



City of Grand Island

Tuesday, April 27, 2004

Council Session

Item G19

**#2004-98 - Approving Interlocal Agreement with Hall County
Relative to Joint Special Weapons and Tactics Team (SWAT)**

Staff Contact: Kyle Hetrick

Council Agenda Memo

From: Kyle L. Hetrick, Chief of Police

Meeting: April 27, 2004

Subject: Approving Inter-local Agreement between
City of Grand Island and Hall County for
Joint Special Weapons and Tactics Team

Item #: G-19

Presenter(s) Kyle L. Hetrick, Chief of Police
Doug Walker, City Attorney

Background

County Attorney Jerry Janulewicz and City Attorney Doug Walker have recommended that the Joint Special Weapons and Tactics Team created in 1998 between members of the Hall County Sheriff's Office and the Grand Island Police Department, formalize their cooperative team in the structure of an inter-local governmental agreement. They initiated this dialogue in the fall of 2003.

Discussion

Previous authorization for the combined HCSO/GIPD SWAT team came from state mutual aid statutes. The inter-local format more clearly delineates shared police authority and jurisdiction. Though departmental policy was agreed to by Sheriff Watson and Chief Hetrick and those policies are incorporated within the inter-local agreement, Neb. Rev. Stat. 29-215 allows for more descriptive responsibilities between the governing entities.

After review and preparation by City and County legal staffs, Pamela Lancaster, Chairperson of the Hall County Board, Marla Conley, County Clerk, and Jerom Janulewicz, Hall County Attorney, signed and executed this inter-local agreement on March 9, 2004. It is brought to the council for their consideration.

Alternatives

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Approve the Inter-local Agreement
2. Disapprove or/Deny the Inter-local Agreement
3. Modify the Inter-local Agreement to meet the wishes of the Council
4. Table the issue.

Recommendation

City Administration recommends that the Council approve the Inter-local Agreement.

Sample Motion

Approve the Inter-local Agreement between the County of Hall and the City of Grand Island for the Joint Special Weapons and Tactics Team.

**INTERLOCAL AGREEMENT
BY AND BETWEEN
THE COUNTY OF HALL AND THE CITY OF GRAND ISLAND
FOR JOINT SPECIAL WEAPONS AND TACTICS TEAM**

THIS AGREEMENT is made and entered into this 9 day of March 2004, by and between the County of Hall ("County") and the City of Grand Island ("City") being bodies politic and corporate and political subdivisions of the state of Nebraska, hereinafter referred to as the "Parties" and individually as a "Party." WITNESSETH:

WHEREAS, the law enforcement services are among the most important services provided by local governments to their residents; and

WHEREAS, The Hall County Sheriff and the Grand Island Police Chief have determined that efficient and effective law enforcement and police protection for the residents of the County and the City require the formation and operation of a joint Special Weapons and Tactics Team comprising of members of the County's Sheriff's Office and the City's Police Department and operating under the direction of the Sheriff and Chief of Police; and

WHEREAS, Neb. Rev. Stat. §13-801 provides that any one or more public agencies may contract with any one or more public agencies to perform any governmental service, activity, or other undertaking which each public agency entering into the contract is authorized by law to perform; and

WHEREAS, Counties and the Cities are public agencies as defined by Neb. Rev. Stat. §13-801; and

WHEREAS, Neb. Rev. Stat. §29-215 authorizes municipalities and counties to enter into contracts with any other municipality or county for law enforcement services or joint law enforcement services.

NOW, THEREFORE, the parties mutually covenant and agree as follows:

1. **Purpose.** The purpose of this agreement shall be the establishment and operation of a joint special weapons and tactics team (SWAT) comprised of officers of the Grand Island Police Department and the Hall County Sheriff's Department. The SWAT team members shall be selected as set forth herein and shall be specially trained and equipped to work as a team to respond to critical incidents including, but not limited to, hostage taking, barricaded suspects, snipers, terrorists acts and other high-risk incidents. The SWAT team may also be utilized to serve high-risk warrants, both search and arrest, where public and officer safety issues compel the use of such unit.
2. **Exercise of Governmental Functions.** It is understood and agreed to by the parties that this Agreement provides for the joint exercise by the Parties of the function or services provided

herein, but does not establish a separate legal entity to do so, nor does this Agreement establish any employee of any Party as an agent of any other Party for any purpose whatsoever. This Agreement shall provide only for sharing of in-kind services and costs by the Parties toward the establishment and operation of the common mutual goal, being the development and operation of a SWAT team.

3. **Term.** This agreement shall have a term of five (5) years commencing upon execution of this agreement. Thereafter, said agreement shall automatically renew for successive terms of one (1) year unless terminated as set forth herein.
4. **Termination.** This agreement may be terminated at any time, with or without cause, upon thirty (30) days prior written notice given to the non-terminating party by the terminating party.
5. **Governance.** The activities of the cooperative undertaking shall be governed by the Hall County Sheriff and the City's Chief of Police.
6. **Cooperative Powers and Authority.** The Parties agree, subject to the limitations herein set forth, to aid and assist the other, by causing and permitting its law enforcement personnel and its equipment to be used in responding to emergencies and exceptional instances which occur in the Party's jurisdiction such as, but not limited to, barricaded armed individuals, hostage situations, execution of high risk warrant service, riotous crowd control, threat of potential sniper activities, terrorist incidents, or other exceptional instances when other than standard police procedures and weapons are needed by a Party. The need for such aid and assistance shall be determined by the Chief of Police and the Sheriff, or their designees, requesting assistance, and upon such a request the Parties agree that the Party receiving such a request must respond as timely as possible. It is understood and agreed that each Party shall maintain appropriate personnel and funding in support of this Agreement. All Parties shall, however, be excused from making its equipment or services available to the other in the event of the need of such equipment or manpower in its jurisdiction. A Party's decision as to availability of equipment or services shall be conclusive.
7. **Exercise of Law Enforcement Powers.** Any sheriff, deputy sheriff, police officer or peace officer employed by any Party shall have the power and authority to enforce the laws of the State of Nebraska and to perform the functions of his or her office anywhere within the geographic territory of any Party when acting or participating in a cooperative investigation or cooperative law enforcement activity at the request of any Party's Sheriff or Chief of Police or an authorized designee of any such Sheriff or Chief of Police.
8. **Selection, Training, and Operational Standards.** The Parties hereto specifically authorize its respective Sheriff and Chief of Police to establish, maintain, and implement mutually agreed upon policies, standards, and procedures for the SWAT team to include, but not limited to, the selection, training, deployment, and supervision of team members subject to the following:

- 8.1. Each party shall mutually agree upon policies and procedures that shall require that each Party shall maintain a level of personnel and equipment necessary to safely and effectively deploy SWAT during exceptional instances when other than standard police procedures and weapons are required to meet its obligations under this Agreement.
 - 8.2. Officers assigned or appointed to the SWAT team shall successfully complete such physical and psychological examinations as designated by the Sheriff and Chief of Police and these tests shall be made available to both parties. The Chief of Police and Sheriff shall be in unanimous agreement with the selection or appointment of each party's SWAT members.
 - 8.3. Officers assigned to SWAT shall successfully pass and maintain mutually agreed upon performance standards such as firearm qualifications and physical fitness standards. All SWAT team members shall pass and maintain all other mutually agreed upon performance standards as established by each Party's Chief of Police or Sheriff.
 - 8.4. Officers assigned to SWAT shall be subject to the supervision of the supervisory and command personnel assigned to SWAT regardless of which Party assigned the supervisor or officer to SWAT.
 - 8.5. Should disciplinary action be required as a direct result of an officer's involvement or participation in the SWAT, disciplinary action shall be the responsibility of the officer's respective agency. The officer's continued involvement in the SWAT team, however, shall be subject to the approval of both the Chief of Police and the Sheriff.
 - 8.6. Should an instance arise requiring the response of the SWAT, the requesting Party shall be in command of the incident. Tactical operations involving SWAT shall remain the responsibility of supervisory and command personnel assigned to SWAT and shall follow the SWAT chain of command.
9. **Claims and Indemnity.** At all times while acting or participating in a cooperative investigation or cooperative law enforcement activity, any such participating sheriff, deputy sheriff, marshal, deputy marshal, police officer or peace officer shall remain the employee or agent of the Party supplying such officer. Each Party shall provide liability insurance and indemnification for its own personnel as provided in Neb.Rev.Stat. §13-1802.
- 9.1. Each party shall promptly notify the other party of any claims against the party, their Boards, Council, employees or agents incurred as a result of any act or omission by that Party or its employees and agents arising out of any SWAT activities. Nothing herein shall be construed as an agreement to accept or impose on one Party the legal liabilities and obligations of another party.
 - 9.2. Each Party shall provide the other Party with written evidence of current and effective general liability and police professional liability coverage for an amount not less than \$1,000,000 per person and \$5,000,000 per occurrence for claims for bodily injury, death, property damage or personal injury which may arise through acts or omissions related to the functions and activities subject to this Agreement. Each Party's insurance or self insurance shall cover acts and omissions of its officers, employees and agents while performing services under this agreement.
10. **Modification.** This Agreement may be modified by written agreement of the Parties.

11. **No Separate Entity.** This Agreement provides for the joint exercise by the Parties of the function of service provided herein, but does not establish a separate legal entity to do so, nor does this Agreement establish any employee of either party as an agent or employee of the other party for any purpose whatsoever. This Agreement shall provide only for sharing of in-kind services and costs by the Parties toward establishment of a common mutual goal, said goal being the joint development and functioning of a SWAT to be utilized in exceptional circumstances when other than standard police procedures and weapons are required.
12. **Property.** Any property acquired or made available by any party to this agreement for the purposes of this agreement shall remain the property of the party acquiring or making such property available and shall be disposed of such party as provided by law, regulation, or ordinance governing the same.
- 12.1. Any property acquired jointly shall, upon termination, be equitably distributed among the Parties based upon the Parties' financial contributions toward the purchase and maintenance of any such property. In the event any Party withdraws from this agreement, an equitable distribution of the jointly held property, or the fair market value thereof, shall be made to the withdrawing party based upon the withdrawing Party's financial contributions toward the purchase and maintenance of any such jointly held property.
- 12.2. Any property to be purchased and jointly held by the Parties shall be purchased pursuant to the purchasing rules or statutes applicable to the Party making the purchase on behalf of the Parties.
- 12.3. Any surplus or unusable jointly held property shall be disposed pursuant to the rules or statutes applicable to the Party making such disposition on behalf of the Parties. The proceeds of any sale or disposition of jointly held property shall be equitably distributed among the Parties based upon the Parties' financial contributions toward the purchase and maintenance of any such property.
- 12.4. An inventory of all property jointly held and a report on the disposition of any joint property sold, transferred or disposed of during the prior twelve months shall be provided to the City or County Clerk of each Party on or prior to April 1 of each year.
- 12.5. The Hall County Sheriff and the City's Chief of Police shall determine which party shall insure any jointly held property against casualty and other loss. In the absence of an agreement, any jointly held property shall be insured against casualty and other loss by both the county and the city to the extent of their respective interests. Absent evidence to the contrary each party shall be presumed to possess equal shares of any jointly held property.
13. **Finances.** This agreement shall be financed by funds made available by the parties hereto.
14. **Provision of Assistance.** Pursuant to the Interlocal Cooperation Act, any party to this agreement, in the party's sole discretion, may appropriate funds and may sell, lease, give, or otherwise provide assistance, including personnel and services, as may be within the party's legal power to furnish.

15. Additional Agreements.

- 15.1. It is understood and agreed by the Parties that if any part, term, or provision of this Agreement is held by a court of competent jurisdiction to be illegal or in conflict with any law of the State of Nebraska, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular part, term or provision held to be invalid.
- 15.2. It is expressly understood and agreed that the enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the named Parties hereto, and nothing contained in this Agreement shall give or allow any such claim or right of action by any third person not expressly a Party to this Agreement. It is the intention of the Parties that any person other than the named Parties receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.
- 15.3. This agreement shall become effective for each party when that party by ordinance, motion or resolution adopts and approves this agreement and authorizes the proper official to execute this agreement.
- 15.4. Each Party agrees not to allow any other person or entity to join in this Agreement except with approval by the other Party.

Executed this ____ day of _____, 2004.

City of Grand Island, Nebraska

by: _____
Jay Vavricek, Mayor

[attest]

City Clerk

Approved as to form:

City Attorney

Executed this 9 day of March, 2004.

County of Hall

by: Pamela Lancaster
Pamela Lancaster, Chairperson
County Board of Supervisors

[attest]

Mark J. Conley
County Clerk

Approved as to form:

James E. [Signature]
County Attorney

R E S O L U T I O N 2004-98

WHEREAS, the Hall County Sheriff and the Grand Island Police Chief have determined that efficient and effective law enforcement and police protection for the residents of the County of Hall and the City of Grand Island require the formation and operation of a joint Special Weapons and Tactics Team (SWAT) comprising of members of the County's Sheriff's Office and the City's Police Department; and

WHEREAS, the SWAT will be operated under the direction of the Hall County Sheriff and the Grand Island Police Chief; and

WHEREAS, an interlocal agreement has been prepared which provides for sharing of in-kind services and costs by the City and the County toward the development and operation of a joint SWAT team; and

WHEREAS, the City Attorney has reviewed and approved such interlocal agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the Interlocal Agreement by and between the County of Hall and the City of Grand Island for Joint Special Weapons and Tactics Team (SWAT) is hereby approved; and the Mayor is hereby authorized and directed to execute such agreement on behalf of the City of Grand Island.

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Adopted by the City Council of the City of Grand Island, Nebraska, April 27, 2004.

RaNae Edwards, City Clerk