

Approved Minutes
November 23, 2010
(Amended February 15, 2011)

Call to Order

The 401st meeting of the New Hampshire Police Standards and Training Council was called to order at 9:09 a.m. by Chairman Michael L. Prozzo, Jr., Sheriff of Sullivan County, at the John O. Morton conference room at Police Standards and Training in Concord, New Hampshire.

Members Present: Michael L. Prozzo, Jr., Sheriff of Sullivan County; William L. Wrenn Jr., Commissioner, New Hampshire Department of Corrections; Associate Justice Stephen H. Roberts, Dover District Court; Chief Anthony Colarusso, Dover Police Department; Associate Justice Norman E. Champagne, Manchester District Court; Colonel Robert Quinn, New Hampshire State Police; Chief Gregory C. Dodge, Epping Police Department; Chief James Sullivan, Hampton Police Department; and, Vice Chancellor Charles Annal, Community College System of New Hampshire.

Members Absent: Richard Foote, Sheriff of Cheshire County; Chief Peter Morency, Berlin Police Department; and, Michael A. Delaney, Attorney General.

Staff Present: Director Donald Vittum, Lieutenant Mark Bodanza, Captain Thomas McCabe, Captain Benjamin Jean, Captain Mark Varney, Chief (ret.) Timothy Merrill, Investigative Paralegal Anne Paquin, and Council Secretary Kathryn Day

Others Present: Officer Matthew Bloom and Chief Gary LaFreniere, Roxbury Police Department; Mr. Butch Burbank, Mr. Scott Weden of the Local Government Center, and Mr. Jack Ryan from the Public Agency Training Council; President of the New Hampshire Chiefs of Police David Cahill and several other chief law enforcement officers.

Approval of Minutes

Chairman Prozzo noted a correction to the spelling of "Demetrios Tsaros" in the unapproved minutes of October 26, 2010. Chief Dodge seconded Justice Roberts' motion to approve the minutes of October 26, 2010, as amended; the voice vote of those present was 8-0.

NOTE: Commissioner Wrenn was not present for this vote.

Director's Report

The graduation of the 258th Part-Time Police Officer Academy was held on November 19, 2010, and the agency is currently planning for the 153rd Full-Time Police Officer graduation on December 3, 2010. A planned retrofit to the firing range will begin at the end November and is expected to be completed in early February 2011. Other activities during the month since the last meeting included contact with various agency heads and groups and working with the Governor's Office to prepare for the State of New Hampshire's next budget cycle.

Director Vittum also advised the Council members that Chairman Prozzo and Vice Chairman Wrenn were asked to sign a letter that will be hand-delivered to Karen Hutchins, Director of the Division of Personnel, today. He read the letter into the record:

“Dear Director Hutchins:

In accordance with New Hampshire RSA 188-F:26, XIV, the New Hampshire Police Standards and Training Council at our June 22, 2010, meeting unanimously voted to reappoint current Director Donald L. Vittum to another four-year term. His new term becomes effective on February 1, 2011.”

Previous and/or Unfinished Business

NONPUBLIC SESSION: Chief Gary LaFreniere, Roxbury Police Department

Chairman Prozzo convened a hearing scheduled for Chief LaFreniere to show cause why the Council should not suspend or revoke his certification **pursuant to Pol 402.02 (a) (8), as well as the general requirements of RSA 188-F:27, Pol 101.03, and Pol 302.01. (Amended February 15, 2011.)**

Chief LaFreniere was present, as well as Attorney Thomas R. Hanna. Chief LaFreniere was informed of the hearing protocol and Attorney Hanna stated that he wished for the matter to be heard in nonpublic session.

Pursuant to RSA 91-A:3, II (a), Chief Colarusso moved for the Council to enter into a nonpublic session to discuss personnel matters. Following a second by Commissioner Wrenn, the roll call vote of the Council was 9-0. The nonpublic session commenced at 10:11 a.m.

Commissioner Wrenn, with a second by Chief Dodge, moved that the minutes of the nonpublic session be sealed. The Council voted 9-0 in favor.

Commissioner Wrenn further moved that the Council exit the nonpublic session. Following a second by Chief Sullivan, the Council voted 9-0 in a roll call. The nonpublic session concluded at 11:04 a.m.

Justice Champagne moved that the Council suspend the certification of Chief LaFreniere for twelve months with all but thirty days deferred for a period of one year providing there are no further violations of Council Rules. There was no second.

Justice Roberts moved that the Council suspend the certification of Chief LaFreniere for a period of ninety days that will be deferred for one year providing that there are no new material violations of Council Rules. Commissioner Wrenn seconded the motion. The voice vote of the Council was 8-1, with Chief Dodge voting no.

Matthew Bloom, Roxbury Police Department

At their meeting on October 26, 2010, the Council unanimously approved the following motion:

MOVED: *That the Council finds that Officer Matthew Bloom has violated the terms of his suspension imposed by the Council on March 23, 2010, and order the suspension of his certification effective today, October 26, 2010; further, the duration of this suspension will be determined subsequent to the Council hearing the testimony of Chief Gary LaFreniere.*

On this day, November 23, 2010, six members who were present at the October meeting deliberated on the disposition of this matter: Chairman Prozzo, Commissioner Wrenn, Colonel Quinn, Chief Dodge, Justice Roberts, and Justice Champagne. Mr. Bloom was not in attendance.

Justice Champagne moved that the Council establish that the duration of suspension imposed on Matthew Bloom's certification will be six months, effective on October 26, 2010. Chief Dodge seconded the motion. The Council considered the totality of circumstances and that over the previous

two years Officer Bloom has demonstrated a lack of regard for Council Rules (i.e., prior suspension, disregard for restrictions from performing police work, and other aggravating factors). Director Vittum recommended that the current suspension be for a total of two years, not six months.

Justice Champagne agreed to amend his motion; Chief Dodge concurred. The Council voted 6-0 to support the amended motion:

MOVED: That the Council orders the duration of the suspension of Matthew Bloom's certification will be for two years, effective on October 26, 2010.

Other Previous/Unfinished Business

Local Government Center Police Model Policy Project

Mr. Scott Weden and Mr. Butch Burbank attended the meeting to present facts supporting a manual of model policies developed as a resource for New Hampshire law enforcement agencies. This project has been ongoing for the last two years. Mr. Burbank read from a letter thanking Police Standards and Training and others for their participation in the LGC's Police Model Policy Project, namely, Lieutenant Mark Bodanza of Police Standards and Training, Claremont Chief of Police Alexander Scott, Dunbarton Chief of Police Chris Connelly, Woodstock Chief of Police Douglas Moorhead, Windham Chief of Police Gerald Lewis, Deering Chief of Police James Pushee, Wolfeboro Chief of Police Stuart Chase, Merrimack Chief of Police Stuart Chase, Merrimack Chief of Police William Mulligan, Greg Murphy of the Manchester Police Department, Sergeant Linda Anderson of the Dover Police Department, and Mr. David Witham of Primex.

Mr. Burbank informed the Council that the policy manual will be made available on compact disc to all law enforcement agencies in New Hampshire and that the Local Government Center has scheduled informational meetings at four locations in the state, in the North Country, the Seacoast, in Concord, and in the western part of the state beginning in January 2011. The manual focuses on twelve critical tasks and recommends thirty-four policies. These sessions are not mandatory; the manual and the training sessions are being presented as a resource only. Mr. Weden stated that the one of the goals of the LGC is to minimize the liabilities of those agencies that they insure, although this document will be made available to all law enforcement agencies in the state.

Director Vittum asked if there was any expectation for or discussion about Police Standards and Training assuming responsibility for updates to the manual and associated costs after an initial three-year period. Mr. Burbank stated that the Local Government Center would continue to uphold these responsibilities indefinitely and no costs would be incurred by Police Standards and Training.

Director Vittum asked if Mr. Burbank had made statements that gave the impression that this manual would be implemented at the Police Academy. Mr. Burbank confirmed that he had expressed his opinion on that at a meeting of police chiefs, but the Local Government Center has indicated that they do not support his recommendation.

Director Vittum asked if the manual had been presented during a training session for city and town managers as having the support of the Police Standards and Training Council; Mr. Burbank said that an advertisement that mentioned that a representative of Police Standards and Training Council would attend this session was later revised. Mr. Burbank also stated that he had previously received a letter from the Director advising him that the Council wanted to be involved in the project.

Director Vittum voiced his objection to the LGC giving the impression that the Council had tacitly approved the manual, given that the Council had been given no opportunity to review the materials or vote whether or not to endorse them. In fact, before today's meeting the Council had no insight into the content of the manual.

The Director inquired further: Were the city and town managers who attended the training session told that they would receive an incentive for implementing the policies (i.e., a reduced insurance rate)? Mr. Weden confirmed that offering such incentives was a goal for the Local Government Center.

Chairman Prozzo agreed with the Director that it would be highly inappropriate for the Police Standards and Training Council to dictate to police chiefs and others what policies they must implement in their local agencies. Mr. Burbank was adamant that the intention from the outset has been that implementation of these policies would be strictly voluntary and that the Police Standards and Training Council should be kept informed and have input into the manual.

Mr. Burbank offered to distribute copies of the policy manual on CD and to provide an opportunity for the Council to review all supporting materials that he had brought with him to today's meeting. Chairman Prozzo clarified that the Council will not require any local agencies to adhere to the LGC's policy manual and that the content was not intended for implementation at the New Hampshire Police Academy. With that understanding, the Council supports the LGC's efforts to sponsor the development of resources for their members, but the Council does not necessarily endorse the content of the policy manual.

Mr. Weden stated that so far the policy manual had been "rolled out" to only a small group of town and city managers at an annual conference; Mr. Burbank assured the Chairman that the formal document does not make reference to the Police Standards and Training Council. Mr. Burbank offered to postpone the four information sessions scheduled for January 2011 to give the Council an opportunity to comment. Mr. Weden said that information sessions could be offered at regular meetings of police chiefs, as well.

Chief Colarusso asked if it is practical for the Council to have a role in presenting the LGC's work product at all, if the implementation of the recommended policies is intended to be voluntary. Chairman Prozzo suggested that the Council should not be associated with the project whatsoever. Justice Roberts agreed and recommended that LGC not postpone the information sessions; doing so as a result of today's discussion may create the impression that the Council is invested and that would be incorrect.

Chairman Prozzo recognized several police chiefs that were in attendance and asked if their representative would like the opportunity to comment. Chief David Cahill, President of the New Hampshire Association of Chiefs of Police explained that Mr. Burbank had initiated contact with his group during the early phase of the project because he felt that positive support from the law enforcement community would aid in raising funds. Chief Cahill said that Mr. Weden, Mr. Burbank, and Mr. Ryan have worked hard on the project, but communication with the chiefs has not been kept current.

Dr. Annal recommended that the Council make a "clarifying statement" to articulate their position. Chairman Prozzo suggested that the Council express their appreciation for the work of the LGC on this project and wish them well in presenting it to their members and other interested parties. Justice Roberts put forth a motion:

MOVED: That the Council takes no position on the concept of the LGC policy manual and that the Council extends their appreciation for the efforts of the Local Government Center to provide resources for their members and others in the law enforcement community.

Chief Colarusso seconded the motion and the voice vote of the Council was unanimous, 9-0.

Director Vittum asked that the record note that he had personally invited those police chiefs that attended today's meeting. So noted.

Request for Use of Police Standards and Training Council Facilities

At their meeting on October 26, 2010, the Council considered a request from the Merrimack County Sheriff's Office to use a classroom and the Tactical Center to conduct a tuition-based class in January 2011. Detective Michelle Clarke was present to provide details, but the Council members raised concerns that could not be addressed at that time. Chairman Prozzo asked Detective Clarke to follow up on these open items, so that the Council could act on this request at their next meeting.

At the November meeting Director Vittum told the Council it appears that no alternative locations had been investigated. Captain Jean advised that he had received an email from Detective Clarke asking if there were any dates in March 2011 available, rather than January. Regarding liability issues, she stated that "Waivers are signed and each person is responsible for their own injuries. The instructor, Pat Iapicca, has his own liability insurance policy, as well."

Dr. Annal asked the Chairman to clarify what the objections are to granting this request. Chairman Prozzo stated that it would set an undesirable precedent for the Council to allow a tuition-based class that is presented to a general audience by an outside contractor.

Commissioner Wrenn also pointed to the risks involved in the physical training exercises that are included in the course; the Council should require that Merrimack County Sheriff's Office or the presenter provide assurances that Police Standards and Training will assume no liability. He recalled that in November he had advised Detective Clarke to consult with the County Attorney on this issue and it appears that this action has not been taken. In addition, it appears that no action was taken on the Council's recommendation to investigate alternative locations, either.

Dr. Annal commented that the Community College System requires liability insurance from groups that want to use the campus facilities for a fee. Hearing no further discussion, it was ...

MOVED (by Justice Roberts): That the Council should only approve the request to use Police Standards and Training facilities for a fee to cover the costs of operations and essential staff and only after Merrimack County Sheriff's Office can provide a certificate of insurance on which the Council is named as an additional insured for \$2 million each occurrence up to \$5 million aggregate liability and the indemnification that holds Police Standards and Training harmless from any losses, claims, expenses, etc.

After a second by Commissioner Wrenn, the voice vote of the Council was 8-1, with Chief Dodge opposed.

Final Adoption of Revision to Pol 402.02

Following the final approval of the Joint Legislative Committee on Administrative Rules on November 18, the Council was requested to move final adoption of the revised Rule, Pol 402.02.

Chief Dodge, with a second by Commissioner Wrenn, moved that the Council move final adoption of the revised Rule, Pol 402.02. The Council voiced unanimous support. The change becomes effective with today's date, November 23, 2010.

New Business

NOTE: There were no requests for certification based on prior training and experience and there were no requests for specialized training grant funds submitted for the Council's consideration.

Requests for Extensions Approved

The Council considered staff recommendations for requests for an extension to attend the next Full-Time Police Officer Academy. These requests were approved following a motion by Chief Dodge, seconded by Chief Sullivan, 9-0.

Full-Time Police Officer

154th Academy 01/03/11 – 04/08/11 (fitness test 12/20/10)

155th Academy 04/25/11 – 07/29/11 (fitness test 04/11/11)

Officer Christopher M. Dyer, Bristol Police Department was granted extension through the date of the entrance fitness test and, if fitness testing is successful, through the end of the 154th Full-Time Police Officer Academy with the stipulation that Officer Dyer must remain actively enrolled in the 154th Academy and continue working only under the direct supervision of a certified officer.

Officer Kathleen P. Horgan, North Hampton Police Department was granted extension through the date of the entrance fitness test and, if fitness testing is successful, through the end of the 154th Full-Time Police Officer Academy with the stipulation that Officer Horgan must remain actively enrolled in the 154th Academy and continue working only under the direct supervision of a certified officer.

Officer Danielle E. Normand, Stratham Police Department was granted extension through the date of the entrance fitness test and, if fitness testing is successful, through the end of the 154th Full-Time Police Officer with the stipulation that Officer Normand must remain actively enrolled in the 154th Academy and continue working only under the direct supervision of a certified officer.

Other New Business

Requests for Fitness Testing Extension

The Council considered staff recommendations for requests from officers that require an extension of time to comply with requirements for ongoing physical fitness testing. Justice Roberts, with a second by Chief Dodge, moved that the Council grant the extensions. The Council voted 9-0 in support.

Officer Paul Gibbons, New Hampshire Marine Patrol was granted an extension for six months beyond the date for compliance with ongoing physical fitness testing until July 1, 2011.

Officer Anthony Oliveri, Salem Police Department was granted an extension for six months beyond the date for compliance with ongoing physical fitness testing until July 1, 2011.

Captain Jeremiah O'Sullivan, Kensington Police Department was granted an extension for six months beyond the date for compliance with ongoing physical fitness testing until July 1, 2011.

Officer Dominique Murphy, Rochester Police Department was granted an extension for six months beyond the date for compliance with ongoing physical fitness testing until July 1, 2011.

Other Business

Fitness Testing Compliance

Chairman Prozzo asked the staff for an update on the status of officers who must comply with requirements for ongoing physical fitness testing by December 31, 2010. Chief Merrill said that a total of 436 officers who are due to test have not had contact with the agency to confirm that they have met the requirement or to request an extension for medical reasons. Of the 436 officers, 409 officers are due to comply for the first time since their hire date; one of the remaining 27 officers must pass the test by December 31 or their certification will be revoked because they are not eligible for an additional extension. Another seven officers who were granted extensions must reapply by December 31 or their certifications will be suspended until they are in compliance.

Director Vittum assured the Council that staff members will make every effort to communicate to the chief law enforcement officers to notify them that their officer is approaching the deadline for compliance. The certification of any officer who fails to comply by the deadline will be suspended as of midnight on December 31, 2010.

Next Meeting/Adjournment

The next meeting of the New Hampshire Police Standards and Training Council will be held on Tuesday, December 21, 2010, at nine o'clock in the morning, at 17 Institute Drive in Concord, New Hampshire. Chairman Prozzo advised that he would be unable to attend.

Upon a motion by Colonel Quinn, seconded by Commissioner, and the unanimous support of the Council, the meeting was adjourned at 11:35 a.m.

Respectfully submitted,

Chairman Michael L. Prozzo, Jr.