

CITY OF DERBY

**ORDINANCE REVIEW ADVISORY BOARD
REGULAR MEETING
FEBRUARY 19, 2013
6:00 P.M.**

APPROVED MINUTES

ROLL CALL

Herman Hicks
Thane Rockhill
Paul Shaver

ABSENT

Bob Bean
Al Davy

Also Present: Stephanie Knebel, Assistant City Manager
Janae' Springer, Secretary
Police Chief Robert Lee

Agenda Item #1 – Approve Minutes

Motion: Paul moved to approve the minutes of the November 20, 2012 meeting as presented. Seconded by Herman.

Vote: Motion carried 3-0, Bob and Al absent.

Agenda Item #2 – Public Forum

No one present to speak, public forum was closed.

Agenda Item #2 – Ordinance Regarding the Disposition of Property Acquired, Delivered, or Surrendered to the Derby Police Department

Police Chief Robert Lee presented the staff report.

Background/Discussion:

- The Derby Police Department routinely comes into possession of property acquired, delivered or surrendered through the normal course of police duties.
- The police department becomes the custodian of such property and therefore is responsible for ensuring the proper disposition of the property as well as the proceeds derived from the sale of the property.
- This ordinance allows for an orderly and consistent disposition of property. The ability to lawfully purge property from Property and Evidence is consistent with good property room management and avoids the need to hold property for an inordinate amount of time.
- The ordinance defines time limits that property must be held, disposition of property, and disposition of proceeds when the sale of property is appropriate.

Financial Considerations:

- All proceeds from the sale of property, less the costs associated with the sale, will be paid to the City of Derby general fund.

Legal Considerations:

- The City Council may prescribe procedures for the disposition of property in the City's possession.

Policy Considerations:

- Upon adoption of the ordinance Derby Police Department Policy 708 "Evidence Procedure" will be updated to reflect the changes necessary to comply with the ordinance.

Recommend a motion to:

- Adopt the ordinance detailing the disposition of property acquired, delivered, or surrendered to the Derby Police Department.

Discussion:

Herman asked about keeping the property for a minimum of 90 days. Where did that number come from?

Chief Lee explained that is somewhat of an arbitrary number. When the city attorney was doing research on this ordinance he found some cities that used less time. We thought we would have a better likelihood of finding the owners if we held onto the property for a bit longer.

Herman asked why the person who found property and turned it in would not be notified if the owner did not claim the property.

Chief Lee stated that there is not a legal basis where notification had to be made. With most of our property there is not anyone who is trying to claim it.

Herman asked if there is a law that provides for the property to be claimed by the person who found it if the owner does not claim it.

Chief Lee does not believe there is. The city attorney looked into that and did not find anything that indicates there is.

Herman asked who would be entitled to the property, the finder?

Chief Lee indicated he did not believe it would be entitled to the finder. The person entitled to the property would be the owner or the person who had the care, custody and control of the property at the time it was lost or stolen. It could be a representative from Wal-Mart that wants to claim a television that was stolen from Wal-Mart. As far as finders go they would not be notified once the 90 days have passed.

Stephanie pointed out that there is nothing saying that if you are the finder that you can't call the police department on the 90th day.

Herman asked if the police department would advise a finder of property that they can call. The way this is written it does not explain what a finder is entitled to and what they are not entitled to. If he finds a ring for example and no one claims it, why can't he be notified if it is not claimed?

Chief Lee advised that in his conversations with the city attorney he does not believe there is any legal standing where the finder would automatically become the owner. The 90 day period is an attempt to allow someone who has lost something to come forward and claim it.

Herman clarified that the only person who benefits from this if the owner doesn't come forward is the Derby general fund.

Chief Lee agreed.

Herman advised he had an issue with not notifying the finder and letting them know that if the property is not claimed it does not necessarily become the property of the finder. The least we can do is advise the finder if the property was claimed or not and what is going to be done with it if it is not claimed.

Chief Lee indicated he can run it by the city attorney again and see if he wants to add some language to the ordinance.

Herman suggested adding language indicating that property by law does not necessarily become the property of the finder if it is not claimed.

Chief Lee explained that a lot of the property that is found, there won't be anyone to contact when we pick up the property, for example a found bike that is not licensed. The chances of finding who it belongs too are pretty slim.

Herman wants to be sure we write ordinances that stand the test of time. Ten years from now we might have someone who finds \$10,000 and turns it in, why couldn't the person who turns it in claim it if the owner does not.

Stephanie clarified that Herman is more concerned about whether or not the finder can become the owner after 90 days.

Herman stated, or at least notified about the disposition of the property, based on law. He asked how prescription drugs are destroyed.

Chief Lee advised they would be taken to Sedgwick County to be disposed of.

Herman pointed out there is nothing in the ordinance explaining how they will be destroyed. He thinks that should be spelled out.

Stephanie advised we can forward the questions raised to our city attorney for further review. We will share his findings with the board and we can vote via email.

Meeting adjourned at 6:28 p.m.