

## **MINUTES**

**July 27, 2004**

Commented [PS1]:

The 327<sup>th</sup> meeting of the NH Police Standards and Training Council was called to order at 9:04 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 included Chief Michael J. Magnant, Portsmouth 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; Attorney General Kelly Ayotte; Colonel Frederick H. Booth, NH State Police, Assistant Commissioner Les Dolecal, designee of Commissioner Stephen J. Curry of the Department of Corrections, and Charles Annal, Deputy Commissioner designee of Commissioner William G. Simonton of the NH Community Technical College System

Chief William L. Wrenn, Jr., Hampton Police Department was excused due to a prior commitment.

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

### ***Approval of Minutes***

Following a motion by Colonel Booth that was seconded by Sheriff Carr, the Council voted unanimously to accept the Minutes of the June 22, 2004, Council meeting as presented.

### ***Director's Report***

The Director reported on the status of the \$500,000 Recruit Wireless Grant earmarked from Senator Gregg's office which was pulled from the Governor's agenda in May. A grant application was filed 18 months prior, but whereas the funds were not accepted by Governor & Council, a detailed proposal was not submitted. After numerous emails, a meeting was scheduled with Rick Bailey, CIO of the Office of Information Technology, who is supportive of the project. When the proposal is finalized, a meeting will be scheduled with Governor Benson.

The Director reported that a conditional offer of employment for one Law Enforcement Training Specialist position has been made and hopes to make a conditional offer for

the second position by the end of the week. The Assistant Director's position should be posted Friday. The selection process will include an oral interview board comprised of Chief Wrenn, Chief Gross (Ret.), Assistant Commissioner Dolecal and the Director. Director Lohmann explained the interview process to Council members stating first consideration will be given to in-house candidates, and if eliminated, outside candidates would be considered. A written submission will be reviewed by the oral interview board, Director and 3 POST Directors from other states.

Director Lohmann stated there is a large number of officers scheduled for the 135<sup>th</sup> Police Academy agility test. Part of the Recruit Wireless Grant involved renovating Lecture Hall #2 to have power and network connections for laptop computers. Renovations were not done in Fiscal Year 2004; therefore, \$130,000 is being carried forward to Fiscal Year 2005 to complete the work which is scheduled for fall depending on the size of the upcoming academy.

The Director said the legislature in the last session, took \$275,000 from Penalty Assessment to pay for Court Bailiffs in the District Courts. A quote of \$95,000 for an addition to our storage building was obtained and construction held up due to this, but the legislature stated they would fund the addition out of the General Fund and not Penalty Assessment in order to recoup some of the money taken for the Bailiffs. The project went out to bid and the lowest bid received was \$585,000. The Director asked Plant Maintenance Engineer Jon Bossey, to speak with the architects who did the drawings for the Lecture Hall to see if we could get an addition around \$95,000.

The Director updated Council members on Michael Sweeney's (son of Earl & Faye Sweeney) medical status noting he has been transferred to HealthSouth Rehabilitation Hospital in Concord.

### ***New Business***

#### ***Decertifications/Suspensions/Revocations/Surrenders***

##### Revocation - Scott W. Muir

Scott W. Muir, formerly of the Salem Police Department, previously requested a hearing and, by way of letter from his attorney, has withdrawn his request. Scott was dating a Dispatcher at Salem PD, the relationship went bad, he stalked her and was ordered by Chief Donovan of Salem PD not to have any contact with her. Scott did not follow the direct order, followed her into the 99 Restaurant in Salem at which point she then obtained a temporary and a final order, with a weapons provision, stating he could have no contact with her. No criminal charges were filed, but this case falls within the purview of Pol 402.02(a)(5) conduct which would cause a person to doubt their respect for the rights of others and for the laws of this state or nation. Director Lohmann entered into evidence Exhibit A (Form A from the Salem PD), Exhibit B (Full-Time Certification dated 11/20/98), Exhibit C (Form B-Negotiated Resignation from the Salem PD), Exhibit D (letter from legal counsel Patrick E. Donovan), Exhibit E (Salem PD

Internal Investigation), Exhibit F (Salem PD Internal) and Exhibit G (newspaper articles regarding final hearing).

On a motion by Chief Curran, seconded by Judge Champagne, the Council voted unanimously to revoke the certification of Scott Muir pursuant to Pol 402.02(a)(5) and Pol 206.03.

Arthur R. Locke

Resigned in lieu of dismissal from Merrimack County Sheriff's Office in 2001 and is requesting his eligibility to be a police officer be reinstated, but was unable to appear. On his behalf, Director Lohmann asked for a continuance until the August meeting of the Council. The continuance was granted.

***Prior Training & Experience Certification Requests***

Full-Time:

The Director outlined all requests based on prior training and experience. Judge Champagne inquired about policy on drug testing. A discussion ensued.

On a motion by Sheriff Carr that was seconded by Chief Magnant, the Council voted unanimously to follow staff recommendations and grant certification, upon successful completion of a medical examination, physical fitness test, and the NH Law Package at a Full-Time Academy, to Trooper Jeffrey A. Ardini, of the NH State Police, Officers David M. LoConte and Theresa M. Lustwerk of the Rochester Police Department; Thomas J. O'Donnell of the Pelham Police Department, and Michael J. Merrifield of the Hillsborough County Sheriff's Office upon successful completion of the medical examination, physical agility test, NH Law Package at the Full-Time Academy, First Aid/CPR (if lapsed), and to Kenneth W. Spooner of the Rockingham County Sheriff's Office upon successful completion of the medical examination, physical agility test, NH Law Package at the Full-Time Academy, First Aid/CPR (if lapsed), Motor Vehicle practical, Firearms and Simunitions.

Part-Time:

The Director indicated that Kevin B. Johnston of the Brentwood Police Department, was certified part-time in NH in 1986, leaving police employment in 2001.

A handout for Warren Foote of the Bradford Police Department was discussed indicating he worked as a certified full-time officer for Concord Police Department and Bailiff for the Administrative Office of the Courts.

On a motion by Chief Curran that was seconded by Colonel Booth, the Council voted unanimously to grant certification to part-time Officer Kevin B. Johnston of the

Brentwood Police Department upon successful completion of the Part-Time Officers' School and to Warren Foote of the Bradford Police Department upon successful completion of the NH Law Package at the Part-Time Officers' School.

A discussion ensued regarding former Chief Kirby of the Bradford Police Department who was dismissed by the Selectmen. The Director will check to see if a Form "B" has been filed and whether the case should be prosecuted under Pol 402.02

### ***Request For Extensions***

#### **Full-Time:**

After the Director outlined the circumstances of the request for extensions, the Council voted unanimously to grant extensions on Director's recommendation to full-time Officers Erik F. DeFilippe of the Holderness Police Department and Adam R. Laurent of the Brentwood Police Department, following a motion by Chief Curran that was seconded by Colonel Booth.

After a brief discussion reference the extension request of Chief Robert J. Scheiderhan, Jr., of the Wentworth Police Department, the Council on a motion by Chief Curran that was seconded by Colonel Booth asked the Director to write a letter to Chief Scheiderhan requesting more specific information regarding his medical condition. The motion carried unanimously.

#### **Part-Time:**

On a motion by Chief Curran that was seconded by Colonel Booth, the Council voted unanimously to grant an extension through December 2004 to Part-Time Officer Leonard P. Ryan, Jr. of the Bridgewater Police Department upon successful completion of Laws of Arrest and Criminal Code at UNH Part-Time Officers' School.

### ***Training Grants***

Following a motion by Judge Champagne, seconded by Chief Magnant, the Council unanimously approved training grants to the Concord and Keene Police Departments and the Hillsborough County Sheriff's Office for command training at the Roger Williams University in Rhode Island.

#### **Other Training**

After the Director outlined grant requests from Claremont, Laconia and Manchester Police Departments a discussion took place with a question from Judge Champagne regarding expenses for officers attending in-state SWAT training. The Director indicated the general rule was, in the past, in-state programs were not funded, and, if

the Council decided to make the decision to fund them, a cap should be set. Colonel Booth recommended a policy be set in place for possible funding.

Following a lengthy discussion on SWAT training, on a motion by Colonel Booth, seconded by Chief Curran, the Council voted unanimously to approve \$5,000 from the training budget for Police Standards and Training Council staff development; and approved training grants to Laconia and Manchester Police Departments with the exception of the rental car for Laconia and deduct salary and reduce meal expense to state per diem rate for Manchester.

On a motion by Colonel Booth, that was seconded by Attorney General Kelly Ayotte the Council requested that Police Standards and Training develop a policy in dealing with IACP in-state training programs. The motion carried unanimously.

On a motion by Judge Champagne, seconded by Colonel Booth, the Council voted unanimously to table the training grant request for the Claremont Police Department until a policy is developed on in-state SWAT training. Chairman Prozzo asked the Director to advise Claremont Police Department, in writing, of this decision.

### ***Other Business***

#### **Steven Isola**

The Director refreshed Council members on extension denial of Officer Steven Isola from the Atkinson Police Department for Academy attendance. He was at the two year limit, unable to pass agility test, injured and out on Worker's Compensation. A motion to reconsider was received. Worker's Compensation issues were raised and the potential for a claim under the Americans With Disabilities Act. The Director then stated that Sr. Assistant Attorney General Nancy Smith, our legal advisor, responded to our agency request for reconsideration and stated that there is no further extension possible after two years. Steven Isola has now resigned from the Atkinson Police Department, therefore, the motion to reconsider is moot.

Chief Curran suggested a letter be sent to Assistant Attorney General Nancy Smith to thank her for research and input on his case.

The Director gave a brief history on Kenneth "Biff" Ranney, age 76, Sunapee Harbor Patrolman, indicating he has been a part-time police officer and has worked in Newbury, Sunapee, Bradford, Newport, Sullivan County Sheriff's Office and most recently working at the boat launch docks in Sunapee. The only training he received was a 34 hour school in 1982. He retired in 1995, and then went back to work at the docks in 1999. In October of 2003, the Sunapee Police Department asked for him to be recertified as a part-time police officer. He does not meet the matrix and the Council moved at that time to allow him to be part-time certified after attending the Part-Time Officers' School. Chairman Prozzo explained to Council members that Mr. Ranney is not uniformed, does

not carry a weapon, and is merely a dock attendant to make sure there is a peaceful presence as a public relations tool.

The Director stated Mr. Ranney does not need police authority as a dock attendant and recommended granting him a part-time certification with limitations that he is a police officer only during such time that he is working at the town docks in Sunapee; he would not carry a firearm; he would not have the power of arrest except to detain in exigent circumstances until another officer could arrive and make the physical arrest. Whatever training required will be determined by the Director after discussion with Chief Cahill of the Sunapee Police Department as to what his specific duties would be.

Colonel Booth asked if he would have arrest powers with no firearm. The Director replied he would have detention powers with no firearm. Colonel Booth then inquired by having detention powers what kind of liability does it put on Council members. Colonel Booth suggested giving him an Honorary Police Officer status with no arrest powers and no firearm. Under Council rules, in order to be identified as a police officer, one has to receive the training of a police officer. Sheriff Carr stated he was not comfortable with this proposal. Chief Curran suggested making Mr. Ranney a Code Enforcement Officer to run the beach.

The Director stated that if he is to be certified under prior training and experience he will be required to have some training tailored to his specific job duties. Judge Champagne indicated that authority as a police officer should not be given unless hired by a department and certified. In response to a question by Chairman Prozzo regarding liability issues, the Director indicated liability is as a Council not individuals. Attorney General Kelly Ayotte stated the Council members are acting as officials, and if they do not act recklessly or beyond their authority, they would have the full protection of the State and feels that in this case the Council is acting within its authority.

After considerable discussion, Colonel Booth made a motion to table the decision until further documents are received from the Sunapee Police Department regarding Mr. Ranney's training background.

Assistant Commissioner Dolecal and Chief Magnant indicated Job Description and training records should be requested.

Attorney General Ayotte stated if there is a training recommendation, it should be stipulated in a specific manner. The motion was seconded by Attorney General Ayotte, and carried unanimously.

#### Budget Presentation

The Director presented a PowerPoint presentation on Revenues/Expenditures and the Future.

Projects affected were infrastructure and range remediation delays, carpeting, flooring,

\$130,000 for renovations was carried forward, there was no new vehicle purchased except for a van from the grant, but the Director does plan to purchase a new vehicle this fiscal year. Computer purchases from the grant have been delayed.

Goals for Fiscal Year 2005 will be getting back to regular operations with relatively conservative spending, a 6% lapse as opposed to a 16% the agency operated at this past year.

The Director will start writing the budget for Fiscal Year 2006/2007 this week. The Governor is asking for a 15% cut which may not affect this agency. Budget hearings will begin on or about October 1, 2004. Our budget request will be relatively modest.

The Director indicated the agency has \$250,000 in 2003 Homeland Security grant funds for training; may receive the same amount of funds for 2004, with restrictions. Permission was granted to build a training infrastructure. Some of these funds will be used to build the secure side of PSTC's website. A committee has been assigned to come up with a counter proposal to Governor Benson's proposal on disbursing funds. When released, it will allow overtime, back fill for positions, and increase significantly courses that are allowable expenses as opposed to 2003 and allow us to customize courses if approved by the federal government. The first class submitted for approval to Homeland Defense is a 2-day Command Post training. Then, if paying out of 2004 funds, agencies can be reimbursed for overtime and back fill for officers attendance.

The Director brought up the subject of the length of the Police Academy suggesting adding a week onto the Academy, have the week consist of Homeland Defense approved training and reimburse departments for sending officers for this additional training for a limited amount of time (as long as the grant funding lasted).

Chairman Prozzo inquired if there would be enough funds for two years to extend the Academy. The Director indicated the 2003 funds, which is overtime only, expires March 2005; the 2004 funds that have not been released by the Governor's Office would expire in March 2006. This proposal would start with the January 2005 Academy.

The Director answered a question by Assistant Commissioner Dolecal who inquired about what types of training would be used for the Homeland Security grant and whether DOC could be reimbursed for the training. Director Lohmann advised Weapons of Mass Destruction (WMD), Command Post, Bombs and he would like to see FBI and SLATT training for state and local law enforcement, and also BICE training on fraudulent documents( formerly Immigration and Naturalization Service). They offer a program on false identifications which previously was a PSTC in-service class. These funds may be used for first responders only. Employees of the Department of Corrections are not considered first responders at this time.

After discussion, Chairman Prozzo reiterated that the consensus of the Council will be to increase the Police Academy to 14 weeks. This may be the mechanism to start the process.

***Adjournment***

The next meeting of the Council will be at 9:00 a.m. on Tuesday, August 24, 2004. Following a motion by Chief Curran that was seconded by Deputy Commissioner Annal, the Council adjourned the meeting by unanimous vote at 11:33 a.m.

---

Chairman Michael L. Prozzo, Jr.