about, albeit non-sworn positions. The FOP was told that they cannot effectively bargain for non-sworn employees, and that they were putting their lodge at risk if they continue. That is essentially why the FOP opted to dissolve their interest in the non-sworn employees. It was in no way a personal attack.

It can be assumed that in the meantime, how the FOP has gone about addressing issues has been less than preferred to put it mildly. When an issue arises they find fault in it and for the sake of may, they make examples out of the few. Meanwhile, they ignore that simple communication could have resolved the issues before they become legal matters. There is a

mixed up notion that the chain of command ends with the Director because in many instances, for all intensive purposes, it does. What the FOP neglects to realize is that while there is no mechanism requiring the Law Board's review of certain issues prior to taking them to PERB, there is nothing preventing the FOP from addressing those issues with the Board first.

It could be assumed that communication would have proven unfruitful, and therefore, the FOP is expediting the process in the interest of their members. Here is the crucial flaw, given the failure or unwillingness of a few to communicate their issues they automatically assume it won't work for us either. They involve counsel to determine the best course of action, and file suit. All the while, they never gave full, thorough communication a chance aside from shooting it down before it happened. Swearingen said that is their error and as an E-Board member he takes that responsibility.

Swearingen said he does not doubt that members of the Law Board have heard repulsing, personal sentiments, some possibly from E-Board members (past or present) from the lodge. Some have cursed the existence of the non-sworn employees, while others have spoken negatively about the Law Board. He assured the Board that those comments are nothing more than personal opinions. They have no bearing on the position and viewpoint of the E-Board collectively or their membership. More importantly, in the interest of everyone at the Department, both sworn and non-sworn, currently all employees retain the rights under PEERA to assemble and collectively bargain. They have a state mandate and venue to hear concerns and violations. More importantly, they are encouraged to come together with their employer for the betterment of all.

In opting out of PEERA the Board not only takes away from the FOP, they punish the non-sworn who have yet gained the ability to reassemble under a new bargaining unit. The FOP understands that there are concerns that some aspects of Administration may be hampered by the existence of two separate bargaining units. Swearingen was forthright with his confusion that 13 out of the last 14 years the FOP has played a role in bargaining unit 1 and bargaining unit 2 for all employees of the Department. Negotiations were always separate and they would continue to be if the non-sworn were to realign. No additional effort would be required, and the FOP has no opposition to the Department using the previous non-sworn Memorandum of Agreement (MOA) as a guide to start future contracts with the non-sworn employees.

Some surely believe that the FOP and Administration are at a point of no return and that the relationship is broken, hence the reason for calling a Special Law Board Meeting. Swearingen said he respectfully disagrees with that notion. He feels the FOP, Administration and Law Board can talk through the issues. The Riley County FOP Lodge #17 is committed to seeing it through and making it work. Both parties are comprised of knowledgeable and responsible adults who have an excessive amount of time, effort and money invested in getting to where they are now. There is too much at risk for the community to not take the time to communicate with one another to reach a resolution.

The FOP proposes open and honest communication as the solution. They as an organization pledge from this day forward to advise the Director, as they have in the past, and the Law Board of any matter which could result in legal proceedings. Since the FOP and

Administration were not afforded the opportunity to discuss the issues in great detail he proposes the Law Board table the discussion and vote that is before the Board. It is asked that the Board grant the opportunity to provide a forum where they can discuss the matters Board to Board, person to person, and see where correcting the lack of effective communication can take them first. They suggest tabling the vote today, because whether the Law Board decides today, two weeks from now, or two months from now, the ultimate consequence remains the same; the Board potentially withdraws from PEERA, RCPD potentially becomes a social organization, and the divide separating all parties grows beyond repair. Instead the FOP proposes using life and leadership skills, trust, open communication, mutual respect, consensual problem solving, and shared accountability. Let's try to talk this out, the perceptions, decisions, and ways that they can preserve together. They can do so much more together than they ever could apart.

Pete Fogarty, President of the Kansas FOP: Fogarty read a letter that was sent to the Law Board from National Fraternal Order of Police President Chuck Canterbury. The letter states Mr. Canterbury's support of the police officers of Riley County Kansas. The letter further states that the decision to possibly opt out of the collective bargaining process is very perplexing and disturbing to the national organization.

The letter states that the men and women of the Department are citizens of the county and they deserve the ability to provide input on matters that affect their employment. The citizens deserve a police department that has a healthy relationship between management and the officers who protect Riley County. The National Fraternal Order of Police stands ready to assist the Law board and Riley County Fraternal Order of Police Lodge #17 in any manner in the discussion, but urge the Law Board to maintain the process of collective bargaining and allow for the healthy exchange of information between management, rank and file officers of the police department.

Fogarty encouraged the Law Board to look at the situation very closely and seriously. Something is broken. That doesn't mean it is beyond repair. It can be fixed. The police officers work hard every day to protect the rights of the community. Many people present at the meeting are asking the Board to protect their rights. If there is a vote, please vote to remain under PEERA.

Morgan Roach, Attorney for the FOP Lodge #17: Roach mentioned that the lodge filed a legal proceeding earlier in the day contending that what the Board is considering doing is perhaps in violation of state law. He asked the Board, on behalf of the lodge, to let the legal proceedings play out before making a decision. The lodge has sought the guidance of the court on the issue and believes it would be prudent to hear what the court has to say about the Law Board's legal authority to make such a decision.

Roach explained that PEERA automatically applies to state agencies. State agencies do not opt in or out of PEERA. The opt in ability is given to local and county entities. PEERA defines a state agency simply as any state agency. There is Supreme Court case law which further defines a state agency to have two elements; they are created by state statute, and they are given the authority to take action and make final decisions. They do not serve in advisory type roles. The Riley County Police Department is a state created agency that is given the authority to enforce laws within a geographical jurisdiction of the state of Kansas.

The Department is a state agency created by state statute and has to comply with state statute. In his opinion, the Riley County Police Department looks a lot like a state agency. It is not a city or county agency. It is created by state statute. That is the basis of the lodge's petition. They are asking for a court to make the declaration that as a state agency, the Law Board cannot opt out of PEERA. They ask that the Board allow the process to play out. He and the lodge believe it is a strong lawsuit. They believe it is strong enough that the agency would benefit from hearing what the court has to say before taking action, which could be determined a violation of state law.

Matt Gambrel, RCPD Police Officer: Gambrel wished to echo the comments made by FOP Lodge #17 Vice President Brian Swearingen. He explained that communication is key like in any relationship. It has reached the point to where attorneys are speaking with attorneys to relay information. He believes it could be handled as officers, the Director, Assistant Director, and the Law Board working together. In order to do that they have to communicate with each other openly and honestly.

Gambrel agreed that discussion concerning the matter should be tabled until the court has made a decision. Though the topic would be tabled, that does not mean that the interested parties could not talk and try to fix the problem. There is no rule or law against that. He would like to see everyone work together to try to reach a solution.

Tim Davenport, President of the International Association of Fire Fighters Local 2275: Davenport and other Manhattan Fire Fighters were present out of solidarity with their brethren at the Riley County Police Department. The Manhattan Fire Department works under the Public Employee Relations Board (PERB) and he believes they have a good relationship with the City of Manhattan. Davenport explained that the nation was founded on a triune form of government. The Public Employee Relations Board and the Public Employer-Employee Relations Act make a third party to help all parties out.

Brian Johnson, RCPD Police Officer: Johnson said that he feels the action before the Board is horribly inappropriate at this point in time primarily due to the fact that the FOP has not been informed of the motivation behind it. Johnson asked how they are to appropriately respond when the information has not been provided to them. In addition, such an action is inappropriate for the reason that the FOP and the Department are in the midst of contract negotiations. He suggested the Board not pursue taking an action at this time.

Steve Gregoire, President of FOP Lodge #17: Gregoire said that as an agency employee and a member of the FOP he strongly urges the Board to remain under PEERA. He believes that the community is benefited by having an agency where the officers have fair terms and conditions of employment, a legal structure for the free exchange of ideas, and mutually beneficial dialogue. He asked that the Board to support the FOP's desire to remain under PEERA.

Gregoire briefly explained the legal action that was taken by the FOP earlier in the day. The E-Board asked that he convey that the legal action was a result of the FOP's feeling of being backed up against the wall. They felt they had no other choice. The legal action taken was to preserve their organization and rights as employees. They were not provided an explanation

as to why the Board was considering withdrawing from PEERA. That remains a question that many would like to have answered.

Russ McCabria, RCPD Police Officer: McCabria was hired at the Riley County Police Department in January 1998. He commented that he has always enjoyed working as a police officer, as well as the benefits and stability that the FOP contract has provided he and his family each year. The stability has allowed his family to look into the future. The Riley County Police Department has been a great organization to work for. It is his desire to work for the Department for many more years. It is his hope that the same stability will be offered to new employees as they begin their career at the Department.

Rod Cook, RCPD Police Officer: Cook said that he, and at that time, Commissioner Alvan Johnson signed the first agreement between the FOP and the Department. Cook said it troubles him that the Board is considering such an action. It is his hope that the Board, FOP, and Administration can come together to discuss whatever the issue is without having to involve attorneys, judges, etc. The thought behind PEERA was to maintain the working relationship between the employee and the employer. He asked that the Board keep that in mind when rendering a decision.

Carla Swartz, RCPD Police Officer: Swartz explained that she has been a police officer with RCPD since 1986. For the first 10 years of her career there was no contract and things were a lot different at that time. Shifts and days off could be changed with little or no notice. Employees had no regress for employment issues, and employee rights were unheard of. Attending school, holding part time jobs, and finding daycare were difficult because of the uncertainty of the employees work schedule.

The contract affords employees the assurance of basic employee rights and protections. Those protections are not only for the employee, but the employee's family. Working without the protection of a contract, and the rights afforded under PEERA, would add a great deal of stress and pressure to the employees and families of the Riley County Police Department. The elimination of collective bargaining will dramatically affect the men and women of the Department who work 24 hours a day, 7 days a week, 365 days a year, rain or shine. She asks that the Board not withdraw from PEERA, and that the rights that are afforded to employees from having a contract not be taken away.

Luke Breault, RCPD Police Sergeant: Breault stated that he has been a police officer with RCPD for approximately 9.5 years. It is his hope that the Law Board opt to remain under PEERA. As an officer, there are no guarantees when the leaders of the Department leave. The FOP has been the only group that has advocated for employee salaries and various benefits. He hopes the Board does not choose to withdraw from PEERA.

Lisa Heller, USD #383: Heller stated that she is a teacher for the Manhattan High School and a member of their negotiating unit. She understands how difficult negotiations can be. She also recognizes that having fair terms and conditions of employment can affect employee morale. The lack of consistency and stability will affect not only employees, but their families too.

Joseph Ehrlich, RCPD Police Officer: Ehrlich explained that police officers work a job that is full of uncertainty. Everyday officers go to work not knowing how the day will end. The guarantees of a contract is one of the few things that are certain in this line of work. He asked that the Board opt to remain under PEERA.

Todd Godfrey, Junction City Police Department: Junction City Police Department Police Officer and Vice President of the Junction City Police Officers Association FOP Lodge #43 addressed the Board. He voiced his support of the Riley County FOP and their desire to remain under PEERA. It is a benefit that the employees look forward to. They look forward to negotiate a contract, and ensure that the terms and conditions of employment are fair and consistent.

Unknown Speaker: As a taxpayer he appreciates what RCPD does for the community. Consistency is critical and if an environment is created where employees do not know what they will be doing day in and day out, that is asking for trouble. He strongly encouraged the Board to support the FOP and remain under PEERA.

Denise Wood, Manhattan Resident: Wood, resident and spouse of RCPD Sergeant Doug Wood addressed the Board. She stated that the inconsistency that could occur absent a contract and PEERA would strongly affect her family. They struggle sometimes already the way things occur, but they would be greatly affected if they did not have PEERA.

Jerry Powell, Chief Negotiator for Riley County FOP Lodge #17: Powell explained that he has been involved in labor management for 40 years under the PERB law. He was the first Executive Director of the Kansas Public Employers Relations Board. He has sat on both sides of the table representing management in union negotiations. He was a mediator for a number of years and he still mediates. He is a fact finder with PERB and an arbitrator with the Federal Mediation Conciliation Service. He has seen negotiations from almost every standpoint there is.

Powell said knows only of one other area where the governing body opted out from under PEERA. While working for the City of Topeka he negotiated their contracts and labor issues. If the mayor of Topeka during those years were still alive he would say that the department would be better off to have a good labored organization representing the employees rather than trying to deal with each individual employee.

Powell stated that the currently resides in Topeka and in case the Board did not recognize his name he is the “hired gun” to negotiate the 2011 contract on behalf of the Riley County FOP. It has been his honor and privilege to do that. He has represented a number of other FOP bargaining units around the state. Sitting at the negotiations table with Director Schoen and Assistant Director Doehling hasn’t been all wine and roses, but they have acted in a very professional manner. Administration knows what they are doing and they have to say no at times, which is understandable.

Powell said he feels they have made a great deal of progress in negotiations for the 2011 contract. He does not know whether Administration would tell the Board that he has acted like a gentleman because he is not much of a gentleman. Be that as it may, he feels they

have made a lot of progress. He is not certain what precipitated the idea of coming out from under PEERA. It is his hope that it hasn't been because of negotiations.

Those who have addressed the Board today have noted that communication has been a problem. Powell believes they have hit the nail on the head. He has also heard at least one if not several people say that the majority of it is the fault of the FOP because they have not communicated well. The FOP has pledged to attempt to communicate better in the future. He hopes the Board gives serious consideration to the implications of coming out from under PEERA. The Department has good officers and leaders. They are adults and he believes they can sit together and work things out. He thanked the Board for their time.

c) Discussion: Director Schoen stated that he spent a lot of time thinking about what he was going to say and the position he would take with respect to some of the issues. His position on PEERA is a question he has been asked a number of times since announcing the purpose of the Special Law Board Meeting. It was most directly and succinctly worded by RCPD Police Officer Richard Deutsch during shift briefing. He asked if Schoen was going to support the FOP on this issue. Schoen said that sadly, he was unable to answer his question out of a desire to avoid rising the FOP's ire by appearing to influence their membership. Schoen said he has never been one to be particularly constrained in his answers, and found it troubling that he could not respond at that time. He promised to answer that question, but first he wished to provide a little bit of history.

He explained that in 1995 when the Law Board was considering whether to place themselves under the authority of the PEERA statutes they were rightly concerned about two issues. Those two issues were raised repeatedly during the discussion leading up to the vote and the FOP's answers to those two issues were consistent.

The first question was whether the FOP would act as a representative for all RCPD employees. The second was actually more of a concern. The concern was that an adversarial relationship might develop between administration and line personnel within RCPD. As an organization, we had enjoyed a good relationship to that point and the Board wanted nothing to do with anything that had the potential to disrupt what both parties agreed was an excellent relationship. The FOP's response was that it would indeed represent all RCPD employees and that the cordial relationship between Administration and line employees would not be disrupted. Given these repeated assurances, the Board voted 4-3 to place itself under the PEERA statutes and stated that they were willing to give it a try for a couple of years. Dissenting Board members, and then Director Johnson, opposed the issue, but resolved to do their best to make it work.

Schoen said here they sit, some 15 years later. Personally he has experienced about half of his 27 year career (15 years) under PEERA and the other half (12 years) without PEERA in place. Despite those assurances, the FOP no longer represents all RCPD employees, having abandoned its commitment to represent non-sworn employees effective at the end of 2010.

The first issue (FOP representation of all RCPD personnel) is quite clear and factually, no one can argue either the commitment the FOP made in response to the Law Board's concerns or the FOP's current stance. This is a stance to which the FOP is committed. Schoen said he started to see the impact that the decision was having on the relationship

between sworn and non-sworn personnel. He discussed the FOP's decision with their President. When he inquired as to whether they were committed to that course of action, the President informed Schoen that they were.

That leaves the FOP's relationship with Administration and the Law Board. Schoen stated that he believes the relationship has never been worse, which is a statement that he does not make lightly. He understands the FOP's desire to portray the relationship in a positive light; however, recent happenings have proven otherwise.

During the April 19, 2010 public comment portion of the meeting at which the Board was discussing the Department's 2011 budget, an FOP member said to the Law Board "As officers, we expect criminals to lie to use every day as part of our job in determining the truth in the interest of protecting our citizens. None of us expect our bosses or in this case the Board to do the same."

After learning of the purpose of the Special Law Board meeting elected officials serving on the Law Board have been contacted and veiled threats insinuated. The first of these cautioned the Board member to "Watch out," and "You better be careful," as the FOP now had the State and National FOP involved on their behalf. The second, from another FOP source was a bit more blatant. An elected official received a call reminding the official that, "We supported you in the last election." Schoen said he was floored when he heard that such a comment was made.

On two separate occasions this year Schoen offered to make himself available at a time convenient to the FOP in order to have informal discussions, communications that everyone was talking about with either the E-Board or the general membership. Those requests were not rejected, they were just ignored. He never heard anything back.

Most recently the FOP filed two pleadings with the Riley County District Court. The first was an attempt to prevent any action from being taken by the Law Board on the issue before them tonight. That motion was argued earlier this afternoon and the court refused to stop any action. The second pleading is a lawsuit with the objective of preventing the Board from taking itself out of PEERA, alleging that the Board is a state agency, which does not necessarily jive with the desire to get lawyers out of the middle of things.

Schoen said sadly he can only conclude that the relationship has deteriorated to the point that it is dysfunctional. He does not take any joy in saying that. No matter the decision today, it is going to be a long drive home for everyone, himself included. This is to say nothing of the relationship between sworn personnel represented by the FOP and those personnel the FOP has elected to abandon-that is, the Department's non-sworn personnel. Schoen said he finds it disheartening and disappointing that the union opts not to discuss these issues with management, but to instead resort consistently to litigation, whether it be in the PERB or judicial context, when it feels aggrieved.

Schoen stated that by anyone's definition of the term, he does not believe that a relationship in which these things are happening can, in any way, be referred to as cordial, civil or friendly. It is a far stretch from where we are to get to the "...development of harmonious

and cooperative relationship between government and its employees” as envisioned by the PEERA statutes.

Having reviewed a bit of history and recounted some recent events that have shaped his perception of the issue, Schoen wished to point out one last thing. He was at the meetings where the then Law Board was discussing whether or not to place themselves under the authority of the PEERA statutes. At that time, a number of FOP members used the words “communication” and “cordial relationship,” the same things heard tonight. They had the then FOP’s attorney talk about a lawsuit if the Board didn’t do what in their opinion needed to happen; same things that happened tonight. Here everyone is, many years later and we are still having the same discussion. Schoen said he finds it saddening.

Schoen stated that it is time for him to lay his cards on the table and answer the question whether he supports the FOP in this matter. Schoen said he would love to. There is nothing he would rather do than go to bat for the people of RCPD; whether the issue is wages, work conditions or policy matters, but sadly he cannot chiefly for two reasons. First, he cannot because of PEERA. Under PEERA he cannot work with RCPD employees represented by the bargaining unit. He has to argue against them. In fact, he can’t even talk to Department employees about certain issues and advise them on where he stands on matters of importance to everyone. To do so would be to open the Department to allegations that Administration is interfering with the union’s handling of its affairs, its own contract, and the information it provides to its members. The statutes set up an adversarial relationship. Here we are. Not a whole lot of happy faces present on either side, but here we are. We are where we are. That hasn’t changed much the years the Department has been under PEERA.

Schoen said secondly he cannot support the FOP in this matter because he believes that past performance is the best indicator of future success. Sadly, past performance tells him that the bargaining unit has not remained true to two issues that the Law Board considered vital before voting to place itself under the PEERA statutes in 1995. The FOP has gone a different direction than promised and those key changes have impacted the Department in significant ways.

Schoen said that his answer to the question is no. He does not support the desire to remain under PEERA, but he would love to support RCPD employees. He does not want to argue against employees. He wants to go to bat for them with the Law Board. He wants to work with them and talk about their concerns over wages, working conditions, whatever their concerns might be. He can guarantee that there are plans afoot to do exactly that. Nobody is going to have benefits taken away, not on his watch, not without a heck of a fight. They plan to sit down with employees and talk about what everyone thinks is needed to balance interests. Together, if not under PEERA, the Department can go to the Board with one voice. Schoen said he would be proud to represent all employees in doing that, but he can’t do it now. Tonight he is asking that the Law Board free him up to do just that.

Kearns explained that no one holds the work of the Riley County Police Department in higher esteem than he. As many know, he was a prosecutor for the County Attorney’s Office for a number of years. He has also been a member of the Law Board for some time. He is retired military and he has the highest regard for people who put their lives on the line for the good of others. He stated that the issue is not negotiations. What distresses him is that

the union does not represent all RCPD employees. He has heard from reliable sources that the action has caused a rift within the ranks of the RCPD. The Riley County Police Department cannot function as a reliable Department when there are factions within the organization, and RCPD has them. There is a “we/they” mentality at the Department which is not good for the citizens of Riley County or the organization as a whole.

Kearns said he feels there has been an adversarial relationship developing for some time that he does not like. The County does not have a union. Employees come to management and visit with them about working conditions, equipment, etc. Kearns said management is able to do something about their concerns. He is used to working with employees absent a union and taking care of employee needs.

If the Board were to withdraw from under PEERA he does not want employees to be left ignored. He would like to see the development of a working organization of all employees who can visit with the Director and Law Board without having to worry about a law that says the employees, Administration and Board cannot talk because of negotiations.

McCulloh said that the County has a good working relationship with their employees. It has been a long, well established tradition that the County is very careful to try to pay people adequately and take care of them. They have conducted extensive salary studies to ensure that the employees are in line with other departments. McCulloh said she understands the FOP’s concern of working without a contract, but in looking at the Law Board’s track record they have done a good job of making sure that employees are heard, treated and paid fairly, and receive the things they need so they can do their job well.

McCulloh said she supports the theory of a union, but she is concerned that unless the Department employs a different kind of bargaining method, they are not going to solve any of the issues that have been raised.

Wilkerson explained that he has worked with members of the Riley County Police Department for over 20 years. One of the functions of the Law Board, and a struggle that they go through, is to treat everyone fair. That is the bottom line. They have to make sure that all employees from police officers, dispatchers, correction officers to administration are treated and paid fair. When bargaining with two units the Board cannot make an agreement first with the correction officers and then bargain something different for other personnel. They have to be fair across the board. Everyone’s jobs are important. There cannot be divisiveness within the Department. There has to be a degree of trust and the Board has to earn that trust.

Wilkerson said that he has been contacted on a couple of occasions over the years by employees wishing to bargain with the Law Board, but they cannot. Unfortunately people in the legal profession have decided that lawyers need to be involved in the negotiating process. Wilkerson expressed that he feels at times the FOP has come out behind with respect to negotiations.

There is no question that one of the most important professions is law enforcement. Many people in Riley County can go to bed at night because of the officers who put their lives on the line. They are safe because of the quality dispatchers and correction officers at the

Department. Wilkerson said that every day is a struggle because he wants to pay RCPD employees everything they are worth, but that will never happen. It is taxpayer money and the Board wants to be fair to the taxpayers, but also give them the best law enforcement that they can afford. Wilkerson said he believes the Board has done that.

Urban explained that she sits on the Law Board as someone without a military or police background, but what she brings to the Board is her support and admiration for the work that RCPD employees do every day. That is the reason she as a community leader agreed to be a part of the Board. She wanted to support the employees of RCPD.

Urban said appreciates the safety that the employees bring to her and her family. However, somehow she has become the enemy without realizing it. There is something wrong in the relationship. The Board is not the enemy. The Board appreciates what the employees of RCPD do and they want the opportunity to show that. The current relationship and the rules that have been set do not grant employees the opportunity to speak with Board members and vice versa. Urban said she agrees with Wilkerson in that what the FOP is at times falling short with what they ask for and what they receive. She hopes they have the opportunity to find that out.

Casper stated that she is a public citizen who has served on the Board for 2 years. She did not realize until now that she has not had the chance to meet with many of the employees of RCPD and thank them for the job they perform. She has the utmost respect for the sworn and non-sworn employees who serve the county. She is sad to say that after looking around the room that she knows Attorney Michael Gillespie better than she knows those in attendance. That is primarily because that is how she receives communication, from the attorney. As a Board member she also wants consistency and stability for the employees of the Department.

Sherow said he is impressed by the professionalism of RCPD. The employees of the Department do a fantastic job. The safety and wellbeing of the community is living proof of that. He said that he has more questions than he does positions. His first question relates to representation and whether it is appropriate for the FOP to represent only police officers or if it is appropriate for them to represent all employees. Another question is how communication can be improved. Where are the interests of the public served, as well as the FOP interests, and what needs to be better communicated to serve both? Sherow said he is fairly new to the Board and does not have the answers at this time.

Sherow has taken note of the good track record with respect to RCPD employee benefits and working conditions over the years. He questions whether that is a result of PEERA. If it is not, he question what would have accounted for those advances. He does not know if the issues the FOP and Administration face are problems that result from personalities within the Department or the way the PEERA statutes are set up. Frankly at this point the answer is unclear, but he will have to get it answered some point.

Sherow said this is a serious issue that everyone ought to think through. He stated for the record that he has never been threatened by any member of the FOP. He has been very impressed by the professionalism of the Department and its employees.

Morris-Hardeman said she too is proud of the Department. Riley County has an excellent police department. The community has a great deal of respect for all employees of RCPD and what they do. Morris-Hardeman wished to clarify that the possible action before the Board is in no way retaliation for what has been a difficult negotiation season, PERB complaints or those kinds of issues. Those things are not new to the Board. There have been difficult negotiations, but that happens. Trying to reach an agreement on what is best does not always happen easily.

Morris-Hardeman expressed her concern of the decision of the FOP to no longer represent the non-sworn employees. That was part of the original agreement. It is very clear that at the time the Board considered going under PEERA that they wanted all employees represented. It is the job of the Director and Law Board to represent the Department as a whole and do what is best for everyone. There is an issue of fairness in having multiple bargaining units.

The relationship between the FOP and Administration has devolved in to a very adversarial relationship. Part of that she believes is due to the nature of PEERA. It is difficult for the Director to do his job and not be able to speak with employees about what is going on. Instead there are negotiators and lawyers who do all of the talking. That does not lead to a good employee/employer relationship. It is very difficult to manage under those circumstances.

Morris-Hardeman once again thanked those who spoke during public comment and shared their thoughts, concerns and trepidations about moving away from PEERA. She can understand why the lack of a contract seems to break a degree of stability for the employees. Employees feel that a contract provides them with more stability. If the Board decides opt out from under PEERA, she believes that the Director has every intention to listen to employees of the Department and ensure their concerns are heard.

Morris-Hardeman opened for additional public comment.

Gambrel said that the majority of the police officers of RCPD very much respect and care for their fellow co-workers, to include dispatchers, correction officers and clerical staff. Though it might not seem that way given the current climate, they are like a family. The FOP Sworn Bargaining Unit chose to dissolve its interest from the non-sworn employees at the direction of the national organization. It is not that the FOP did not want to represent them. The FOP wants to help the non-sworn reassemble under a new bargaining unit of their own.

There have been concerns expressed among the Board about having two separate bargaining units. Gambrel said that there have been two units the entire time. There was a sworn and non-sworn bargaining unit. The sworn bargaining unit wants the non-sworn employees to have as many benefits and rights as they can. Many officers are married to non-sworn employees of the Department.

Gambrel went on to state that there is a perception on both the FOP and Administration side that communication has to be handled through attorneys. He inquired as to what law states that communication must be handled through attorneys.

Roach commented that per law, the negotiating teams have to speak through their union representatives (E-Board and the Department). The teams cannot bypass their representatives.

Gambrel agreed that the climate has degraded, but it can be improved. The system has worked across the state for a number of years. The blame is shared. Both sides of the fence have allowed the relationship to get to this point and it will take both to fix it, but it can be done. There is no harm in giving it a chance to work.

Sherow asked what would happen if the FOP were to ignore the recommendation of the national office to stop negotiating for the non-sworn employees.

Gregoire explained that as an active member of the lodge employees can attend FOP meetings and vote on matters of interest. Those who are not members cannot vote. That alone inhibits non-sworn employees from having full participation in the organization. The bargaining units are organizations of the FOP and therefore at least one sworn officer has to serve as the Chair of the non-sworn negotiating team. The lodge continues to represent non-sworn employees until December 31, 2010.

Prior to having two separate bargaining units, the FOP had one negotiating team for both sworn and non-sworn employees. Police officers bargained for all employees. Police officers are not correction officers and vice versa. Neither work in the same environment. For police officers to negotiate the terms and working conditions of employment for a correction officer is far out in left field.

Gregoire stated that the State President of the Lodge clarified that it was only the recommendation of the national lodge that the sworn bargaining unit dissolve its interest in non-sworn employees. Gregoire said that the E-Board would be willing to discuss the possibility of taking the non-sworn employees back under their wing while the Law Board is in executive session. There is a significant number of the FOP membership present at the meeting and a vote can be taken on the matter. They would be willing to entertain the idea of collective bargaining if the Board were willing to remain under PEERA and try to work things out. He can have the results of the vote following executive session.

Gregoire would recommend that if they were to do this he would recommend to the E-Board that there be one bargaining unit. The FOP would elect non-sworn and sworn members to serve on the negotiating team.

Urban explained that the crux of the problem. Even if the FOP were to represent the non-sworn employees they still are not representing everyone as not all employees can be voting members of the FOP.

Gregoire said that is correct.

Urban said that those individuals who cannot be voting members help to create the consistency and stability that gives sworn employees the opportunity to have regular days off, etc. Those people need representation as well.

Gregoire responded that membership regulations are set by the grand lodge of the FOP and cannot be violated. The cost of negotiating is high. Training needs aside, there are genuine costs associated with negotiating. Membership fees for non-sworn members are much lower than that of a sworn member. That in combination with the significantly low number of non-sworn employees who joined the FOP as associate bargaining members was another reason the FOP chose to dissolve their interest in the non-sworn. The majority of non-sworn employees showed very little interest in participating in the bargaining process. There were only a handful of non-sworn employees involved in the process each year. Employees of the Department who were not members of the FOP got a free ride and received the benefits of a contract that members paid for.

Urban asked how that can positively affect relations within the Department.

Gregoire said that it does not. He explained that the only solution would be to have everyone pay a bargaining unit fee when they become employees to help defer the cost, which may not be legally feasible. The decision to withdraw from non-sworn employees was made over a year ago. The FOP informed the non-sworn employees that they were thinking about withdrawing from bargaining with them. Suddenly, after two years of no correction officers showing up to unit meetings, and only a few dispatchers and clerks, there were now a handful. Membership dwindled again because the non-sworn employees were not happy with police officers negotiating for them because we are from two different worlds. The non-sworn employees did a half attempt at reorganizing, but saw how expensive and difficult it was. That never came to fruition because the non-sworn could not organize themselves.

Urban expressed the concern with the perception that sworn and non-sworn employees are from two different worlds when in fact they are not. Everyone works for the Riley County Police Department. They have a single mission.

Gregoire stated that they all work for the same employer, but they work in two totally separate environments.

Urban stated that they may work in different environments, but the mission is the same. A function of the Law Board is to help the employees of RCPD do their job to the best of their ability with the resources that are available. That is a common goal. She does not feel that they are currently working toward that common goal.

Gregoire said he agreed.

Gambrel wished to address the Board regarding the comments made by Director Schoen. He stated that if a member of the Law Board was threatened by a member of the FOP he truly apologizes. He guarantees that was not the intent of the FOP or E-Board. He asked that the Law Board not hold the opinion of one person acting on their own against the whole.

Jessie Hubbard, RCPD Part Time Dispatcher: Hubbard is the spouse of a RCPD police officer and she has been a dispatcher with the Department for over 9 years. Hubbard informed the Board that as a non-sworn employee she holds no ill will toward the FOP for dissolving their interest from the non-sworn. There was consistently a lack of participation

in negotiations and initiative on the part of non-sworn employees. There were a few non-sworn employees who were very dedicated, but most rode the coat tails of what the sworn officers could do for them. The sworn members have assisted the non-sworn for a number of years and she holds no ill will toward the FOP for their decision.

C. 2010 Police Vehicle Bids: Captain Nelson said that \$250,000 is typically budgeted annually to meet the Department's vehicle requirements. The Department agreed to reduce this amount to \$200,000 as a cost savings measure for 2009 and 2010 resulting in the need to retain some vehicles longer than normal. The Department is recommending the purchase of 2 Ford Crown Victoria Sedans, 3 Ford Explorers and 2 multi-passenger mini vans to replace aging fleet vehicles. While \$200,000 has been budgeted for vehicle purchases and repair, he is proposing a total expenditure to the tune of \$153,000 for 2011.

Schoen added that a few years ago the Department adopted the City of Manhattan's Vehicle Replacement Index rating scale for vehicles. The vehicles being replaced exceed that scale. The Department currently has vehicles in the fleet that have over 100,000 miles, or over; however, those vehicles will be retained as long as the maintenance costs remain reasonable and they fulfill the Department's needs safely.

Wilkerson moved to approve the purchase of 2 Ford Crown Victoria Sedans, 3 Ford Explorers and 2 multi-passenger mini vans for 2011. Kearns seconded the motion. The motion passed 7-0

Director Schoen suggested a 10 minute recess prior to going into executive session. The Board concurred. At 7:13 p.m. Morris-Hardeman announced a brief 10 minute recess.

The open public meeting was back in session at 7:23 p.m.

D. Executive Session: At 7:23 p.m. Kearns moved to go into executive session for the purpose of discussing attorney client privilege not to exceed 45 minutes. McCulloh seconded the motion. The motion passed 7-0.

At 8:08 p.m. Urban moved to return from executive session. Kearns seconded the motion. The motion passed 7-0.

Morris-Hardeman was given to understand that Gregoire wished to address the Board prior to returning to executive session.

Gregoire stated that the FOP E-Board met and the majority vote is to take the non-sworn employees back as a bargaining unit PERB allowing. The process is to notify PERB of the intent and PERB would notify the employees. If the non-sworn elect to come back under the FOP, PERB would hold an election.

The FOP would further agree, in a negotiated written document, to approach the Director informing him first of events requiring his attention and/or any intent to take PERB or legal action. If the matter cannot be resolved with the Director they would then approach the Law Board in the same fashion. However, a procedure would need to be implemented stating such. That is the promise of the FOP. The Director and Law Board would be aware of future complaints and attempt to work together to resolve it before reaching the PERB Board.

At 8:10 p.m. Kearns moved to go into executive session for the purpose of discussing attorney client privilege not to exceed 15 minutes. Wilkerson seconded the motion. The motion passed 7-0.

At 8:26 p.m. Kearns moved to return from executive session. Casper seconded the motion. The motion passed 7-0.

E. Possible Action/PEERA Issue: Kearns moved that the Riley County Law Enforcement Agency, as a governing body under the provisions under the Public Employer-Employee Relations Act KSA 75-4321 (c) rescind its resolution dated April 17, 1995 by which it elected to bring itself under the provisions of the Public Employer-Employee Relations Act KSA 75-4321 (c) and sign a resolution stating such. McCulloh seconded the motion.

Morris-Hardeman asked if there was further discussion and received none.

Morris-Hardeman requested a roll call vote be taken on the motion. The results follow:

Wilkerson: Yes	Sherow: No
McCulloh: Yes	Casper: Yes
Kearns: Yes	Urban: Yes
Morris-Hardeman: Yes	

The motion passed 6-1.

F. Adjournment: Kearns moved to adjourn the meeting. Wilkerson seconded the motion. The motion passed 7-0. The November 8, 2010 Special Law Board Meeting adjourned at 8:28 p.m.