

ANDOVER CITY COUNCIL MEETING

Andover City Hall
1609 E. Central Avenue
March 8, 2016 – 7:00 p.m.

(The times noted on this document reflect the time on the video, not necessarily the number of minutes past 7:00 p.m.)

0:04

1. Mayor Ben Lawrence called the meeting to order.
2. Roll Call

City Council Members present were Troy Tabor, Sheri Geisler, Clark Nelson, Caroline Hale, Kris Estes and Phil White (appointed at agenda item 10).

Staff: Police Chief Michael Keller, Chief Financial Officer Donna Davis, Fire Chief Chad Russell, Assistant City Administrator Jennifer McCausland, City Attorney JT Klaus (arrived at 7:11), Public Works & Community Development Director Les Mangus, City Clerk Susan Renner, and City Administrator Mark Detter.

A/V: Cindy Barrett & Craig Brown

0:05

3. Invocation was given by Pastor Daniel Ivey of the Andover Police Department Chaplains.

0:06

4. Pledge of Allegiance was led by Mayor Lawrence.
5. Public Forum – no one addressed the Council.
6. Acceptance of Agenda

Mayor Lawrence requested the addition of a Police Department award and an executive session at the end of the meeting.

A motion was made by Council Member Nelson, seconded by Council Tabor to accept the agenda as modified. Motion carried 5/0.

0:07

Add-On - Police Department awards

Police Chief Keller presented a Life Saving Award to Officer Tiah Smith for saving the life of a twenty-two (22) month old child.

Mayor Lawrence surprised Chief Michael Keller with the 2015 Officer of the Year award.

Police Chief Keller humbly accepted the award and thanked many individuals, including Kathy, his wife of thirty-two (32) years. He also thanked the Mayor, City Council Member Hale, and City Administrator Mark Detter for allowing him the flexibility to get things done. Chief Keller also stated his staff is great which in turn makes him look good.

For details see the personnel orders attached to these minutes.

0:16

7. Proclamations

Mayor Lawrence presented two proclamations

- a. Caelan Dean, who received a \$48,000 scholarship from the Clay Barton Endowment to attend Wichita State University.

Mr. Dean thanked the Bartons for their generosity, his family for supporting him and his Andover teachers.

- b. Amelia Flores, was honored for her efforts collecting shoes for the international organization Souls4Soles. Ms. Flores went above and beyond with the collection of 25,000 pair.

Ms. Flores thanked everyone who helped her achieve the goal, including Andover Self Storage, Dillons, and all of the Andover schools.

0:22

8. Presentations

- a. Bridget Bowman, Westar Energy, provided the options for the street lights to be installed on Andover Road. She added the lights Westar installs are not decorative, just functional.

A motion was made by Council Member Nelson, seconded by Council Member Hale to approve the purchase of the black fiberglass poles at a cost of \$1,730 each. Motion carried 5/0.

0:30

9. Consent Agenda

- a. Approval of Minutes
City Council Workshop: February 22, 2016
City Council Meeting: February 23, 2016
- b. Receive & file reports
Finance: December 2015
Fire: February 2016
Police: CALEA Assessment
- c. Approval of appropriation ordinance B-04-16 in the amount of \$ 535,246.34.
- d. Approval of non-elected personnel items
 - Tiah Smith, status change from Police Officer to Master Police Officer I, with a pay increase from \$19.13 to \$19.46 per hour, effective March 13, 2016.
- e. Mayoral appointment of Mike Moen, 600 Marsha Drive, to the Andover Public Library Board to fill the term vacated by Beth Sullivan. The term will expire in April 2019.
- f. Approval of the IT Department purchase of Microsoft software licenses

Craig Brown explained with this purchase all of the city's computers will be using Microsoft Office, allowing consistency in licensing and upgrading. The purchase is for fifty (50) licenses from CDW-G, Vernon Hills, Illinois, in the amount of \$8,472.

A motion was made by Council Member Tabor, seconded by Council Member Geisler to approve the consent agenda as presented. Motion carried 5/0.

0:30

10. City Council open seat

Mayor Lawrence introduced Phil White, his nomination for appointment to the position being vacated by Quentin Coon who is relocating to Kansas City.

A motion was made by Council Member Estes, seconded by Council Member Nelson to approve the appointment. Motion carried 3/2. Council Members Hale and Geisler opposed.

Council Member White was sworn in by Susan Renner and he then joined the Council at the bench.

0:34

11. Statement of Willingness to Assume Financial Responsibility (NITU)

Mark Detter explained the approval of this document will start the process required by State law prior to any improvements being made to the rail bed between mile post 488.35, Meadowlark Road east of Andover, to 491.22, the north right of way line of US 54-400.

A motion was made by Council Member Nelson, seconded by Council Member Geisler to approve the Statement of Willingness to Assume Financial Responsibility for the Redbud Trail and authorize the mayor to sign. Motion carried 6/0.

Frank Miller stepped to the podium to inquire about liability of the trail. Mr. Miller was informed to speak to the city's attorney through his attorney due to prior litigation.

Mr. Miller then presented Susan Renner a document; it follows the minutes.

0:38

12. Baughman Co. agreement for services for The Course at Green Valley Greens 12th Addition

Les Mangus stated the agreement is engineering design of the sanitary sewer, waterline, paving and storm sewer improvements. Mr. Mangus added there was no representative from Baughman in attendance but staff has no issues with the agreement.

A motion was made by Council Member Hale, seconded by Council Member Estes to approve a contract with Baughman Company for engineering services at The Course at Green Valley Green 12th Addition in an amount not exceed \$64,800.00 and authorize the Mayor to sign the agreement.

0:40

13. East Central Avenue school zone traffic study

Mark Detter explained staff had been approached about the safety of the school crossing near Shay and Central Avenue. A committee was formed, led by Police Chief Michael Keller, and it was determined a study should be performed.

Les Mangus explained there are requirements that need to be met to warrant the cost of a light and crosswalk. He added this study would look at traffic light engineering and the entire area for any improvements that may be necessary.

A motion was made by Council Member Nelson, seconded by Council Member Tabor to approve the contract with TranSystems for a pedestrian study on Central Avenue in an amount not to exceed \$12,500 and authorize the Mayor to sign the contract. Motion carried 6/0.

0:49

Add-on

Executive session – attorney/client privilege

A motion was made by Council Member Geisler, seconded by Council Member Estes to go into executive session for approximately fifteen (15) minutes and include the governing body, city administrator and city attorney. Motion carried 6/0.

1:01

A motion was made by Council Member Estes, seconded by Council Member Geisler to come out of executive session. Motion carried 6/0.

No action was taken as a result of the executive session.

Mayor Lawrence inquired about the information provided to them on the bench.

Mark Detter explained they were confirmation of the disclosure submissions for the 2016 General Obligation Refunding Bonds Series A.

1:07

14. Member Items

Council Member Troy Tabor had none.

Council Member Sheri Geisler

- Welcomed newly appointed Phil White.

Council Member Clark Nelson

- Congratulated Police Chief Keller for his well-deserved honor and Officer Tiah Smith.
- Congratulated Phil White on his appointment to the Council.

Council Member Kris Estes

- Welcomed new Council Member Phil White
- Wished everyone a safe spring break

Council Member Caroline Hale

- Congratulated Police Chief Keller on his award.
- Welcomed Phil White.

Mayor Ben Lawrence

- Congratulated Chief Keller on a well-deserved award.
- Welcomed Phil White to the Council.

Council Member Phil White

- Was moved by Officer Tiah Smith's story

1:10

A motion was made by Council Member White, seconded by Council Member Geisler to adjourn. Motion carried 6/0.

Adjourn

Respectfully Submitted by

Susan Renner

City Clerk

Approved this 29th day of March, 2016, by the City Council, City of Andover, Kansas.



Andover Police Department

Public Service Excellence thru Compassion, Integrity & Commitment

Personnel Order

To: Andover Police Department
From: Chief Michael A. Keller 
CC:
Date: 01/08/2016
Re: 2015 End of Year Department Awards

Personnel Order 16-001

On December 10, 2015, the Andover Police Department's Awards Board met and reviewed nominations for Department Awards. The Awards Board made the following recommendation in which the Chief of Police concurred with.

Good Conduct Award: *"Awarded to any member of the department, who has demonstrated exemplary conduct for a period of three consecutive years. Exemplary conduct is demonstrated by the absence of violations resulting in suspensions and the absence of unsatisfactory ratings in any category on a performance evaluation."*

Lieutenant Don Roberson has been with the Andover Police Department since July 23, 2001. Lieutenant Roberson received a Good Conduct award for the period of December 2009 through December 2012. From December 2012 through December 2015, Lieutenant Roberson has demonstrated himself in an exemplary manner, having not received any discipline resulting in a suspension and did not receive an unsatisfactory rating in any performance evaluation category.

Lieutenant Ben Graber has been with the Andover Police Department since June 30, 2008. Lieutenant Graber received a Good Conduct award for the period of June 2008 through June 2011. From June 2011 through June 2014, Lieutenant Graber has demonstrated himself in an exemplary manner, having not received any discipline resulting in a suspension and did not receive an unsatisfactory rating in any performance evaluation category.

Detective Daimon Cundiff has been with the Andover Police Department since February 1, 1997. From February 2012 through February 2015 Detective Cundiff has demonstrated himself in an exemplary manner, having not received any discipline resulting in a suspension and did not receive an unsatisfactory rating in any performance evaluation category.

MPO III, Braxton Hill has been with the Andover Police Department since October 26, 2009. MPO III Hill received a Good Conduct award for the period October 2009 through October 2012. From October 2012 through October 2015, MPO III Hill has demonstrated himself in an exemplary manner, having not received any discipline resulting in a suspension and did not receive an unsatisfactory rating in any performance evaluation category.

Therefore, having met the requirements of General Order M1218, as recommended by the Awards Board and approved by the Chief of Police, Lieutenant Roberson, Lieutenant Graber and MPO III Hill are authorized to receive the department's "Good Conduct Award" with two stars. Detective Cundiff is authorized to receive the department's "Good Conduct Award" with one star.

Life Saving Award: *"To be conferred upon any member of the department whose actions directly contribute to saving or significantly prolonging some quality of human life."*

On April 5, 2015 at approximately 1214 hours Andover emergency units were dispatched to 2517 N. Sandstone Street, Andover, KS on a report of a 22 month old baby which was not breathing. Officers Smith responded to the call and arrived before EMS. Officer Smith found the baby which was not breathing and the child's lips were turning blue. Officer Smith swept the baby's mouth for obstruction and performed CPR. The baby started breathing. Officer Smith rolled the baby on its side to keep the child from choking on its saliva. Butler County EMS arrived and took care of the child, which was transported to Wesley. This account of the incident was confirmed by Officer Smith and the baby's mother, Kindra Linch. The baby survived and is well.

Therefore, having met the requirements of General Order M1218, as recommended by the Awards Board and approved by the Chief of Police, Officer Tiah W. Smith is authorized to receive and wear the department's "Life-Saving Award."

Perfect Attendance Award: *"Awarded to any member of the department who distinguish themselves by using 48 hours or less of sick leave in any consecutive 5-year period."*

Detective Daimon Cundiff has been with the Andover Police Department since February 1, 1997. From February 2010 to February 2015, Detective Cundiff has distinguished himself by using 48 hours or less of sick leave in this consecutive 5-year period.

Therefore, having met the requirements of General Order 1218, as recommended by the Awards Board and approved by the Chief of Police, Detective Daimon Cundiff is authorized to receive and wear the department's 5-Year "Perfect Attendance Award."

Safe Driving Award: *"Awarded to any member of the department who is in an assignment that requires the use of a department vehicle in the performance of their duties and who has five consecutive years without a preventable motor vehicle accident."*

Lt. Don Roberson has been with the Andover Police Department in a full-time capacity since July 23, 2001. From March 30, 2009 through August 14, 2014, Lt. Roberson was assigned to a position that required the use of a department vehicle in the performance of his daily duties and was not involved in a preventable accident.

Therefore having met the requirements of General Order M1218, as recommended by the Awards Board and approved by the Chief of Police, Lt. Don Roberson is authorized to receive and wear the department's "5 Year Safe Driving Award."

Seniority Award: *"Awarded to any member of the department who distinguishes themselves through continuous service with the Andover Police Department, awarded in five year increments."*

Sergeant Lee Nygaard has been with the Andover Police Department in a full-time capacity since May 2, 2005. As of May 2015, Sergeant Nygaard has completed ten years of service with the Andover Police Department.

Therefore, having met the requirements of General Order M1218, as recommended by the Awards Board and approved by the Chief of Police, Sergeant Nygaard is authorized to receive and wear the department's 10-Year "Seniority Award."

Military Service Award: *"Awarded to any officer of the department who currently serves in any branch of the United States Military or has been honorably discharged from any branch of the United States Military."*

Officer Roberto C. Aguilar served in the United States Marine Corps and was honorably discharged.

Therefore, having met the requirements of General Order M1218, as recommended by the Awards Board and approved by the Chief of Police, Officer Roberto C. Aguilar is authorized to receive and wear the department's "Military Service Award."

Citizen Commendation Award: *Awarded to any person or entity who is not a member of the department but who has materially aided the department of its officers in some way.*

Officer Tiah Smith recommends that Lance Tracy, Dunkin Donuts General Manager be awarded the Citizen Commendation Award. Mr. Tracy has donated \$270.00 worth of donuts to a total of three SRO events that introduce elementary students to SRO Tiah Smith. These events were designed to teach students all about their SRO and create a welcoming and fun environment for the students. The goal is to help the next generation of students have a positive image of law enforcement officers in our community. Students learn everything from what the SRO's role is in the school to what the SRO does in their off duty time. The students then eat donuts with the officer and explore the patrol car and handcuffs. Dunkin Donuts not only provided the donuts but also sent the mascot to be part of the fun. Lance Tracy also committed his time by participating in the events by handing out donuts and helping the mascot. Lance Tracy extended his offer of supplying donuts and the mascot to any other similar SRO event in the city of Andover.

Therefore, having met the requirements of General Order M1218, as recommended by the Awards Board and approved by the Chief of Police, Lance Tracy, Dunkin Donuts General Manager is awarded the Citizen Commendation Award.



Andover Police Department

Public Service Excellence through Compassion, Integrity & Commitment

Personnel Order

To: Andover Police Department
From: Mayor Ben Lawrence
CC:
Date: March 8, 2016
Re: 2015 Officer of the Year

Personnel Order 16-003

Officer of the Year Award: *“Awarded annually to a sworn member of the department whose overall performance for the prior year has contributed substantially to the mission of the department and whose conduct has demonstrated the core values of the department.”*

In 2015, Chief Michael Keller has demonstrated his commitment and dedication to the City of Andover and the men and women of the Andover Police Department. Over the course of 2015, Chief Keller has successfully led the department through another CALEA accreditation cycle, maintained a culture that encourages and rewards positive community engagement, and has pushed his staff to achieve beyond what they believed possible. Chief Keller's vision and leadership in 2015 has made the Andover Police Department one of the most respected police departments in Kansas. In addition to what he has accomplished locally, Chief Keller also served in state and national law enforcement leadership roles in 2015.

The CALEA Law Enforcement Accreditation Program was developed to address what was seen as a need to enhance law enforcement as a profession and to improve law enforcement service delivery. The mission continues today through a tiered law enforcement accreditation program. Agencies may participate in either CALEA Law Enforcement Accreditation (Tier 1) or CALEA Advanced Law Enforcement Accreditation (Tier 2). Agencies choosing to be accredited under the Tier 1 option are required to comply with 189 standards, while those agencies seeking advanced accreditation are required to comply with 484 standards. Chief Keller, not being one to settle for second best, chose the advanced accreditation option for the Andover Police Department despite his staff pleading for the Tier 1 option. Chief Keller led the effort towards advanced accreditation by attending nearly every bi-weekly department CALEA meeting, which are held to ensure departmental directives continue to meet CALEA standards; by developing a process of accountability to ensure department staff maintain compliance with CALEA standards; and by ensuring the Accreditation Manager, Lt. Buck Buchanan, had all of the human and financial resources necessary to successfully demonstrate compliance. In December 2015, CALEA representatives conducted the assessment of the department and found it to be in compliance with all CALEA standards.

Part of the CALEA accreditation process includes standards to help boost citizen and staff confidence in the agency. However, boosting confidence in the agency has been a priority for Chief Keller since he was appointed as the Chief of Police in 2007. He has worked tirelessly to build a culture of community service within the department. In 2015, Chief Keller continued to strengthen the partnerships between Andover's home owners associations, school district and business community by reinforcing the importance of these relationships in the department's culture and by rewarding those officers who excel in these partnerships. Through the partnership between the police department and the school district, a need for additional School Resource Officers was identified and Chief Keller worked hand-in-hand with the school district to get two additional SRO's placed into the schools. Additionally, in 2015, Chief Keller established a police liaison with the Andover Chamber of Commerce to ensure the law enforcement needs of the business community were being addressed.

The police department, under Chief Keller's leadership, has had several programs in place for several years including the Garage Door Program, Speed Program, Chaplain Program, Vacation Watch Program, Donuts with the Chief, National Night Out, Police and Fire Festival, Good Morning Andover and Welcome to Andover Program. In 2015, Chief Keller initiated several new programs including Fill-A Cruiser event, an internship program, Andover Police Exchange Zone and a Bridge program. The Fill-A-Cruiser program was a partnership between Dillons, the Andover Food Bank and the police department and resulted in more than 2153 pounds of food being donated to the Andover Food Bank in one day. The Internship Program identifies college or high school students who are interested in the law enforcement career and places the students in a real world learning environment within the police department. The first student is scheduled to enter the program in 2016. The Andover Police Exchange Zone is a designated location in the police department parking lot that is monitored through closed circuit video and provides for a safe location for internet based transactions. The Exchange Zone has been copied by several other police departments since it was initiated in Andover by Chief Keller. The Bridge Program is still in the development phase but will target at-risk youth and will provide them with positive interaction with law enforcement.

Lastly, Chief Keller's leadership qualities are well respected in the Kansas law enforcement community. He continues to serve, as appointed by Governor Brownback, as a commissioner on the Kansas Commission on Peace Officers' Standards and Training. CPOST is a 12 member body appointed by the Governor that oversees law enforcement training in the State of Kansas. In 2015, Chief Keller also represented Kansas on the SACOP committee of the International Association of Chiefs of Police.

For his actions, efforts and attitude demonstrated on a daily basis during the past 12-months, as nominated by a member of his staff, recommended by the Awards Board and approved by the Mayor of the City of Andover, Chief Michael Keller is awarded the 2015 Officer of the Year Award.

Mayor Ben Lawrence

operator. The railroad can revoke the trail operator's use at any time, regardless of the reason. The railroad can do it to re-activate rail service. Or it can do it to complete an abandonment of the right-of-way. Such revocation is purely at the will of the railroad. The railroad thus retains and ultimately exercises total control over trail use, the right-of-way, and any new easement for recreational use. It can revoke, abandon, re-activate its rail line, or transfer its rights to another railroad. The trail operator's use of the trail is thus subject at all times to the will and rights of the railroad. The railroad's participation in the railbanking process is totally voluntary and it may withdraw its right-of-way from railbanking at any time. The trail operator cannot create or assert any impediments to such re-activation, withdrawal, or abandonment. All these aspects of the respective rights and attributes of the parties clearly establish that the proper characterization of the trail operator's interest is a license (or mere permission).²⁴

This conclusion that the trail operator has only a license – or mere permission – for trail use, and holds no property interest relating thereto, is further reinforced by another angle identified in *Norfolk and Western Railway – Abandonment*. Although the Trails Act references a “transfer or conveyance for interim use” from the railroad to the trail operator (16 U.S.C. § 1247(d)), the original railroad's right-of-way and right to reinstitute rail service do not transfer to the trail operator regardless of what their agreement, understanding, or conveyance document states. 9 I.C.C.2d at 1018, 1993 WL 427730 at *3. The STB explained as follows:

We have *never* been asked to approve the transfer [of an interest from the original railroad to the trail operator] . . . in connection with a trail use agreement. Indeed we have never approved a trail use agreement. We have always viewed it as a private contractual matter, one that was beyond the limited scope of our Trails Act authority. We issue only CITUs and NITUs, and we issue them only when the [original railroad] consents to trail use and the potential trail user satisfies the criteria in . . . [49 C.F.R.] 1152.29(a).

²⁴ As noted previously, under Kansas law a license generally “cannot be assigned” to a third party. *Gilman*, 44 Kan. App. 2d at 176, 235 P.3d at 513 (quoting 7 Thompson on Real Property § 60.03(a)(7)(iv), p.493). Thus, applying Kansas law, the purported transfer of trail use from NTF to MCC is likely ineffective. Although the Trails Act, through preemption, modifies this transferability of the license to a second trail operator, such transfer must comply with the Trails Act's requirements to be effective, and it appears here that no such compliance occurred regarding the purported transfer of trail use from NTF to MCC.