

**BOARD OF TRUSTEES
SPECIAL MEETING
OCTOBER 15, 2013
BOARD ROOM
6:30 P.M.**

Board Members Present:

Mayor David Gregg
Mayor Pro Tem Jan Dowker
Trustee Suzie White
Trustee Dick Shepard
Trustee Thomas Jones
Trustee John Bauer
Trustee Paul Alaback

Staff Members Present:

Town Administrator Mike Hart
Attorney Greg Bell
Town Clerk Mary Cowdin
Deputy Town Clerk Tamiko Brewster
Administrative Clerk Jory Haslett

Mayor Gregg opened the meeting at 6:30 PM and noted for the record that all Trustees were in attendance.

Mayor Gregg announced that in the interest of transparency that there would not be an Executive Session.

**Resolution re: Request for Services from Larimer County
& Memorandum of Understanding**

Mayor Gregg read into the public record the Memorandum of Understanding for Police Mutual Aid Services through the Larimer County Sheriff. Mayor Gregg then read into the public record the Resolution authorizing the Town to enter into that Certain Memorandum of Understanding Between the Town and the Larimer County Sheriff's Department and Ratifying the Town Manager's Appointment of Sergeant John Feyen as Interim Police Chief.

Attorney Bell addressed the Board and presented a Statement of Facts, which briefed the Board on the background of the issue. The Statement of Facts are as follows:

On September 25th, 2013, members of the Town Board, numerous media outlets, the Larimer County Sheriff's department, and the City of Loveland were sent an email which accused a Berthoud police officer of committing an act of domestic violence in Loveland. Shortly thereafter the chief of police learned that the Loveland Police Department was conducting a criminal investigation regarding the alleged domestic abuse, and the chief promptly placed the accused officer on administrative leave pending the investigation.

October 3, 2013 – without prior notice, the Loveland Police Department executed a search warrant. The Town then requested an affidavit, but it was sealed and not available. Chief Johnson was on vacation, returning on October 8.

On October 3rd, 2013, without prior notice of any kind to the Town Manager, Mayor, or Town Attorneys, the Loveland Police Department executed a search warrant against certain property utilized by the Berthoud Police Chief. No charges were filed, nor were specific allegations disclosed at that time. As Counsel for the Town, we promptly made a request for the affidavit on which such warrant was based in order to discover the basis for this action. Although it was initially promised, the Loveland Attorney's office has since advised us that the affidavit has been sealed by the Court.

At the time that the warrant was served, The Berthoud Police Chief was on vacation, and returned on or about October 8.

On October 10 of this year representatives of the Town met with the Larimer County District Attorney and a representative of the Larimer County Sheriff's office to discuss the events of the prior week. In response to the Town's expressions of concern about the effect of the investigation on public confidence and efficient operations, both County officials suggested a cooperative arrangement where a Sheriff's Office Employee would act as interim chief, reporting to the Town Manager in the same way as any other Town Police Chief, while the investigation continued. It was recommended that the Chief be placed on administrative leave pending further information. The intent of the administrative leave was to insure the preservation of evidence and the integrity of the investigation, to avoid claims that any actions of the Chief could be motivated in any way by the pending investigation, and to facilitate continued smooth operation of the Department. The Town Manager requested such assistance beginning last Friday, October 11, subject to passage by this Board tonight of a Resolution authorizing continuation of this request.

At the same time, we are all interested in knowing what events may have occurred within the Berthoud Police Department, whether criminal in nature or not, which have led to this situation. For that reason town staff has recommended that we request the assistance of the Larimer County Sheriff's Internal Affairs department to conduct an independent investigation of the Department to determine whether proper police practices have been violated and to recommend any corrective action if problems are found. This request, as well as the request for an interim police chief, is part of the Resolution before you.

It is critical to understand that at this stage no charges have been filed, no evidence has been disclosed, and the scope of the Loveland investigation remains unknown.

These are the facts that we have at this time, and our understanding of what has transpired to date.

It is our goal, by this resolution, to garner sufficient information to determine what personnel actions within the police department, and with respect to individual police officers, may be warranted. However, without additional facts, actions cannot be taken based upon speculation or conjecture.

Finally, there are at least three misconceptions which have been circulated and which should be clarified by the passage of this resolution:

- (1) The Larimer County Sheriff's Department is not running the Berthoud Police Department. They have agreed to provide the Town with a Sergeant; Sergeant John Feyen, to act as interim chief of police. Just as the current chief of police answers to the Town, so will Sergeant Feyen.
- (2) It is the Loveland Police Department that is conducting a criminal investigation. The investigation being conducted by the Larimer County Sheriff's department is an internal affairs investigation of the Berthoud police department, and is being performed at the request of the Town; and
- (3) There is still an active police force in Berthoud, and it is running at full capacity.

Attorney Bell explained that tonight he was requesting for ratification of the Town Administrator's interim actions by passing the Resolution and Memorandum of Understanding.

Larimer County Sheriff Justin Smith addressed the Board and explained that the Larimer County Sheriff's Office (LCSO) is not taking over the Town of Berthoud Police Department, rather they are assisting at the Town Administrator's request. The LCSO will provide a review of the overall operations of the Berthoud Police Department and report any violations.

Sergeant John Feyen addressed the Board and reported that the Berthoud Police Department is currently fully functional and providing a continuity of service.

Mayor Gregg thanked Sergeant Feyen and Sheriff Smith.

Trustee Alaback asked what the review by LSCO would entail.

Sheriff Smith stated that the Internal Affairs investigation will review practices of the agency and any violations of the rules. The investigation's finding will put it into a written report and will outline any allegations, supporting evidence, and then conclusion, which will be presented to the Town.

Town Administrator Hart stated that Berthoud was never without police service.

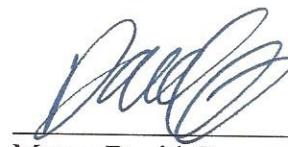
Trustee Shepard asked if it was unusual for another police department to serve warrants on another community police department. Attorney Bell replied that it is unusual.

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Attorney Bell noted that Sergeant Feyen will not be involved in the Internal Affairs investigation of the Police Department. He will report directly to Town Administrator.

Trustee Shepard moved to approve Resolution 14-13, a Resolution of the Town of Berthoud authorizing the Town to enter into that certain Memorandum of Understanding between the Town and the Larimer County Sheriff's Department and ratifying the Town Manager's appointment of Sergeant John Feyen as Interim Police Chief. Trustee Jones seconded the motion. The motion passed unanimously.

Mayor Gregg adjourned the meeting at 7:00 PM.



Mayor David Gregg



Jory Kate Haslett
Administrative Clerk