

MINUTES

October 26, 2004

Commented [Police St1]:

The 330th meeting of the NH Police Standards and Training Council was called to order at 9:08 a.m. by Chairman Michael L. Prozzo, Jr., in the John D. Morton conference room at the Police Standards and Training Facility in Concord, New Hampshire.

Members Present: Chiefs William L. Wrenn, Hampton Police Department, John Curran, Meredith Police Department; Sheriff Scott A. Carr, Carroll County Sheriff's Department; Justice Norman E. Champagne, Manchester District Court; Associate Justice Stephen H. Roberts, Dover District Court; Associate Attorney General Ann Rice designee of Attorney General Kelly Ayotte; Colonel Frederick H. Booth, NH State Police; Stephen J. Curry, Commissioner of the Department of Corrections.

Chief Michael J. Magnant, Portsmouth Police Department and Charles Annal, Deputy Commissioner designee of Commissioner William G. Simonton, Commissioner of the NH Community Technical College System were excused due to illness and/or prior commitments.

Staff Present: Director Keith H. Lohmann, Paralegal Cassandra Erickson, and Account-Technician Helen Robinson.

Guests Present: Chief Martin Dunn, Jaffrey Police Department representing the NH Police Chiefs Association; Chief Lloyd W. Tippitt, Amie L. Prescott-Colbeth of the Northumberland Police Department and Lorna Aldrich, Northumberland Town Manager.

Director's Report

The Director reported current attendance for the 135th Police Academy was at 72 due to one recruit being withdrawn by his department for academic failures, failing 4 modules and retests.

Corrections Academy #78 started Monday, October 25, 2004, with a present enrollment of 15, from a beginning enrollment of 16. One recruit withdrew due to illness.

At the previous meeting, the Director indicated 24 recruits failed firearms. Extensive remedial training has been completed with only 7 who have not qualified. By the end of the 135th Police Academy all or most of the recruits should have qualified.

The Director referred to a letter he wrote to Mr. Robert Christensen, Administrator for the Town of Weare regarding an investigation of the Weare Police Department by Mr. Donald Jutton of Municipal Resources, Inc. Mr. Jutton called the Director and asked to have PSTC participate in a study of the Weare Police Department, indicating there was a clause in Chief Myles Rigney's contract stating any studies of the department had to be done by or in conjunction with PSTC. Director Lohmann stated he believed it was a conflict of interest because of PSTC's regulatory role and would inquire of our legal counsel at the Attorney General's Office. The contract does state, "**Audits/Evaluation will only be conducted through the direction of the Peace Officers Standards and Training, State of New Hampshire, or his/her designee**" and "**no private contracted 'hired gun' management**

companies will be used.” In speaking with our legal counsel, Senior Assistant Attorney General Nancy Smith, she concurred it would be a conflict of interest.

Previous and/or Unfinished Business

Amie L. Prescott-Colbeth Request for Reconsideration

The Director outlined a request for part-time certified Officer Amie Prescott-Colbeth of the Northumberland Police Department who was part-time certified on February 22, 2003, and was present to request reconsideration of the Council's decision to deny her extension for firearms certification.

Officer Prescott-Colbeth attended the 134th Police Academy, was unable to qualify with a firearm, received the 60-day extension, and during that period, failed to qualify. She also failed to qualify at the 135th Police Academy, therefore, **may continue to work but cannot** carry a firearm until qualified.

Lt. Jeffrey Mullaney, PSTC Firearms Instructor, gave a chronology of Officer Prescott-Colbeth's firearms qualifications indicating that during the 134th Police Academy she scored a 17 and 15 on the pre-qualifications. Subsequently her scores were 17,15,15,16,19,21,18, 22, and 23. That being on Course #5, 36-round course with 27 to pass. She came back during the 60-day window scoring a 20,19,16, and 12 on the same course. Came back on September 10, 2004, scored a 23 and 20. She then tried the lowlight course and did not pass. Lt. Mullaney spoke with Chief Tippitt who indicated she was assigned to work with Kevin Jordan, NH Fish & Game Department. On September 20, 2004, she attended the 135th Police Academy firearms class, had a couple of safety violations which were a concern to the staff, where she turned and swept the rest of the classroom with the firearm. At the end of firearms week, her scores were a 26, 22, 22, 27 and 20 and still unable to pass the course. Needs to pass twice consecutively with a score of 27.

Chief Tippitt of the Northumberland Police Department spoke on behalf of Officer Prescott-Colbeth indicating their was a problem with her weapon. Chief Bill Joyce of the Stark Police Department, a nationally certified NRA and 4-H Pistol Instructor, has been instructing Officer Prescott-Colbeth.

Sheriff Carr inquired of Chief Tippitt what the problem was with her weapon. He explained there was a manufacturing burr on the trigger guard cutting her finger after firing numerous times and also caused her to flinch. The problem has been rectified.

Chief Tippitt indicated Officer Prescott-Colbeth was a Deputy Sheriff for Essex County Sheriff's Department in the State of Vermont. Chairman Prozzo inquired as to what type of weapon she carried in Vermont. She replied she carried a Glock 17 when working for the Caledonian Sheriff's Department and a Ruger 9mm in Essex County and now a Sig 40.

Chief Tippitt stated Officer Prescott-Colbeth has been on administrative leave which she requested and is not carrying a firearm.

Amie assured Council members she was ready to qualify after training with Chief Joyce and spending 13 years in the military trained to shoot high, aiming for the head, as she always shot low. Yesterday she shot 50 rounds left-handed, of which 47 rounds hit the target.

Following Officer Prescott-Colbeth's testimony, Chief Wrenn made a motion to reconsider the Council's previous decision denying her an extension for firearms certification. The motion was seconded by Associate Attorney General Ann Rice. The motion carried with Chief Curran opposed.

Following reconsideration of the motion, Chief Wrenn made a motion to grant an extension to Amie Prescott-Colbeth to allow her the opportunity to attempt to qualify through the firearms qualification course by the end of the 135th Police Academy in November. She **cannot** carry a firearm or return to work in uniform until qualified. The motion was seconded by Associate Justice Roberts, carried with Chief Curran opposed.

New Business

Chief Martin Dunn of the Jaffrey Police Department representing the NH Chiefs of Police Association as Chair of the Government Relations Committee, spoke to Council members and handed out copies of legislation and correspondence on H.R. 218 – Law Enforcement Officers Safety Act of 2004 which allows both current and **retired law enforcement officers** to carry concealed weapons wherever they go in the United States, regardless of most state or local prohibitions. Specific provisions of the Safety Act are contained in Chapter 44 of Title 18, United States Code, Sections 926B (a) and 926C.

Chief Dunn indicated President Bush recently signed into law under an existing statute known as H.R. 218 which has been pending legislation for several years promoted by Rank and File in law enforcement and opposed by the International Association of Chiefs of Police.

A person must have served a minimum of 15 years in law enforcement and qualify for benefits under a retirement pension, must be in good standing and not prohibited from carrying a firearm by any applicable laws.

Legislation says that a retired officer, within the past 12 months, must have completed and satisfied the firearms training and qualification mandates of the agency he/she retired from, **OR** the state he/she currently resides in.

Chief Dunn indicated there **must** be a firearms qualification standard from the state he/she worked or lived in.

IACP opposed this legislation with their concern of unskilled, unqualified police officers from other states coming through our jurisdictions carrying weapons.

Chief Dunn recommended issuing a photographic identification card from the agency the individual retired from as a law enforcement officer which indicates the individual has been tested or otherwise found to meet the standards for training and qualification for active law enforcement officers to carry a firearm of the same type as the concealed firearm. (The certification must be issued no longer than one (1) year before the date the individual is carrying the concealed firearm.)

He felt Police Standards and Training would be the appropriate agency to oversee and administer this program in the State of New Hampshire. When retired officers have demonstrated they have satisfied the state-established standards for training and qualification, submit their credentials to PSTC and determine if they have met the standards, then authorize the local Police Chief to issue a uniform, identification card approved by the Council only after all training requirements and qualifications as a retired officer have been satisfied.

Chief Dunn also recommended an application form be developed and a reasonable fee be assessed to offset operational expenses. The uniform identification card would replace the retired law enforcement officer card which currently exists.

Commissioner Curry inquired if the Council would have to pursue legislation action to require a Police Chief to operate through the Council. Chief Dunn explained the Chiefs are seeking guidance and a uniform process to follow. There is a provision which states this legislation cannot be in violation of any state laws or provisions and believed a state statute could not supersede a federal statute.

Chief Wrenn stated the Council needs to determine if they are going to set the standard for the firearms qualification of retired police officers, especially out-of-state officers living in New Hampshire, to maintain their ability to carry a firearm in New Hampshire under this law.

In answer to Chief Wrenn's question, Chief Dunn indicated standards presently in place would be used and have an overseer to be sure the standards are met. If an out-of-state officer is able to sit in on a firearms training class with his/her former police department or a New Hampshire department grants this privilege, the proposed form which has to be certified indicating he/she has satisfied this training requirement would then be forwarded to the overseer, then an identification card would be issued.

As a follow-up, Chief Wrenn felt retired officers coming to this state to qualify, will be an issue.

Associate Justice Roberts and Associate Assistant Attorney General Ann Rice noted inconsistencies between (1) being a qualified retired law enforcement officer and (2) have to be qualified and carry an ID card and how the card is obtained. In response to a question by Associate Justice Roberts, Chief Dunn indicated he was not aware of any clarification of the statute at this time.

Associate Assistant Attorney General Ann Rice stating the fact that there are two different situations contemplates where a retired officer has moved out-of-state from the agency which they retired, and given the history of concern about officers coming into a state and not properly trained, it would be logical to read from this statute that there is a requirement they meet the in-state standards.

The Director asked for clarifications of what PSTC's responsibilities would be with regard to verifying the information on the application such as verifying that the officer retired in good standing from service from a public agency as a law enforcement officer; was authorized by law to engage in or supervise the prevention, detection, investigation; before such retirement was regularly employed for an aggregate of 15 years; retired from service after completing applicable probationary period due to a service-connected disability; had a non-forfeitable right to benefits under the retirement plan. The Director was concerned with liability issues which might prevail.

Chief Dunn commented the above would be carried out by the town's Police Chief and PSTC would be the overseer, keep the form on file and issue ID card.

After a lengthy discussion, Chief Wrenn stated we needed to move cautiously and asked the Director to inquire of other POST's to see what their approach is to this federal law.

Chairman Prozzo concurred with Chief Wrenn and asked if the Attorney General's Office would review to give the Council and law enforcement agencies in the State of New Hampshire some guidelines. Council members also raised the issue of liability.

Director Lohmann reported the Attorney General in California is advising his officers from California not to carry concealed weapons in the State of Illinois or New York because they have more stringent standards than the federal legislation and are going to adhere to their state law.

California is only accepting Alternative #1, the photographic identification issued by the agency from which the individual retired from service as a law enforcement officer, and that they qualified with that agency. The Director stated a committee of the Director's nationwide has been organized which he volunteered to participate in.

In closing, Chief Dunn indicated the law is in place, Police Chiefs are acting on their own and other states are struggling. He feels a program needs to be developed to administer this in a safe and orderly manner to minimize the concerns of IACP.

Chairman Prozzo indicated to Chief Dunn that the Council will take the law under consideration and moving slowly on procedures.

Commissioner Curry stated the Chiefs Association needs to communicate with IACP to develop clarity for all law enforcement.

Decertifications/Revocations

Paul H. Ingersoll, Jr. – Whitefield Police Department

Officer Paul H. Ingersoll, Jr., formerly employed by the Whitefield Police Department, was convicted in Lancaster District Court on one count of Reckless Conduct RSA 631-3.

The following exhibits were entered into evidence:

- Exhibit A: Council Form "A" from Whitefield PD noting hiring date of December 19, 1993.
- Exhibit B: Certificate noting Officer Ingersoll was certified as a full-time police officer June 11, 1993.
- Exhibit C: Form "B" from Whitefield PD dated July 14, 2004, noting that Officer Paul Ingersoll, Jr. resigned from full-time employment in lieu of dismissal.
- Exhibit D: A complaint from Lancaster District Court dated June 15, 2004 (04-CR-615) and return dated July 14, 2004, noting that he plead guilty to one count of Reckless Conduct. He was sentenced to six months suspended on condition of good behavior. For the alcohol evaluation he was fined \$2,000 and penalty assessment of \$200.

Synopsis: On New Year's Eve 2003, Officer Ingersoll hosted a sledding party became intoxicated and operated a snowmobile under the influence. Officer Sean White of the Whitefield Police Department, was off-duty and attended the party, witnessed Officer Ingersoll's behavior and removed the keys to his snowmobile. Officer Ingersoll attempted to provoke a fight with Officer White; he left the party and Officer Ingersoll followed him to the police department using loud,

abusive language. Officer Ingersoll went back to his residence, took out an AR-15, loaded the magazine, and during the maneuver the weapon discharged with rounds firing through the kitchen door. Officer Ingersoll, who was arguing with his wife, then indicated he was going to “go out with a bang.”

Following a motion by Chief Curran, seconded by Commissioner Curry, the Council voted unanimously to revoke the police officer certification of Paul H. Ingersoll, Jr. under Council rule Pol 402.02 (a) (3) as a result of convictions in the Lancaster District Court.

Joseph A. Rossino – Formerly of the Hudson Police Department

Officer Joseph A. Rossino, formerly of the Hudson Police Department, was convicted of Harassment on March 17, 2004, in Nashua District Court. He and his attorney have requested a contested hearing which has been scheduled for the November Council meeting.

Carl E. Sonne – Formerly of the UNH Police Department

Carl E. Sonne, formerly of the University of NH Police Department, was convicted of 6 counts of Aggravated Felonious Sexual Assault, 2 counts of Attempted Aggravated Felonious Sexual Assault, 2 counts of Possession of Child Pornography and 4 counts of Exhibiting Obscenity. The following is entered into evidence:

- Exhibit A: Certification of Officer Carl E. Sonne as a part-time police officer dated January 14, 1999.
- Exhibit B: Form “A” from UNH Police Department dated January 16, 1999.
- Exhibit C: Form “G” from UNH Police Department noting Officer Carl E. Sonne was charged with Aggravated Felonious Sexual Assault on August 15, 2003.
- Exhibit D: Form “B” from UNH Police Department noting Carl Sonne was discharged on August 15, 2003.
- Exhibit E: Return from Strafford County Superior Court 03S-09-09 noting the guilty plea of Carl Sonne for 1 count of possession of Child Pornography RSA: 649-a:3.
- Exhibit F: Return from Strafford County Superior Court 03S-09-12 noting the guilty plea of Carl Sonne for 1 count of possession of Child Pornography RSA 649-a:3
- Exhibit G: Return from Strafford County Superior Court 03S-09-06 noting the guilty plea of Carl Sonne for 1 count of Attempted Aggravated Felonious Sexual Assault. RSA 629:1, RSA 632-a:2, and RSA 632-a:10 (a)
- Exhibit H: Return from Strafford County Superior Court 03S-08-27 noting the guilty plea of Carl Sonne for 1 count of Aggravated Felonious Sexual Assault RSA 632-a:2, RSA 632-a:10 (a)
- Exhibit I: Return from Strafford County Superior Court 03S-09-31 noting the guilty plea of Carl Sonne for 1 count of Exhibiting Obscenity RSA 650:2.

- Exhibit J: Return from Strafford County Superior Court 03S-08-29 noting the guilty plea of Carl Sonne for 1 count of Aggravated Felonious Sexual Assault RSA 632-a:2 and RSA 632-a:10 (a).
- Exhibit K: Return from Strafford County Superior Court 03S-08-31 noting the guilty plea of Carl Sonne for 1 count of Aggravated Felonious Sexual Assault RSA 632-a:2 and RSA 632-a:10 (a)
- Exhibit L: Return from Strafford County Superior Court 03S-09-08 noting the guilty plea of Carl Sonne for 1 count of Attempted Felonious Sexual Assault RSA 629:1 and RSA 632-a:3.
- Exhibit M: Return from Strafford County Superior Court 03S-09-32 noting the guilty plea of Carl Sonne for 1 count of Exhibiting Obscenity RSA 650:2.
- Exhibit N: Return from Strafford County Superior Court 03S-08-30 noting the guilty plea of Carol Sonne for 1 count of Aggravated Felonious Sexual Assault RSA 632-a:2 and RSA 632-a:10(a)
- Exhibit O: Return from Strafford County Superior Court 03S-08-27 noting the guilty plea of Carl Sonne for 1 count of Exhibiting Obscenity RSA 650:2.
- Exhibit P: Return from Strafford County Superior Court 03S-09-05 noting the guilty plea of Carl Sonne for 1 count of Attempted Aggravated Felonious Sexual Assault RSA 632-a:2 and RSA 632-a:10(a)
- Exhibit Q: Return from Strafford County Superior Court 03S-09-30 noting the guilty plea of Carl Sonne for 1 count of Exhibiting Obscenity RSA 650:2.
- Exhibit R: Return from Strafford County Superior Court 03S-08-28 noting the guilty plea of Carl Sonne for 1 count of Aggravated Felonious Sexual Assault RSA 632-a:2 and RSA 632-a:10 (a).
- Exhibit S: Return from Strafford County Superior Court 03S-08-32 noting the guilty plea of Carl Sonne for 1 count of Aggravated Felonious Sexual Assault RSA 632-a:2 and RSA 632-a:10 (a).

Synopsis: Carl Sonne had a preference for 10-12 year old boys, would invite them over to play with his trains, they would also help him out with yard work and after these episodes the children would be sexually assaulted.

On a motion by Chief Wrenn, seconded by Commissioner Curry, the Council voted unanimously to revoke the police officer certification of Carl Sonne, presently incarcerated at the NH State Prison, pursuant to Council rule Pol 402.02 (a) (2) as a result of convictions in the Strafford County Superior Court.

Scott G. Anderson – Formerly of the Nashua Police Department

Scott G. Anderson, formerly of the Nashua Police Department was convicted of 3 counts of Criminal Threatening,(2 counts against police officers), and 1 count of Simple Assault Domestic Violence on June 29, 2004. The following exhibits are entered into evidence:

- Exhibit A: Form "A" from Nashua Police Department noting Scott G. Anderson was hired as a full-time police on November 18, 1988.
- Exhibit B: Certificate noting Scott G. Anderson was certified as a full-time police officer on June 2, 1989.
- Exhibit C: Form "G" from Nashua Police Department noting the arrest of Scott G. Anderson on 2 counts of Criminal Threatening, 1 count of Domestic Violence, and 1 count of Arresting Arrest on March 3, 2004.
- Exhibit D: Form "B" from Nashua Police Department noting that Scott G. Anderson was discharged as of April 2, 2004.
- Exhibit E: Return from Southern Hillsborough County Superior Court #04S-04-95 dated June 29, 2004, noting Scott G. Anderson plead guilty to 1 count of Criminal Threatening in that he threatened to put a bullet in Kurt Gauthier's head while Gauthier was acting as a law enforcement officer in the line of duty.
- Exhibit F: Return from Southern Hillsborough County Superior Court 04S-04-96 dated June 29, 2004, noting Scott G. Anderson plead guilty to 1 count of Criminal Threatening in that he threatened to kill Kevin O'Brien who was acting as a law enforcement officer in the line of duty.
- Exhibit G: Return from Southern Hillsborough County Superior Court 04S-04-97 dated June 29, 2004, noting Scott G. Anderson plead guilty to 1 count of Simple Assault, Domestic Violence in that he grabbed Linda Anderson's head and slammed it into a car window.
- Exhibit H: Return from Southern Hillsborough County Superior Court 04S-04-98 Dated June 29, 2004, noting Scott G. Anderson plead guilty to 1 count of Criminal Threatening by telling Peter Bouchard "Pete, your going to be the first to go." "Pete, you and me will have our day yet."

Synopsis: After a report of Domestic Violence by Anderson's wife, Nashua Police responded to the residence. After discussion with police, Anderson threatened officers with a weapon; officers exited the scene calling in the SWAT team. Approximately 6 hours later, the SWAT team fired tear gas into the residence. Anderson exited and was arrested without further incidence.

In answer to a question from Chief Curran regarding annulled records, the Director indicated, by law, the Council can consider annulled records for purposes of certification, but cannot consider pardons.

Associate Attorney General Ann Rice made a motion that was seconded by Chief Curran, to revoke the police officer certification of Scott G. Anderson pursuant to Council rule Pol 402.02 (a) (3) as a result of convictions in the Hillsborough County Superior Court. The motion carried unanimously.

Prior Training & Experience Requests*Full-Time*Stephen P. Bell

The Director outlined the request of Stephen P. Bell mentioning the matrix requires an officer to have 230 points, he has 278, actually having more than the maximum because of his service. Director Lohmann suggested considering to change the matrix to reflect if an officer goes from full to part to full-time without a break in service, the 3-year limit be waived.

Following a motion by Chief Wrenn, seconded by Chief Curran, the Council voted unanimously to grant full-time certification on prior training and experience to Stephen P. Bell of the Francestown Police Department with no further requirements, based on the fact that he went from full to part-time certified, without a break in service, and is requesting to be recertified as a full-time officer.

Chief Wrenn suggested discussion of the matrix should be an item for the Council's Retreat.

Nicholas A. Skiba

Following a motion by Chief Wrenn, seconded by Commissioner Curry, the Council voted unanimously, based on Director's recommendation, to grant certification upon successful completion of the NH Law Package at a Full-Time Academy, medical examination, physical agility test, and First Aid/CPR, if lapsed, to Officer Nicholas A. Skiba of the Somersworth Police Department.

Requests For Extensions*Full-Time*

The Director outlined the circumstances of the requests for extension for full-time Officers Stephen Dennis of the Henniker Police Department, Charles T. Day, Jr., of the Somersworth Police Department, Robert P. Diehm of the Waterville Valley Police Department, David J. Loader of the Epping Police Department, and Peter W. Powers, Jr. of the Sunapee Police Department.

Chief Wrenn made a motion to grant extensions to Officer Stephen Dennis of the Henniker Police Department and Peter W. Powers, Jr. of the Sunapee Police Department. The motion was seconded by Sheriff Carr and carried unanimously.

Following a motion by Chief Wrenn, seconded by Sheriff Carr, the Council voted unanimously to grant extensions to Charles T. Day, Jr. of the Somersworth Police Department, Robert P. Diehm of the Waterville Police Department, and David J. Loader of the Epping Police Department with **requirement the officers work under strict supervision of a full-time certified police officer.**

Part-Time

Following a motion by Chief Wrenn, seconded Associate Attorney General Rice, the Council unanimously approved extensions as requested to part-time Officers Adam J. Harlor, Jesse D. Middleton, Joshua C. Robinson, Christopher D. Salomon, Thomas J. Smith, and Shelby L. Trahan of NH Marine Patrol and Terry Choate, Jr. of the Jaffrey Police Department.

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Specialized Training Grants

The Council voted unanimously to approve specialized training grants to the Concord Police Department in the amount of \$2,000 to send two officers to command training at the Roger Williams University in Rhode Island, following a motion by Chief Wrenn that was seconded by Chief Curran.

Chief Wrenn made a motion that was seconded by Associate Attorney General Rice to approve a specialized training grant in the amount of \$393.00 to the Durham Police Department to send a Sergeant and an Officer to Sigarms Pistol Armorer Certification School in Epping, New Hampshire. The motion carried unanimously.

A discussion took place regarding the funding of in-state schools. The Director indicated this grant follows the guidelines approved at the Council's last meeting which was two-thirds of the tuition cost only. Chairman Prozzo mentioned because of the SWAT training held in-state the Council would grant reimbursement for officers who attended that specialized training school.

The Director indicated an individual contacted the Grant Writer at the Department of Safety wondering if the federal government would reimburse the costs of the SWAT training. They indicated they would pay for tuition, backfill and overtime. The Director met with Assistant Commissioner Earl Sweeney who, at the Governor's request, has limited training programs to be paid for by federal money. The Governor will not allow reimbursement of SWAT II training with federal funds. The Director will send a memo to departments with reference to the in-state process now that he has final clarification.

Colonel Booth questioned why the UNH Police Department was requesting to send two officers to Sigarms and felt the department should have asked to have one of their officers trained, at no cost, as a condition when purchasing the weapons. He felt as departments change their weapons to Sigarms more of these requests may come before the Council and suggested the possibility of PSTC contracting with Sigarms and open the school up to all law enforcement.

Director Lohmann said this subject could be reviewed at the annual planning session. Beforehand, a survey will be sent out to obtain input on interest for such a class and type of weapons utilized by departments.

Other New Business

Bow Police Department Request

A handout addition to the agenda from the Chief of the Bow Police Department requesting former Chief Rodney Collins of the Newmarket Police Department to work part-time, ***with unlimited hours***, was unanimously approved, following a motion by Chief Curran, that was seconded by Chief Wrenn.

NH Marine Patrol Request

The Director noted a handout from Director David Barrett of NH Marine Patrol was received inquiring if training hours for instructors count towards the 1300-hour rule. The Director indicated they did. The training being provided is given by civilian employees to civilians, which is the Boating Safety course. In some instances, certified Marine Patrol Officers are teaching the class. They are both paid the same rate of pay while instructing. Therefore, does the hours spent training count towards the 1300-hour rule for Marine Patrol Officers?

Sherriff Carr inquired if these instructors were teaching in uniform or civilian clothes.

Chairman Prozzo commented, if not in uniform, they are teaching as civilians. Director Lohmann suggested coming up with another classification for these instructors who are civilians, but Director Barrett stated they don't have the ability to create the classification.

Colonel Booth agreed with Director Lohmann regarding the possibility of creating a position of Marine Patrol Instructor.

After a lengthy discussion, Colonel Booth made a motion to grandfather the decision to the end of calendar year 2005 for Director Barrett to seek an alternative position title for these individuals who instruct. The motion was seconded by Judge Champagne and carried unanimously.

Proposed Legislation

The Director handed out legislation regarding revenue. He indicated at the Council Retreat one issue discussed was fines either suspended or items placed on file. This legislation deals with these two provisions. Another issue was that officers attending the academy (i.e. Liquor Enforcement, DRED, Agriculture Inspectors) who enforce regulations whereas there is no penalty assessment, yet the penalty assessment supports them in obtaining training. Should a penalty assessment be assessed on the administrative fines which will require him to seek out the rules, then go to the various agencies to discuss. There will be some administrative overhead which will need to be collected and sent to PSTC.

The Director projected this would raise a minimum of \$250,000 or maybe as much as \$300,000 to \$400,000 per year. If this is constitutional, can a penalty assessment be assessed on a suspended fine or placed on file. If constitutional, this may make it through the legislature.

Administrative fines would be filed as separate legislation.

Associate Justice Roberts noted, if adopted, he suggested the wording in *III. b.* be changed to read, ***“placed on file with or without a finding”***, and *III.c.* at the end to read ***“to cover the administrative costs of collecting the penalty assessment”***.

The consensus of the Council is to ***delete item III.c. relating to percentages.***

Associate Attorney General Rice commented that III.b raises a constitutional issue whereas “placed on file without a finding” means there's been no finding that the person engaged in the conduct.

How can penalty assessment be assessed from that finding? The consensus of the Council, was after revisions, this would be forwarded to Nancy Smith for legal council's opinion.

The Director reported, based upon projections of this past years revenue, PSTC will be solvent until 2010. If this legislation passes, estimated revenues would push us out to 2013 assuming a 4% growth and expenditures each year. If administrative fines were added, he suspects it would keep us solvent for a fairly significant amount of time.

The Director said there is a reserve of \$2.6 million dollars. He expects revenue next year of roughly \$3 million, the budget is \$3.37 million, spending about \$3.18 and \$3.2 million dollars. Will probably

dip into the reserve for about \$180,000. The total revenue for the agency has never exceeded \$3 million a year. The proposed budget for 2006/2007 is \$3.5 and \$3.6 million, therefore, running a deficit.

Associate Justice Roberts stated under *III.a.* the wording “**statutory**” should be changed to read “**total**” fine amount.

Under *III.b.* change part of the wording to read, “**a case is placed on file with or without a finding, the penalty assessment shall be collected in the amount of \$50.00**”.

Non-Public Session to Discuss Personnel Matters

Following a motion by Sheriff Carr that was seconded by Chief Wrenn, the Council voted unanimously on a roll-call vote, to enter into a non-public session at 12:30 p.m., for the purpose of discussing personnel matters.

Following the discussion, on a motion by Chief Wrenn that was seconded by Chief Curran, the Council voted unanimously to seal the minutes of the non-public session.

Chief Wrenn then made a motion that carried unanimously following a second by Chief Curran and a roll-call vote, to exit the non-public session at 12:49 p.m.

Adjournment

The next meeting of the Council will be held at 9:00 a.m. on Tuesday, November 23, 2004, in the John Morton conference room. Following a motion by Chief Wrenn that was seconded by Commissioner Curry, the Council adjourned the meeting by unanimous vote at 12:49 p.m.

Chairman Michael L. Prozzo, Jr.