

MINUTES

January 23, 2007

The 356th Meeting of the NH Police Standards and Training Council was called to order at 9:03 a.m. by Chairman Michael L. Prozzo, Jr., Sullivan County Sheriff's Department, in the John D. Morton conference room at the Police Standards and Training Facility in Concord, New Hampshire.

Members Present: Chief Gregory C. Dodge, Epping Police Department; Chief Timothy Russell, Henniker Police Department; Chief Peter P. Morency, Berlin Police Department; Sheriff Scott A. Carr, Carroll County Sheriff's Department; Associate Justice Stephen H. Roberts, Dover District Court; Associate Justice Norman E. Champagne, Manchester District Court; Assistant Commissioner Les Dolecal, designee of Commissioner William L. Wrenn, Jr., Department of Corrections; Colonel Frederick H. Booth, NH State Police; and Deputy Attorney General Bud Fitch, designee of Attorney General Kelly A. Ayotte.

Staff Present: Interim Director Donald L. Vittum, Assistant Director Robert B. Stafford, Jr., Paralegal Cassandra Erickson, and Secretary Denise Crocker.

Chief Michael J. Magnant, Portsmouth Police Department; Commissioner William L. Wrenn, Jr., Department of Corrections; Attorney General Kelly A. Ayotte, and Deputy Commissioner Charles Annal, designee of Commissioner William G. Simonton of the NH Community Technical College System were excused from today's meeting due to prior commitments.

Guests: Captain Ben Jean, PSTC; Officer Michael Lyczak, Durham Police Department, Attorney Peter Perroni, representing Officer Lyczak; Officer Jason Lamontagne, New Durham Police Department; Marjorie Rawson, Madbury Administrative Assistant; Donald Gross, Retired Police Chief of Nashua; Chief Shawn Bernier, New Durham Police Department; Deputy Paul Rowe, Strafford County Sheriff's Office; Deputy William Michael Lemoi, Strafford County Sheriff's Office and Officer Timothy Sawyer, NH Highway Patrol; Officer John Faulkner, formerly of the Exeter Police Department; Attorney Joseph McKittrick, representing Officer Faulkner; Chief Wayne Sheehan, Kensington Police Department; Captain Jeremiah O'Sullivan,

Prosecutor for Kensington Police Department; Selectwoman Stefanie Johnstone, Town of Kensington; Chief Arthur Reed, Newfields Police Department; Corrections Officer Melissa Smialek; Chief Dennis MacKay, Bath Police Department.

PUBLIC HEARING – Law Enforcement Officer’s Safety Act Rule Pol 404.03

Prior to the start of the regular Council Meeting there was a public hearing on the Law Enforcement Officers Safety Act Rule. Cassie noted she had received an e-mail about the caliber of weapons in the proposed rule which she handed out to the Council members. Cassie further noted that the purpose of this hearing was to gather information from the public and to consider that information for possible revision of the proposed rule for final submission of the rule to Administrative Services. Captain Glenn DuBois of Goffstown Police Department spoke requesting the Council to reconsider its decision on the restrictions of caliber and types of firearms to be used.

Approval of Minutes

Following a motion by Chief Dodge, seconded by Chief Morency, the Council voted unanimously to accept the Minutes of the December 19, 2006 meeting as presented.

Mark Long, US Attorney’s Office

Mark Long from the US Attorney’s Office spoke to the Council at the request of his Administration. He thanked the Council for the Council’s willingness to partner with the US Attorney’s Office for training and in their working with Law Enforcement.

He then spoke about the Federal Program, Operations Street Sweeper, sponsored by Senator Gregg, the US Attorney’s Office and the State of New Hampshire and noted that ours is the only US Attorney’s Office that receives funds for this program. Since 1998, the program has received \$1 million to \$1.5 million in yearly funds to be distributed by the US Attorney’s Office to law enforcement agencies throughout the state to help fight violent crime, domestic violence, drugs, and/or child exploitation. These funds have been crucial in creating very effective crime fighting programs. Currently, however, the Federal government has not passed the budget for this year; and therefore, the U.S. Attorney cannot make any financial awards to NH law enforcement to fight these crimes. Ongoing commitments that the US Attorney’s Office has had for years with the City of Manchester, State Police Drug Task Force, Portsmouth Police Department, assistance with the Motorcycle Races, Belknap County Sheriff’s Office and all the departments around the lakes region will not receive any funding as it stands now. Senator Gregg’s Office is aware of the situation and the two new congress people know what these funds have allowed New Hampshire agencies to accomplish. Street Sweeper funds are frozen until the budget passes. Another project that is currently being worked on is Project Safe Childhood which is the Child Exploitation project which will not be receiving any further

funding.

The Council asked what the congressional delegation's thoughts were on the situation. Mr. Long indicated that the US Attorney's Office is prohibited by law from going directly to the congressional people. Chief Russell asked if it would be beneficial for the Chairman of the Council to write a letter to our congressional delegation. Mr. Long felt that it would be a positive approach to the issue.

On a motion by Chief Russell to have the Chairman write a letter to the Congressional delegation supporting the federal programs, including Street Sweeper, that the US Attorney's Office has had in the past, seconded by Chief Morency, the Council unanimously supported the motion, to have Chair send a letter to the Congressional delegation.

Director's Report

The Interim Director noted that on his written report he had indicated that no classes had been canceled but after the report was mailed to Council members he was informed that a contract class had, in fact, been canceled due to low enrollment.

There are over 60 FTO classes being held; this building is at capacity and the other sites have very good enrollment.

There was a Task Force Meeting for sexual assault with new law updates on January 22nd and the State Police had 150 people there; and this morning (January 23rd) it was expected there would be another 100 people attending.

The Academy is in full swing. One recruit was out last week with the flu. Another recruit is currently out with the flu. These recruits will remain in the Academy and make up the modules missed at the end.

Chief Morency asked about the progress of registration for the Polygraph School. The Interim Director responded that it is going slowly according Dave Crawford.

Old Business

Madbury Compliance Hearing – Officer Michael Lyczak

Chairman Prozzo read and reviewed Council protocol with Officer Michael Lyczak. He advised Officer Lyczak that he could be represented by an attorney and asked if he wished the hearing to be heard in public or nonpublic session. Officer Lyczak was represented by counsel and requested that the hearing be heard in nonpublic session. Mr. Lyczak's attorney was Peter Perroni.

Following a motion made by Chief Dodge, seconded by Chief Russell, the Council voted unanimously on a roll-call vote to enter into a nonpublic session at 9:23 a.m.

Following the discussion of the matter, on a motion made by Chief Dodge, seconded by Sheriff Carr, the Council voted unanimously to seal the minutes of the nonpublic session.

Chief Dodge then made a motion, seconded by Sheriff Carr, which carried unanimously by the Council on a roll-call vote to exit the nonpublic session at 9:35 a.m.

Upon return to public session, on a motion by Chief Russell to accept the proposed settlement, seconded by Colonel Booth, the Council opened the motion for discussion. Chief Morency asked if the settlement would include returning to school to recertify as a firearms instructor. The Chairman indicated that it was the parties understanding that this settlement would include re-attending the firearms school and Respondent's Counsel noted it was also their understanding that this matter would not prejudice his client's reapplication. Council noted that was also correct. Upon clarification of those two points, the Council then voted unanimously on Chief Russell's motion to accept the proposed settlement noting that Officer Lyczak would have to recertify as a firearms instructor and that this matter would not prejudice his reapplication to do so.

Madbury Compliance Hearing – Officer Jason Lamontagne

Chairman Prozzo read and reviewed Council protocol with Officer Jason Lamontagne. He advised Officer Lamontagne that he could be represented by an attorney and asked if he wished the hearing to be heard in public or nonpublic session. Officer Lamontagne was not represented by counsel and requested that the hearing be heard in nonpublic session.

Following a motion made by Chief Dodge, seconded by Sheriff Carr, the Council voted unanimously on a roll-call vote to enter into a nonpublic session at 1:00 p.m.

Following the discussion of the matter, on a motion made by Chief Dodge, seconded by Sheriff Carr, the Council voted unanimously to seal the minutes of the nonpublic session.

Chief Dodge then made a motion, seconded by Chief Morency, which carried unanimously by the Council on a roll-call vote to exit the nonpublic session at 2:15 p.m.

Upon return to public session, Judge Roberts asked if the issue before the Council was the burden of the Assistant Director to establish the fact that there was willful violation of the Council rule. Chairman Prozzo indicated that that was correct. **Then, on a motion by Judge Roberts that there had not been adequate evidence to show that Jason Lamontagne had willfully violated the Council Rules relative to himself or the officers working under his control or submitted false or forged documents or**

misrepresented a document or testimony before the Council, and seconded by Sheriff Carr, the Council opened the motion for discussion. Judge Roberts stated he was focusing on the **willful aspect** of that and indicated that he didn't believe there was any doubt that Form F was inaccurate and that the Deputy Chief knew that it was inaccurate when he sent the cover letter in because he obviously made notations on his copy, but the mitigating circumstances were that he was ordered by the Chief to do so with potentially serious ramifications if he did not. Judge Roberts indicated that if the rule requires it to be a willful violation then that's a higher test than knowingly or purposely doing the action. Judge Champagne had a concern with it not being a willful act. Chief Russell was compelled to agree with the Judge's theory. Deputy Attorney General Fitch indicated that he supported Judge Robert's motion. Sheriff Prozzo felt Officer Lamontagne should have followed up on the matter but felt the Officer was inexperienced and further felt it was not a willful act and, therefore, supported the motion on the floor. Sheriff Carr felt the officer did believe he thought someone was following up on the matter. **After the lengthy discussion of the matter the Council voted 8 to 1, with Judge Champagne opposing, to support Judge Robert's motion that Officer Jason Lamontagne did not willfully violate Council rules.**

John Faulkner, formerly of the Exeter Police Department for violation of Pol 402.02, Pol 101.28 and Pol 101.29.

Chairman Prozzo read and reviewed Council protocol with Officer John Faulkner. He advised Officer Faulkner that he could be represented by an attorney and asked if he wished the hearing to be heard in public or nonpublic session. Officer Faulkner was represented by counsel and requested that the hearing be heard in nonpublic session. Officer Faulkner's attorney was Joseph McKittrick.

Following a motion made by Sheriff Carr, seconded by Chief Dodge, the Council voted unanimously on a roll-call vote to enter into a nonpublic session at 9:40 a.m.

Following the discussion of the matter, on a motion made by Chief Russell, seconded by Judge Roberts, the Council voted unanimously to seal the minutes of the nonpublic session.

Chief Dodge then made a motion, seconded by Chief Morency, which carried unanimously by the Council on a roll-call vote to exit the nonpublic session at 11:10 a.m.

Upon return to public session, on a motion by Judge Roberts to take the matter of Officer John Faulkner under advisement, to create a subcommittee to review the information and in particularly Attorney McKittrick's Findings of Fact and then to report back to the full Council for deliberation, seconded by Judge Champagne, the Council voted take the Faulkner matter under advisement and to create a subcommittee to review the extensive materials in this case.

The Council agreed that the members of the subcommittee in this case would be Deputy Attorney General Bud Fitch who will chair this Committee, Chief Dodge and Chief Russell.

Sheriff Prozzo left the meeting at 2:20 p.m. due to another commitment. Judge Roberts sat in the Chair's position from this point till the meeting adjourned.

NH State Police, Trooper Marcus Harring. After Judge Robert's outlined the extension request of Trooper Marcus Harring, who is still deployed on active duty, on a motion by Chief Russell, seconded by Chief Morency, the Council voted unanimously to grant the military extension to Trooper Harring through June, 2007.

Department of Corrections, Corrections Officer Ciprian Susca. After Judge Roberts outlined the request of Corrections Officer Ciprian Susca for a medical extension through June, 2007, on a motion by Chief Dodge, seconded by Chief Russell, to grant the extension, the Council voted unanimously to grant the medical extension to Corrections Officer Susca through June, 2007.

Recruit Physical Fitness Program. On a motion by Chief Dodge to table this agenda item to a later date, seconded by Chief Morency, the Council voted unanimously to table the agenda item due to time constraints.

State Accreditation Program Draft. On a motion by Chief Dodge to table this agenda item to a later date, seconded by Chief Morency, the Council voted unanimously to table the agenda item due to time constraints. Chief Russell noted that he had read through this draft and commended Major Stafford on the fine job he had done on this project.

New Business

Nonpublic Session – To Discuss Personnel Matters

Chairman Prozzo requested a nonpublic session to discuss some personnel matters.

Following a motion made by Chief Dodge, seconded by Sheriff Carr, the Council voted unanimously on a roll-call vote to enter into a nonpublic session at 11:20 a.m..

Following the discussion of a personnel matter, on a motion made by Sheriff Carr, seconded by Chief Russell, the Council voted unanimously to seal the minutes of the nonpublic session.

Chief Morency then made a motion, seconded by Judge Roberts, which carried unanimously by the Council on a roll-call vote to exit the nonpublic session at 11:30 a.m.

Upon return to public session, on a motion be Colonel Booth that the Council accept with regret the voluntary resignation of Keith H. Lohmann, effective February 1, 2007, seconded by Judge Champagne, the Council voted to accept Keith Lohmann's resignation.

Colonel Booth then made a motion, seconded by Chief Morency, to recommend that Donald L. Vittum succeed Keith Lohmann as Director of PSTC for a term of four (4) years, the Council voted unanimously to recommend Donald Vittum as the next Director of PSTC for a period of four (4) years.

Decertification/Suspensions/Revocations/Surrenders/Certification Eligibility Hearings

There were no new decertification hearings this month.

Prior Training and Experience Requests

Full-Time

Joseph Morganella, UNH Police Department. In the matter of the PT&E request of Officer Joseph Morganella, on a motion by Chief Russell, seconded by Deputy Attorney General Bud Fitch, that Officer Joseph Morganella of the UNH Police Department be granted PT&E for full-time certification based upon staff recommendation, the Council voted unanimously to grant Officer Joseph Morganella PT&E without any further requirements other than updating his First Aid/CPR, if lapsed.

Part-Time

Scott A. Talbot, Surry Police Department. In the matter of the PT&E request of Scott A. Talbot, on a motion by Chief Russell, seconded by Sheriff Carr, that Scott A. Talbot of the Surry Police Department be denied PT&E, without prejudice, for part-time certification, the Council voted unanimously to deny Scott A. Talbot part-time certification without prejudice and have him resubmit his request after his department provides documentation that Mr. Talbot's 1983 misdemeanor conviction for the criminal mischief charge has been annulled.

Requests for Extensions

Full-Time

Frank Hinkle, Alexandria Police Department

After the Interim Director outlined the reason for the request for extension through the 143rd Academy, on a motion by Chief Dodge, seconded by Chief Morency, the Council

voted unanimously to grant the extension through the 143rd Full-Time Academy to Officer Hinkle, Alexandria Police Department.

Donald W. Gates, III Nottingham Police Department

After the Interim Director outlined the reason for the request for extension through the 143rd Academy, on a motion by Chief Dodge, seconded by Chief Morency, the Council voted unanimously to grant the extension through the 143rd Full-Time Academy to Officer Gates, Nottingham Police Department.

Edwin D. Pitman, Alton Police Department

After the Interim Director outlined the reason for the request for extension through the 143rd Academy, on a motion by Chief Dodge, seconded by Chief Morency, the Council voted unanimously to grant the extension through the 143rd Full-Time Academy to Officer Pitman, Alton Police Department.

Specialized Training Grants

Command Training

Keene Police Department. The Interim Director outlined the request of the Keene Police Department to send **Lieutenant Shane Maxfield** to Roger Williams University's Command Training Series Mid-Management Course in Portsmouth, Rhode Island from March 4 - 16, 2007 for a maximum of \$1,000. **On a motion by Chief Dodge, seconded by Chief Morency, the Council unanimously approved the grant request of the Keene Police Department to send Lieutenant Maxfield to Roger Williams Mid-Management Course in March, 2007.**

Other Training

North Hampton Police Department. The Interim Director outlined the request of the North Hampton Police Department to send **Chief Brian Page** to the Boston Division of the FBI's New England Law Enforcement Executive Development Seminar (NELEEDS) at the Foxwoods Resort in Mashantucket, CT from February 26 - March 2, 2007 at a maximum cost of \$690.00. **On a motion by Chief Dodge, seconded by Chief Morency, the Council unanimously approved the grant request of the North Hampton Police Department to send Chief Page to NELEEDS in February, 2007.**

Barrington Police Department. The Interim Director outlined the request of the Barrington Police Department to send **Officer William L. Chute** to the Pedestrian/Bicycle Crash Investigation Course taught by IPTM at the Abington Township Police Department in Abington, PA from March 18 – March 23, 2007 at a cost of \$796.66. **On a motion by Chief Russell, seconded by Chief Morency, the Council unanimously**

approved the grant request of the Barrington Police Department to send Officer Chute to the Pedestrian/Bicycle Crash Investigation Course in March, 2007.

Other Business

Requests to Exceed the 1300-hours Rule

The Interim Director outlined the request of the **Bow Police Department** that part-time **Lieutenant John MacLennan** be granted a waiver of the 1300-hours rule and be permitted to work unlimited hours based upon his full-time certification. He was full-time certified on 5/4/79 and was employed full-time by the Laconia Police Department from September 1, 1978 until he retired on May 31, 2005. He has been part-time employed by the UNH Police Department since March 30, 2005 and part-time employed by the Bow Police Department since April 26, 2005. Lt. MacLennan is currently still employed with both of these departments in part-time capacities. **On a motion by Chief Morency, seconded by Chief Dodge, to grant the waiver of the 1300-hours rule, the Council unanimously granted the 1300-hours rule waiver to Lt. John MacLennan and permitted him to work unlimited hours based on his full-time certification.**

The Interim Director outlined the request of the **Dunbarton Police Department** that part-time **Officer Gary R. Guevin** be granted a waiver of the 1300-hours rule and be permitted to work unlimited hours based upon his full-time certification. He was full-time certified on March 14, 1986 and was employed full-time by the Hillsborough County Sheriff's Department from July 22, 1985 until March 28, 1987. He was then employed full-time by the Goffstown Police Department from March 31, 1987 until June 27, 2003 at which time he returned to Hillsborough County Sheriff's Department on June 30, 2003 where he was employed until he retired on August 1, 2005. He became part-time employed by the Dunbarton Police Department on October 18, 2006. **On a motion by Chief Morency, seconded by Chief Dodge, to grant the waiver of the 1300-hours rule, the Council unanimously granted the 1300-hours rule waiver to Officer Gary Guevin and permitted him to work unlimited hours based on his full-time certification.**

The Interim Director outlined the request of the **Sullivan County Sheriff's Department** that part-time **Deputy Sheriff Lieutenant Barry J. Hunter** be granted a waiver of the 1300-hours rule and be permitted to work unlimited hours based upon his full-time certification. He was full-time certified on April 14, 1978 and was employed full-time by the NH State Police from March 3, 1978 until he retired on December 30, 2006. He became part-time employed by the Sullivan County Sheriff's Department on January 8, 2007. **On a motion by Chief Morency, seconded by Chief Dodge, to grant the waiver of the 1300-hours rule, the Council unanimously granted the 1300-hours rule waiver to Deputy Sheriff Lieutenant Barry J. Hunter and permitted him to work unlimited**

hours based on his full-time certification.

The Interim Director outlined the request of the **Sullivan County Sheriff's Department** that part-time **Deputy Sheriff J. Michael Johnson** be granted a waiver of the 1300-hours rule and be permitted to work unlimited hours based upon his full-time certification. He was full-time certified on December 9, 1983 and was employed full-time by the Newport Police Department from August 11, 1983 until he resigned on September 6, 1985 and then he was full-time employed by the State Police from September 6, 1985 until he retired on April 30, 2004. He became part-time employed by Grantham Police Department on May 1, 2004, by Claremont Police Department on April 18, 2005, and by Sunapee Police Department on August 3, 2006. He was hired part-time by the Sullivan County Sheriff's Department on January 8, 2007. **On a motion by Chief Morency, seconded by Chief Dodge, to grant the waiver of the 1300-hours rule, the Council unanimously granted the 1300-hours rule waiver to Deputy Sheriff J. Michael Johnson and permitted him to work unlimited hours based on his full-time certification.**

Fitness Testing Extensions

Bath Police Department. Cassie Erickson outlined **Chief Dennis MacKay's** request for a medical extension. Chief MacKay decided to be heard in public session. Chief MacKay had exhausted his two years of medical extensions and was requesting additional time since he had failed to pass the run on three occasions; the first time by a minute, the second time by 43 seconds and the third time by 2 minutes. Chief MacKay requested the Council to review the road conditions on which he ran and requested the Council to consider his run time to be in compliance with the fitness testing requirements. Chief MacKay suggested that it was not unreasonable to conclude that 43 seconds over the allotted run time was the result of the cumulative total of 1.75 miles and in addition there were multiple elevation changes.

Chairman Prozzo noted that this is an RSA and it is not within the Council's authority to grant an extension after the two-year period. The Council could consider taking the matter under advisement giving the Chief some additional time to comply with the requirements while the Council reached a decision or the Council could rule on the matter today. Chief Russell noted, for the record, that he felt that if the Council took the matter under advisement it would, in fact, be circumventing the rule and he would be against such an action. Chief Russell did note that the track conditions that instructors are using to test should be reviewed. Sheriff Prozzo noted that it is the officer's responsibility to meet the PT requirements and there are options to take the PT test in areas other than officer's local area.

After much discussion on the matter, on a motion by Sheriff Carr, seconded by Chief Russell, to suspend Chief Dennis MacKay's certification until such time as he passes the PT requirements, the Council voted unanimously to suspend Chief MacKay's certification. Chief MacKay asked the Council whether he would be reinstated after he passed the PT requirements and the Council indicated that he would

be. Judge Champagne questioned the Council answering “yes” to Chief MacKay’s question about reinstatement. Other Council members agreed that answering “yes” to his question was too open-ended. Sheriff Prozzo indicated that a letter needed to be sent to Chief MacKay clarifying what the Council meant when they referred to his being reinstated.

Chief Russell stated that he wanted that Sergeant who was using that running course as a test course to be spoken to as he felt that was not an appropriate course for PT testing. Judge Roberts suggested that information be gotten from the Sergeant regarding this matter. The Council decided to have the Interim Director look into the matter and advise the Council at the next meeting what he learned from speaking with the Sergeant.

Department of Corrections, Corrections Officer Melissa Smialek requests a fitness extension. Cassie requested that is case be heard in nonpublic session.

Department of Corrections, Assistant Commissioner Les Dolecal recused herself from this hearing.

Following a motion by Chief Dodge, seconded by Chief Morency, the Council voted unanimously on a roll-call vote to enter into a nonpublic session at 12:15 p.m.

Following the discussion of this personnel matter, on a motion made by Chief Dodge, seconded by Chief Russell, the Council voted unanimously to seal the minutes of the nonpublic session.

Chief Dodge then made a motion, seconded by Chief Morency, which carried unanimously by the Council on a roll-call vote to exit the nonpublic session at 12:30 p.m.

Upon return to public session, on a motion by Chief Russell, seconded by Judge Roberts to suspend Department of Corrections Officer Melissa Smialek’s certification until such time as the officer passes the PT testing requirements, the Council voted unanimously, with Assistant Commissioner Les Dolecal, abstaining from the vote, to suspend Officer Smialek’s certification until she passes the PT testing requirements.

Department of Corrections, Corrections Officer Todd Connor’s request for a medical extension has been withdrawn from the agenda due to his passing the fitness testing requirements.

Department of Corrections, Corrections Officer Tobias Wolfe’s request for a medical extension has been withdrawn from the agenda due to his resignation from the Department of Corrections.

Fitness Testing Waiver

Colebrook Police Department, Corporal Joseph Caron. Cassie outlined the request of Corporal Joseph Caron for a Fitness Testing waiver due to the fact that he is still on active military duty and his two years of extensions have been exhausted. Cassie advised the Council that they can issue an extension in this particular instance to comply with federal law. **On a motion by Chief Russell, seconded by Sheriff Carr, to grant the extension to Corporal Joseph Carr, the Council voted unanimously to grant Corporal Caron this extension due to the fact that he is still on active military duty.**

Declaratory Ruling on Application of Pol 404.05 as it pertains to Firearms certifications, specifically paragraph “c”.

Captain Benjamin R. Jean of Police Standards and Training submitted a letter requesting a declaratory ruling in regard to Firearms Instructor Certifications and was present to speak to the Council regarding his request. Captain Jean noted his request has two parts. He stated that under the rules for Firearms Recertification it states that once individuals are certified as firearms instructors they are supposed to attend a council-sponsored firearms refresher course within two-years. What has been occurring is that instructors are not completing the refresher course within the two years and in the past they have been permitted to receive extensions in an inconsistent pattern. Upon review of the rule, Captain Jean indicated he did not feel that the rule gave the authority to grant extensions of time; therefore if the refresher class was not completed in the allotted time, the instructor would have to repeat the entire class.

Captain Jean asked the Council for clarity on two issues: (1) Should PSTC give extensions of time when the allotted period has lapsed and (2) if extensions are going to be permitted that it be standardized and that the certification be restricted until they complete the refresher course.

The Council discussed this matter and how it pertained to the current rule.

On a motion by Deputy Attorney General Bud Fitch that in regard to the time allotment for fulfilling the Firearms Refresher Course for certified firearms instructors that the current rule will be enforced as written, seconded by Chief Russell, the Council voted unanimously, to support this motion and staff will enforce the Firearms Recertification Rule as written.

Chief Morency asked that information about upcoming classes be distributed.

Judge Roberts asked that this topic be put on the March Agenda for further review.

Captain Jean further noted that the rule also states that it has to be a council-sponsored refresher class and he feels that this indicates one that is done at the PSTC facility. In the past, PSTC has accepted refresher courses taken from any approved program. Captain Jean noted that under the first part of the rule it recognizes specific organizations as being acceptable training for the five-day firearms instructor course but under the refresher

course it states that it must be a council-sponsored program and the only council sponsored programs are the ones done at PSTC. The Council discussed what “council-sponsored” actually meant.

Chief Russell asked the Captain if he were comfortable with the instructors taking the course elsewhere. Captain Jean indicated it would have to be reviewed on a case by case basis with submission of the school’s lesson plans to see if it met PSTC’s requirements. Captain Jean was questioning whether the rule’s intent was to get the instructors back to the Academy to get exposed to how the Council wants the material taught, especially if the original school they attended was not at PSTC.

On a motion by Bud Fitch that if firearms instructors attend a director approved recertification course it would be accepted as meeting the council-sponsored firearms refresher requirements, seconded by Sheriff Carr, the Council opened the motion up for discussion. Chief Russell felt that the Council needed to hear how Captain Jean felt about this matter since he is responsible for this area. Captain Jean felt it would be a positive approach to have firearms instructors return to PSTC to recertify at least every so many years. He felt that if the Council continues to allow firearms instructors to initially certify through other programs, these instructors may never come through the Academy for any firearms instructor training and therefore would never be exposed to the approach that is used through our Agency. Captain Jean’s preference is that firearms instructors come here for recertification. Discussion got into the possibility of an amendment of the rule. Chief Russell indicated his vote would go with what Captain Jean feels is appropriate. **Deputy Bud Fitch withdrew his motion after the discussion.**

Cassie suggested that the Council save this discussion for the Retreat and the Rulemaking Process.

Chief Dodge felt that council-sponsored firearms refresher course is very specific and is the course sponsored by the council, meaning the course that is provided here at the Academy. Judge Champagne felt that was an appropriate interpretation to him.

On a motion by Chief Dodge that the rule be adhered to in that the firearms recertification every second year for firearms instructors be done here at PSTC, seconded by Judge Champagne, the Council voted unanimously that all firearms instructors who need to enroll in the firearms refresher course must do so at PSTC.

The Interim Director asked for clarification on expired firearms certifications. The Council agreed that if the firearms instructor has let his/her certification expire no extensions will be given and he/she will have to repeat the entire class.

Gift Acceptance

On a motion by Chief Dodge, seconded by Chief Russell, to accept the donation from the Lee Police Department, in conjunction with Setina Manufacturing, of one (1) Security Partition #7 for the 2006 Dodge Charger for the Defensive Driving Program at a value of \$379.00, the Council voted unanimously to accept this gift and requested staff to send a thank you note to the Lee Police Department/Setina Manufacturing.

General Discussion

Remedial Driving Guidelines. This item was tabled by the Council due to time constraints. The Interim Director noted there is an issue of how many times the recruit is permitted to repeat this course before it is determined that he/she cannot adequately perform this exercise. The Interim Director suggested that this item be held over to the Retreat.

Other Items

The Council canceled the meeting that they had scheduled for February 13th to discuss the PT Waiver issues due to conflicts on that date of several members.

The Council's March Retreat dates for March 26 and March 27, 2007, will be held at the Christmas Farm in Jackson, NH.

Next Meeting Date/Adjournment

After scheduling the next Council Meeting date for 9:00 a.m., Tuesday, February 27, 2007, in the John D. Morton Conference Room, the Council unanimously voted to adjourn the meeting at 3:02 p.m., on a motion by Chief Dodge and seconded by Chief Morency.

Chairman Michael L. Prozzo, Jr.