THESE MINUTES HAVE NOT BEEN READ OR APPROVED BY THE CHAIRWOMAN

PUBLIC SAFETY AND CRIMINAL JUSTICE COMMITTEE

DATE: September 22, 2004

CALLED TO ORDER: 5:11 p.m.

ADJOURNED: 7:26 p.m.

ATTENDANCE

Attending Members	Absent Members
Mary Moriarty Adams, Chairwoman	
Sherron Franklin	
Lynn McWhirter	
William Oliver	
Scott Schneider	
Steve Talley	

AGENDA

PROPOSAL NO. 305, 2004 approves an increase of $1,000,000 in the 2004 Budget of the Marion County Sheriff's Department (County General Fund) to provide an additional appropriation due to fuel price increases
"Postponed" Vote: 5-0

PROPOSAL NO. 502, 2004 approves an increase of $20,044 in the 2004 Budget of the Marion County Justice Agency (State and Federal Grants Fund) for the partial salaries and fringes of five (5) employees for Pathway to Recovery, funded by a grant from New Path for Victims
"Do Pass" Vote: 5-1

PROPOSAL NO. 503, 2004 approves an increase of $24,028 in the 2004 Budget of the Marion County Justice Agency (State and Federal Grants Fund) for the salaries of two employees, funded by a grant from the Julian Center's Family Growth and Development Project
"Do Pass" Vote: 6-0

PROPOSAL NO. 505, 2004 amends the Revised Code to add a new Sec. 451-6 to prohibit the sale and possession of a stun gun
"Tabled" Vote: 4-2

PROPOSAL NO. 540, 2004 approves an increase of $1,000 in the 2004 Budget of the Marion County Sheriff's Department (County Grants Fund) to purchase Seeker hand-held metal detectors, funded by a grant from the Wal-Mart Foundation
"Do Pass" Vote: 4-0

PROPOSAL NO. 541, 2004 approves a transfer of $1,739 in the 2004 Budget of the Marion County Sheriff (State and Federal Grants Fund) to purchase equipment, funded by a previous grant from Indiana Criminal Justice Institute
"Do Pass" Vote: 4-0

PROPOSAL NO. 542, 2004 approves a transfer of $53,854 in the 2004 Budget of the Marion County Prosecutor (State and Federal Grants Fund) to transfer excess fringes to cover salary expense, previous grant from Bureau of Justice Assistance, U.S. Department of Justice
"Do Pass" Vote: 4-0

PROPOSAL NO. 543, 2004 approves a transfer of $2,189 in the 2004 Budget of the Marion County Prosecutor (State and Federal Grants Fund) to purchase supplies, software and computer with excess fringes and Character 03 funds for Conflict Resolution Program, funded by a previous grant from Executive Office of Weed and Seed, U.S. Department of Justice
"Do Pass" Vote: 4-0

PROPOSAL NO. 544, 2004 amends the Code with regards to general provisions for animals, including animals at large, confinement of dangerous animals, vaccinations, impoundment and disposition of animals
"Do Pass" Vote: 5-0

Presentation from the Concerned Clergy,
Juvenile Justice, Incarceration and Recidivism Task Force

PUBLIC SAFETY AND CRIMINAL JUSTICE COMMITTEE

The Public Safety and Criminal Justice Committee of the City-County Council met on Wednesday, September 22, 2004. Chairwoman Mary Moriarty Adams called the meeting to order at 5:11 p.m. with the following members present: Sherron Franklin, Lynn McWhirter, William Oliver, Scott Schneider and Steve Talley. Representing Council Staff was Aaron Haith, General Counsel.

PROPOSAL NO. 305, 2004 approves an increase of $1,000,000 in the 2004 Budget of the Marion County Sheriff's Department (County General Fund) to provide an additional appropriation due to fuel price increases

Major Ron Chappel, Marion County Sheriff's Department (MCSD) stated that there has been no change for estimated need of fuel for the MCSD. The cost of gasoline has stayed the same and the MCSD is still short $1 million. Major Chappell stated the MCSD showed a deficit of an additional $142,000 for the first six months of the year. He stated it is a funding problem for the Auditor for the 2005 budget, as well as trying to fund this through the rest of 2004 calendar year.

Councillor Talley stated that this is a debt that is owed to the city by MCSD. He asked what impact this would have on the city. Barbara Lawrence, City Controller, stated that there is a request for an additional $2,050,000 that will come from the fund balance, but this will only deplete the fund balance until it is charged back to the MCSD. She said the Department of Administration will continue to provide the service and carry the cost on the books. Councillor Talley stated the reason he asked is because the City County Council has not been able to locate the $1 million to pay the bill. Ms. Lawrence stated that it would be great if the Department of Administration could get the money back this year, but if it needed to carry it into 2005, the Controllers Office would like to target under spending by the county in order to repay the city for the 2004 expenditure.

Councillor Oliver asked what measures were implemented to cut down the cost of operation of the vehicles. Major Chappell stated the officers were told to shut the car off when they go on certain runs, restrict driving into other counties, and use the air conditioning only when needed.

Councillor Schneider stated that to his knowledge, in past years, an internal transfer handled the request for money to buy fuel without a new appropriation. Major Chappell stated that in the past MCSD tried to take what was left in the fund balance in Character 01, and the Auditor added the other funds. Dan Jones, Deputy Auditor, stated in previous years there was some grant revenues coming in and used as reimbursement for some of the MCSA services. This appropriation reimbursement would sometimes bring as much as $500,000. Mr. Jones stated that grant is no longer available. Councillor Schneider asked how much was received from this grant. Major Chappell said about $400,000 plus.

Councillor McWhirter asked if the Recorder's office identified any revenue sources or any under spending for any costly measures that may help come up with this $1 million. Mr. Jones stated that at this point most everything has been incorporated in the 2004-2005 budget process and there have been no additional revenues that would be enough to compensate for the $1 million.

Councillor Talley moved, seconded by Councillor Oliver, to Postpone Proposal No. 305, 2004 until the October 27 meeting. The motion carried by a vote of 5-0.

PROPOSAL NO. 502, 2004 approves an increase of $20,044 in the 2004 Budget of the Marion County Justice Agency (State and Federal Grants Fund) for the partial salaries and fringes of five (5) employees for Pathway to Recovery, funded by a grant from New Path for Victims

Dustin Schreiber, Chief Financial Officer of Marion County Justice Agency (MCJA) stated that this is a one-year grant from the Indiana Criminal Justice Institute (ICJI). MCJA is the pass through agency of the awarded money and the cash match of $5,011 that will be paid in full by Pathway to Recovery. Jim Trulock, CEO of Pathway to Recovery, stated that this grant goes to the clients that need counseling as it pertains to their own victimization of crime. He stated that one out of every six victims is a survivor of homicides. The people at Pathways to Recovery are indigent people who have a dual diagnosis. They have been diagnosed with substance abuse and mental illness. Pathways to Recovery take individuals and helps them get on the right path to turn their lives around.

Councillor Talley asked how people are referred to Pathways to Recovery. Mr. Trulock stated that referrals are received from the Salvation Army, from mental health clinics, from individual psychological counselors, and word of mouth, which cause some people to show up at the door.

Councillor Schneider asked what the overall budget is for Pathways to Recovery. Mr. Trulock answered $690,000. Councillor Schneider asked what percentage would be grant money from governmental agencies. Mr. Trulock stated it is about 14.28 percent.

Councillor Talley moved, seconded by Councillor Oliver, to send Proposal No. 502, 2004 to the full Council with a "Do Pass" recommendation. The motion carried by a vote of 5-1 with Councillor Schneider casting the negative vote.

PROPOSAL NO. 503, 2004 approves an increase of $24,028 in the 2004 Budget of the Marion County Justice Agency (State and Federal Grants Fund) for the salaries of two employees, funded by a grant from the Julian Center's Family Growth and Development Project

Dustin Schreiber explained Proposal no. 503, 2004 and stated this is also a one-year ICJI grant. MCJA is the pass through agency of the awarded money and the cash match of $6,007, which will be paid by the Julian Center. Ann DeLaney, Executive Director of the Julian Center, stated that this program provides funding for the Family Advocacy Case Management position. She

said that this position provides a variety of services to entire families at the Julian Center. Last year there were almost 1100 women and children that used the Julian Center services, with the majority being children. 90% of the children that are served are challenged academically, as well as emotionally. This program is designed to coordinate a variety of different steps to help the children.

Councillor Talley stated that he really appreciates the staff of the Julian Center and the work that they are doing in view of the challenges that the center is currently facing.

Councillor Schneider asked what the total budget is. Ms. DeLaney said the budget was about $3 million.

Councillor Talley moved, seconded by Councillor Oliver, to send Proposal No. 503, 2004 to the full Council with a "Do Pass" recommendation. The motion carried by a vote of 6-0.

PROPOSAL NO. 505, 2004 amends the Revised Code to add a new Sec. 451-6 to prohibit the sale and possession of a stun gun.

Councillor Franklin moved, seconded by Councillor Oliver, to amend Proposal No. 505, 2004 as per exhibit A. The motion carried by a vote of 6-0

[Clerk's note: Exhibit A can be found with the original set of minutes in the Council office]

Councillor Oliver asked what the difference is between a Taser and a Stun Gun. Aaron Haith, General Counsel, stated that a Stun Gun is one that emits an electronic, magnetic or other type of charge that equals or does not exceed the equivalency of five milliamp sixty hertz shock, used for the purpose of temporarily incapacitating a person, but there is no projectile. With a Stun you have to connect the gun to the person. A Taser is one that is designed to emit an electronic, magnetic, or other type of charge or shock through the use of a projectile, for the purpose of temporarily incapacitating a person. A Taser is fired as a handgun and the projectiles shot from the Taser have a distance reach of 11 to 24 feet. Councillor Oliver stated that his concern is this weapon falling in the hands of children. Mr. Haith stated that the Stun gun requires contact with the skin and the Taser can be fired at a person who may be between 11 and 24 feet away.

Tom Smith, President of Taser, stated that his company has been selling the Taser and Stun Gun to law enforcement and the general consumer for 11 years. Currently there are two models; there is a M26 that is similar to a Glock 45 and a X26 that is a little smaller. He stated that with the Stun Gun you have to be right next to the individual and make contact in order for the stun gun to have any effect. Mr. Smith says that with the Taser propels two projectiles at a distance of 15 feet for the general consumer and 21 feet for the law enforcement officers.

Councillor Oliver asked what kind of training or instructions are given to the general public when they purchase these guns. Mr. Smith stated that there is no formal training that is required of any device; however, when one of these two devices are purchased, it comes with a 30 minute instructional video and manual that walks the user through the use of the device. He stated that there is a coupon that is given out to fund a local police officer to come and spend one hour to instruct in the use of the technology. Councillor Oliver asked if people have traded in a real gun for a Taser. Mr. Smith answered in the affirmative, and stated that a Taser is not a replacement in some cases. He said you should never take a Taser to a gunfight. Tasers are for people that are not comfortable with a lethal weapon but want something to defend themselves or to have around the house for protection. The number one request for Tasers is from law enforcement officers for their spouses to use at home for protection.

Councillor Franklin asked with what part of the ordinance does the Taser Company not agree. Mr. Smith said that the company agrees with the majority of the ordinance, but this has been ruled by the bureau of Alcohol Tobacco and FireArms as a non-firearm. They think that it should be called a Remote Stun Gun. The other thing the company disagrees with is the requirement of a company registration.

Mr. Haith stated that the registration that is proposed in this ordinance is stating registration should be the same as you will find with the use of any hand carried weapon that requires registration. He stated the state statute goes not limit the sale of a Taser weapon to a person who is more than 18 years old. It also does not provide any penalties for the use of a Taser weapon against a police officer. Mr. Haith stated that the items proposed in this ordinance are not covered by state statute.

Councillor McWhirter asked if this would be better to be proposed at a state level rather than a county level. Mr. Haith stated that the Fraternal Order of Police (FOP) could get a statute passed that would have a state wide application.

Councillor Talley stated that he would be in favor of the Taser, because it is not a life-threatening weapon.

Councillor Franklin stated she is mainly focused on if someone would used these Tasers on an officer, incapacitate the officer, allow the individual to get to the officers gun, and use it against the officer.

Councillor Schneider asked if action from the state level would supercede anything that the City County Council would decide. Mr. Haith answered in the affirmative. Councillor Schneider asked if this ordinance required registration of the selling of this device, would it be reported to the state police? Mr. Haith answered in the affirmative. Councillor Schneider asked if there is a retail establishment that does not sell any type of firearms but wanted to sell Tasers, would it be unlawful to do that under this ordinance? Mr. Haith answered in the affirmative, and stated that whoever wanted to sell this device would have to be registered with the state police or

have a gun dealer's license to sell the Taser. Councillor Schneider asked if everything that is required to register a handgun would be the same for the Taser. Mr. Haith answered in the affirmative. Councillor Schneider stated that he would want his wife to have a Taser for her personal protection, but he is against the waiting period to register the Taser with the state. He said that this proposal would be a waste of time considering a state decision would void the Council's decision.

Councillor Talley stated that he would support all the elements of the amended proposal except for the registration part. Mr. Smith stated that there has been no distribution to anyone that is under the age of 18, and their registration process would keep it out of the hands of a person that had an ill intent. He also stated that the Taser Company has partnered up with New Life Background Check, which is used by the federal government to check against the national crime file. The company is also using the Office of Foreign Asset Control to make sure they are not selling to terrorist. A social security number verification check is also run for these purposes. Mr. Smith stated that every cartridge that is manufactured by the Taser Company has a unique serial number on little ID tags that are disbursed when the projectiles are released from the Taser. He said that if this device was used for the wrong purpose the law enforcement at the scene can find one of those ID tags, contact the Taser company, and then locate the owner of that individual cartridge.

Councillor Franklin asked if the Taser Company has done anything about the situation of South Bend putting a ban on selling the Tasers. Mr. Smith stated that nothing has been done yet, but the company is going to the state level, and if that passes, it would supercede anything South Bend has approved.

Councillor Franklin asked if this company is the only company manufacturing the Taser gun. Mr. Smith answered in the affirmative.

Mr. Haith asked if would there be any hurdles to jump over should law enforcement need to get any information regarding a Taser Gun. Mr. Smith stated there are no hurdles. The only thing needed is to fax the request on letterhead.

Chairwoman Moriarty Adams asked what the difference is in the incapacitation between the stun gun and the Taser gun. Mr. Smith stated that if the stun gun connects to a part of the body, it will deliver pain and cause the individual to pull away immediately, which will stop the energy from being distributed to that person. The Taser propels two probes, which spread out and will hit a larger portion of the body, so they will have a much greater impact on causing more muscles to contract and release. Also, as the person falls to the ground, the probes are still connected to the person and continue to deliver the energy. Chairwoman Moriarty Adams asked that once that energy is taken away from the body part, does the individual immediately regain the use of that body part? Mr. Smith answered in the affirmative. He stated that people do recover very quickly so the officers need to be ready to either apply another charge or have

someone else there to assist them. The company has made some changes in the consumer model so that they can leave the weapon and get away.

Councillor Oliver stated that he supports the proposal and also stated that anything used against a law enforcement officer has always been against the law.

Vince Huber, President of FOP, stated that Taser should be commended for developing this weapon for law enforcement, but there are serious problems with the general public issues and their accessibility and use of the weapon against not only other people but to commit crimes. Mr. Huber stated that the presentation that was given conflicted with the information Mr. Smith gave regarding how a person is incapacitated and how effective the weapon is. Mr. Huber said he was told that the Taser would cause at least a minimal of five to ten seconds incapacitation. He said the biggest fear is for it to be use to incapacitate an officer and have that officer's weapon taken away when he or she is defenseless. Mr. Huber stated that another problem is that the Taser looks like a firearm, and it would most likely be assumed to be a handgun. The ultimate goal is the safety of the officers and the community here in Indianapolis. Mr. Smith stated that during the five seconds that the energy is running that person would be immobilized. Mr. Smith stated that the Taser is not a firearm and it should not be registered in the same manor as a firearm.

Councillor Talley asked if the Taser devise is used to commit a crime, how soon is the information available. Mr. Smith stated the information would be ready immediately. All that is asked is that the request be faxed on a letterhead document. Mr. Tally stated he is in favor of the Taser due to the fact that it is not a lethal force.

Councillor McWhirter stated she does not feel comfortable that people that may use this device against a police officer.

Councillor Talley moved to amend Proposal No. 505, 2004, Sec. 451-6(b) as follows " It shall be unlawful for any person, firm or corporations to purchase, sell, give away, lend, rent or transfer any taser weapon(s) to any person, or entity without first complying with the manufactures registration requirements." Councillor Schneider seconded the motion. The vote was 3-3 with Chairwoman Moriarty Adams, Councillor Franklin, and Councillor McWhirter casting the negative votes.

Councillor Schneider moved, seconded by Councillor Talley, to Table Proposal No. 505, 2004. The motion carried by a vote of 4-2 with Chairwoman Moriarty Adams and Councillor Franklin casting the negative votes.

[Clerk's note: Councillor Schneider left at 6:51 p. m. and Councillor Franklin left the room]

PROPOSAL NO. 540, 2004 approves an increase of $1,000 in the 2004 Budget of the Marion County Sheriff's Department (County Grants Fund) to purchase Seeker hand-held metal detectors, funded by a grant from the Wal-Mart Foundation

Major Ron Chappell, MCSD, stated that the MCSD is going to purchase six metal detectors to be used in squad cars to search prisoners that are put into cars before they are transported downtown. He stated it is another safety measure to be used.

Councillor Talley moved, seconded by Councillor Oliver, to send Proposal No. 540, 2004 to the full Council with a "Do Pass" recommendation. The motion carried by a vote of 4-0.

PROPOSAL NO. 541, 2004 approves a transfer of $1,739 in the 2004 Budget of the Marion County Sheriff (State and Federal Grants Fund) to purchase equipment, funded by a previous grant from Indiana Criminal Justice Institute

Major Chappell stated this is a technical correction from Proposal No. 393, 2004, where all the money was put in Character 03 and $1,739 should have been in Character 04 to purchase other equipment.

Councillor Talley moved, seconded by Councillor Oliver, to send Proposal No. 541, 2004 to the full Council with a "Do Pass" recommendation. The motion carried by a vote of 4-0.

PROPOSAL NO. 542, 2004 approves a transfer of $53,854 in the 2004 Budget of the Marion County Prosecutor (State and Federal Grants Fund) to transfer excess fringes to cover salary expense, previous grant from Bureau of Justice Assistance, U.S. Department of Justice

Lisa Bentley, Prosecutor's Office Chief of Operations, stated that this ordinance would transfer excess in fringes of $53,854 and move it to salary. It is from block grant seven.

Councillor Talley moved, seconded by Councillor Oliver, to send Proposal No. 542, 2004 to the full Council with a "Do Pass" recommendation. The motion carried by a vote of 4-0.

PROPOSAL NO. 543, 2004 approves a transfer of $2,189 in the 2004 Budget of the Marion County Prosecutor (State and Federal Grants Fund) to purchase supplies, software and computer with excess fringes and Character 03 funds for Conflict Resolution Program, funded by a previous grant from Executive Office of Weed and Seed, U.S. Department of Justice

Ms. Bentley stated that this is from a surplus in fringes that would be transferred to be used for computers and supplies.

Councillor Talley moved, seconded by Councillor McWhirter, to send Proposal No. 543, 2004 to the full Council with a "Do Pass" recommendation. The motion carried by a vote of 4-0.

PROPOSAL NO. 544, 2004 amends the Code with regards to general provisions for animals, including animals at large, confinement of dangerous animals, vaccinations, impoundment and disposition of animals

[Clerk's note: Councillor Franklin returned to the meeting.]

Jeff Bennett, Animal Control Administrator, stated that for the past three years the Animal Care Control Board has been working on ways to increase the number of live releases from the shelter. He stated that the Animal Care Control Board has looked into ways to decrease pet over population and ways to increase the health of animals that come to the shelter. The first part is to move more animals into more homes a more quickly. The problem is having to hold an animal in the shelter for six days. This creates a space conflict. Hs stated that the request is to reduce the length of time required to hold an animal from six days to four days. This will allow more animals to be moved up for adoptions more quickly. It will also decrease the opportunity for an animal to become sick. The second part is about the animals that are being held for investigation. They are being held anywhere from 30 days to 60 days. Animal Control is spending money on them the entire time. This time frame has negatively affected the ability to find homes for the animals that can be adopted. Mr. Bennett stated that he is asking the court to force the owner of these animals to post a bond within 30 days or the animal is turned over to Animal Control. The last request is to seek an increase in the adoption fee. The cost is $35.00 to adopt an animal and the requested increase will ask for $50.00. The Animal Care Control Unit will still have the lowest cost adoption fee in Marion County.

Councillor Talley moved, seconded by Councillor McWhirter, to send Proposal No. 544, 2004 to the full Council with a "Do Pass" recommendation. The motion carried by a vote of 5-0.

Councillor Talley moved, seconded by Councillor McWhirter, to Postpone the Presentation from the Concerned Clergy, Juvenile Justice, Incarceration and Recidivism Task Force until another date. The motion carried by a vote of 5-0.

CONCLUSION

With no further business pending, and upon motion duly made, the Public Safety and Criminal Justice Committee of the City-County Council was adjourned at 7:26 p.m.

Respectfully submitted,

Mary Moriarty Adams, Chairwoman
Public Safety and Criminal Justice Committee

MMA/rp