

Approved Minutes

November 15, 2011

The 412th meeting of the New Hampshire Police Standards and Training Council was called to order at 9:18 a.m. by Chairman Michael L. Prozzo, in classroom one at the Arthur D. Kehas Law Enforcement Training Facility and Campus in Concord, New Hampshire.

Members Present Chairman Michael L Prozzo, Sheriff of Sullivan County; Vice Chairman William Wrenn, Commissioner New Hampshire Department of Corrections; Deputy Attorney General Ann M. Rice; Chief James Sullivan, Hampton Police Department; Chief Peter Morency, Berlin Police Department, Chief Anthony Colarusso, Dover Police Department; Chief Gregory Dodge, Epping Police Department; Colonel Robert Quinn, New Hampshire State Police; Justice Sawako Gardner, 10th Circuit District Division, Portsmouth and Justice James Carroll, 4th Circuit District Division, Laconia.

Members Absent: Sheriff Richard Foote, Cheshire County, and Vice Chancellor Charles Annal, Community College System

Staff Present: Director Donald Vittum, Captain Benjamin Jean; Captain Mark Bodanza; and Investigative Paralegal Anne Paquin

Guests Present: Senior Assistant Attorney General Nancy Smith, Stephen Rowe, Tilton Police Department, Chief Gordon Lowe, Randolph Police Department, Sheriff Gerald Marcoux, Coos County, Sheriff Craig Wiggin, Belknap County, Sergeant Kevin Duffy, New Hampshire State Police, Captain James Lima, Nashua Police Department, Chief Robert Cormier, Tilton Police Department, Chief Vincent Baiocchetti, Belmont Police Department, and Professor Michael Raymond, Community College System

Attorney Conference
Council Orders – Nancy Smith

NOTE: This meeting was not called to order until 9:18 a.m.; the Council consulted with legal counsel, Senior Assistant Attorney General Nancy Smith from 9:05 a.m. until 9:18 a.m.

Call to Order

Chairman Prozzo called the meeting to order at 9:18 a.m.

Chairman's Remarks to Council and PSTC Staff

Chairman Prozzo welcomed two new Council members, Justice Sawako Gardner of the 10th Circuit District Division, Portsmouth and Justice James Carroll of the 4th Circuit District Division, Laconia, and thanked them for agreeing to serve on the Council.

Approval of Minutes

Deputy Attorney General Ann Rice moved for the Council to approve the minutes of the September 27, 2011 Council meeting. Following a second by Commissioner Wrenn the voice vote of the Council was unanimous, 9-0 in favor.

Previously Unfinished Business

Stephen Rowe of the Tilton Police Department was present to address the Council concerning his eligibility for employment and a request for extension. When asked by Chairman Prozzo if he preferred a public or nonpublic session, Mr. Rowe requested a public session.

Captain Mark Bodanza, representing Police Standards and Training staff stated that this was not a hearing today. Mr. Rowe was hired by the Tilton Police Department, and while he was employed as a police officer he also held a private investigator's license. New Hampshire RSA 106-F:2-a, you cannot hold a police certification simultaneously with a private investigator's license. Last month the Council found that Stephen Rowe was not eligible for certification for that reason. Mr. Rowe requested permission to speak to the Council for his issue of eligibility. The question before the Council today is whether he is eligible for hire.

Stephen Rowe addressed the Council regarding his employment history and eligibility for hire. He was previously employed by Downeast Investigations. That company was dissolved in early 2011; however Mr. Rowe was still listed as an employee, as Downeast Investigations had only filed paperwork dissolving the company with the New Hampshire Secretary of State's Office, not the state's Licensing Bureau. The Licensing Bureau listed Mr. Rowe as an employee of Downeast Investigations, and still a license holder. Mr. Rowe contacted his prior employer, Jeffrey Call, the owner of Downeast Investigation, and informed him of the problem. The matter was cleared up when Mr. Call submitted two letters to New Hampshire's Licensing Bureau that stated the company was dissolved and that Mr. Rowe had not worked for Downeast Investigations since February, 2011.

Mr. Rowe provided the Council with binders containing information on his employment history, resume' and training certificates for review.

Mr. Rowe asked the Council to grant eligibility for his part time certification.

Chairman Prozzo confirmed with Mr. Rowe that Mr. Rowe had not worked as a police officer for Tilton since September 3, 2011. Mr. Rowe stated he had only worked in an administrative capacity or when needed to testify in court.

Captain Mark Bodanza was sworn in by Chairman Prozzo, and then passed out a timeline of Mr. Rowe's employment history to the Council.

Mr. Rowe last worked for the Ashland Police Department; he left Ashland in March 2010. From that point until he was hired by the Tilton Police Department, he was out of law enforcement employment for one year and 12 days. He was hired by Tilton Police Department on March 3, 2011.

Captain Bodanza explained that there were two different cases with respect to Mr. Rowe's employment situation; one of them will be dealt with through the agency. For the first case, there was improper paperwork notification by the agency to Police Standards and Training, which was not Mr. Rowe's fault.

The second case is specific to Mr. Rowe. In the background investigation PSTC revealed that Mr. Rowe did hold a private security officer license in New Hampshire. Under RSA 106-F:2-a an individual is not allowed to be a private security officer and a police officer at the same time. Mr. Rowe stated that he did not do any work privately. The implications are great that a private security officer, who is also a police officer, could be running information through SPOTS for the private corporation. In that case it would be a misdemeanor B or A or even a felony. That issue specifically disqualified him for certification at the last Council meeting on September 27, 2011.

The evidence is that he has rectified the situation and this is no longer an issue for his eligibility.

The agency issue is that paperwork, the Form A to hire him was not received for nearly four months after the time he was hired.

The Council will next consider Mr. Rowe's request for an extension for the 157th Police Academy, also his Prior Training and Experience request. If that was the only issue before the Council, Mr. Rowe would be required to do the fitness test because he has been out of law enforcement for greater than 30 days, and also complete a medical exam before he would be eligible to be certified again. Since he was hired on March 3, 2011, his six months to become certified expired on September 3, 2011. He is effectively no longer able to work, because his extension was denied at the September 27, 2011 Council meeting.

Council members inquired about Mr. Rowe's status and his private investigator's license. Mr. Rowe confirmed that he never worked on his own as a private investigator, and that the license he held was through his employer only.

Council members asked Captain Bodanza for the staff's recommendation. Captain Bodanza stated that the issue that made Mr. Rowe ineligible for hire has been cleared up. The issues before Council are, is he eligible for hire, if he is then Council can grant his request for extension and his prior training and experience request.

Motion by Deputy Attorney General Ann Rice, based on the evidence that we have heard, we find that he is eligible for certification. The motion was seconded by Chief Dodge, and the Council voted unanimously 9-0 in favor of this motion.

Mr. Rowe asked a further question about his certification status. The paperwork he received from Police Standards and Training is about part time certification. He is currently in the process of applying for a full time position. Will he have to come before the Council again for a full time certification?

Captain Bodanza answered that based on the last Council meeting, if he has a full time certification, a full time certification will be returned.

Director Vittum answered that the staff would have to receive a Form A for a full time hire position before that question was answered.

Captain Bodanza stated that the extension that was filed on Mr. Rowe's behalf by Tilton Police Department was for a part time position.

Chairman Prozzo stated that Mr. Rowe's request for extension could be acted upon now by the Council; it was previously unfinished business from the September 27, 2011 Council meeting.

Motion by Commissioner Wrenn that the Council grants an extension to Stephen Rowe of the Tilton Police Department, the motion was seconded by Chief Dodge, with a unanimous vote in favor of the motion 9-0.

New Business

Chairman Prozzo convened a hearing for Chief Gordon Lowe of the Randolph Police Department to show cause why the Council should not suspend or revoke his law enforcement certification pursuant to Pol 402.02(a)(4). Chief Lowe was accompanied by Sheriff Gerald Marcoux of Coos County. When asked, Chief Lowe requested a non public session.

(Prior to the session, Judge Carroll and Chief Morency recused themselves).

Motion by Chief Dodge to enter a non public session pursuant to RSA 91-A: 3, II to discuss personnel issues. The motion was seconded by Commissioner Wrenn, the Council voted unanimously in favor 9-0 in a roll call vote. The non public session began at 9:49 a.m.

Motion by Commissioner Wrenn to seal the minutes of the non public session. The motion was seconded by Chief Dodge with the Council voted unanimously in favor 9-0.

Motion by Commissioner Wrenn to exit the non public session. The motion was seconded by Chief Dodge with a unanimous roll call vote by Council in favor 9-0.

Council exited the non public session at 10:10 a.m.

Both Deputy Attorney General Ann Rice and Colonel Robert Quinn stated that while their agencies took part in this cases, neither one of them had any personal involvement.

Motion by Colonel Quinn that the Council not revoke or suspend Chief Lowe's certification pursuant to Pol 402.02 (a) (e) (f) (2), suspension or revocation would not have any rehabilitative value; based on today's testimony. The motion was seconded by Commissioner Wrenn with a unanimous vote in favor by Council, 7-0.

(Justice Carroll and Chief Morency returned to the meeting).

CONSENT CALENDAR

PT&E Requests

Officer Stephen J. Dockery - Exeter Police Department

Will be granted full-time certification upon successful completion of the medical exam and the entrance fitness test.

Deputy Michael A. Gilman – Rockingham County Sheriff’s Department

Will be granted full-time certification upon successful completion of the medical exam, the entrance fitness test, and the Law Package of the Full-Time Academy, provided first aid and CPR certification are current.

Officer Peter J. Flanagan, Jr. – Manchester Police Department

Will be granted full -time certification upon successful completion of the medical exam, the entrance fitness test, and the Law Package of the Full-Time Academy, provided first aid and CPR certification are current.

Officer Austin R. Goodman – Manchester Police Department

Will be granted full -time certification upon successful completion of the medical exam, the entrance fitness test, and the Law Package of the Full-Time Academy, provided first aid and CPR certification are current.

Officer Brendan J. McKenney – Manchester Police Department

Will be granted full -time certification upon successful completion of the medical exam, the entrance fitness test, and the Law Package of the Full-Time Academy, provided first aid and CPR certification are current.

Officer Jeffrey B. Brown – Henniker Police Department

Will be granted full-time certification upon successful completion of the medical exam and the entrance fitness test.

Officer Christopher M. O’Toole – Danville Police Department

Will be granted part-time certification upon successful completion of the medical exam and the entrance fitness.

Officer Jesse B. Hamlin – Danville Police Department

Will be granted part-time certification upon successful completion of the medical exam and the entrance fitness.

Addendum #3 to November 15, 2011 Nonpublic Agenda

Robert Acres – North Hampton Police Department

Will be granted full -time certification upon successful completion of the medical exam, the entrance fitness test, and the Law Package of the Full-Time Academy, provided first aid and CPR certification are current.

Requests for Extensions

Note: Extensions granted until fitness testing for requested Academy, and, if testing is successful, through the end of the requested Academy.

Full-Time Police Officer Academy

157th Academy – 01/09/2012 to 4/13/2012 (fitness test 12/19/11)

Officer Calvin L. Kapos – Auburn Police Department

Was granted an extension through the date of the entrance fitness test and, if successful, through the end of the 157th Academy with the stipulation that Officer Kapos must remain actively enrolled in the 157th Academy.

Officer Eric D. Benjamin – Gorham Police Department

Was granted an extension through the date of the entrance fitness test and, if successful, through the end of the 157th Academy with the stipulation that Officer Benjamin must remain actively enrolled in the 157th Academy and may continue to work only in the direct presence of a certified officer.

Officer James H. Hoyt, II – Newington Police Department

Was granted an extension through the date of the entrance fitness test and, if successful, through the end of the 157th Academy with the stipulation that Officer Hoyt must remain actively enrolled in the 157th Academy and may continue to work only in the direct presence of a certified officer.

Officer Joshua T. Wrobleski – Kensington Police Department

Was granted an extension through the date of the entrance fitness test and, if successful, through the end of the 157th Academy with the stipulation that Officer Wrobleski must remain actively enrolled in the 157th Academy.

Deputy Matthew A. Poulicakos – Hillsborough County Sheriff's Department

Was granted an extension through the date of the entrance fitness test and, if successful, through the end of the 157th Academy with the stipulation that Deputy Poulicakos must remain actively enrolled in the 157th Academy and may continue to work only in the direct presence of a certified officer.

Deputy Brian J. Pitti – Cheshire County Sheriff's Department

Was granted an extension through the date of the entrance fitness test and, if successful, through the end of the 157th Academy with the stipulation that Deputy Pitti must remain actively enrolled in the 157th Academy and may continue to work only in the direct presence of a certified officer.

Part-Time Police Officer Academy

261st Academy 02/04/12 – 05/04/12 (fitness test 01/21/12)

Deputy Anthony S. Fowler – Hillsborough County Sheriff's Department

Was granted an extension through the date of the entrance fitness test and, if successful, through the end of the 261st Part-Time Academy with the stipulation that Deputy Fowler must remain actively enrolled in the 261st Part-Time Academy and may continue to work only in the direct presence of a certified officer.

Requests for Specialized Training Grants Funds

Newport Police Department was granted funds for **Corporal Ernest Rowe** to attend the FBI-LEEDA Command Institute for Law Enforcement Executives in Myrtle Beach, SC from December 10 to December 16, 2011. 795.58.

Concord Police Department was granted funds for Sgt Joseph Wright to attend Roger Williams Command Training Series: First Line Supervisor Course in Portsmouth, RI from February 27, 2012 to March 9, 2012. \$1,000.

Portsmouth Police Department was granted funds for Lt. Russell Russo and Lt. Darrin Sargent to attend Roger Williams Command Training Series: First Line Supervisor Course in Portsmouth, RI from February 6, 2012 to February 17, 2012 \$2,000, (\$1,000 per officer).

Ongoing Physical Fitness Testing

Requests for Fitness Testing Extension

The Council approved requests for medical extensions for fitness testing for the following officers; to comply with requirements for ongoing fitness testing through June 30, 2012

PPO Ian Stringer, New Hampshire Department of Corrections

Initial compliance date: December 31, 2011

Sgt Thomas Dronsfield, Jr. Lee Police Department

Initial compliance date: December 31, 2011

Chief Stuart Chase, Wolfeboro Police Department

Initial compliance date: December 31, 2011

PPO Matthew Spanos, NH Department of Corrections

Initial compliance date: December 31, 2011

Motion was made by Chief Sullivan to accept the consent calendar, seconded by Chief Colarusso, with the Council's unanimous vote in favor 9-0.

Addendum #1 to November 15, 2011 Nonpublic Agenda Non Consent

Officer Andrew Strickland – Campton Police Department.

Was granted an extension through the date of the entrance fitness test and, if successful, through the end of the 158th Academy with the stipulation that Officer Strickland must remain actively enrolled in the 158th Academy and may continue to work only in the direct presence of a certified officer.

Motion by Chief Colarusso to grant the extension to Officer Strickland, seconded by Deputy Attorney General Ann Rice, with a unanimous vote in favor by the Council 9-0.

Additional Previously Unfinished Business

SWAT/SOU

Captain Bodanza introduced members of the SWAT/SOU working group. Sheriff Craig Wiggin, Belknap County, Sergeant Kevin Duffy, New Hampshire State Police, Captain James Lima, Nashua Police Department, and Chief Robert Cormier, Tilton Police Department.

Captain Bodanza explained that the organization of the working group had been directed by then Attorney General Kelly Ayotte, with a motion proposed by Deputy Attorney General Bud Fitch at the October 27, 2008 Council meeting. The proposal was to study the SWAT/SOU teams in New Hampshire.

This morning several members of the team were in attendance to present the final draft of the recommended guidelines for Council's consideration.

Sheriff Wiggin summarized the guidelines, and took questions from Council members.

Chairman Prozzo thanked the working group for their efforts in this important endeavor. Some changes to the document were suggested, and the working group will return for next month's meeting for adoption of the recommended standard.

General

Addendum #4, The Cadet Academy, Acceptance of Gift

Captain Bodanza announced to Council members that PSTC had the opportunity to host the Police Explorers award banquet on November 5, 2011. For the Chairman's consideration for the Council, the Police Explorers have awarded the Police Standards and Training Council with a plaque of appreciation for hosting the awards banquet. This plaque was presented to the Chairman for approval of acceptance as a gift from the Police Explorers program.

Motion by Commission Wrenn to accept the plaque from the Police Explorers, with Deputy Attorney General Ann Rice seconding the motion. The Council voted unanimously in favor of the motion 9-0.

NHTI and the Police Cadet Academy

Captain Bodanza provided Council members with a copy of a letter dated November 15, 2011 that Director Vittum had previously sent to all of them. The letter details NHTI putting signs on the Arthur Kehas property and also naming of the Council in a contract involving the Cadet Academy.

Chief Vincent Baiocchetti and Professor Michael Raymond were introduced to the Council.

Director Vittum explained that he became aware of a written contract between the Police Cadet Academy and NHTI. The contract language included Police Standards and Training's facility use if there was space available. Director Vittum was not included in any discussion about the contract. Any time that someone would like to use PSTC's facility PSTC should be contacted and asked. Director Vittum stated that it was inappropriate to name another entity in a contract without any discussion or notice. The Director wanted to make the Council members aware of the situation.

Chief Baiocchetti summarized the history of the cadet academy and clarified that there were no expectations from the Police Cadet Academy on Police Standards and Training. The contract stated we will inquire about using PSTC. Chief Baiocchetti stated he is only interested in keeping Cadet Academy at the Tech.

Director Vittum asked about the language in the contract, has the language regarding use of PSTC been removed?

Chief Baiocchetti stated he was not sure, but as far as he knew, PSTC was not available.

Director Vittum stated that he'd brought this information to the Council today because he felt the NHTI had no right to put Police Standards and Training in a contract, which ultimatum stated that PSTC is located on the NHTI campus.

Commissioner Wrenn commented that he thought this had to do with the Tech and Vice President Steve Caccia, student affairs, the author of the contract. The issues have to do with him, and not Chief Baiocchetti and the Police Cadet Academy. Commissioner Wrenn stated that the Council should address the signage and the contract issue together, with (Vice President Caccia) and not with these gentlemen (Chief Baiocchetti and Professor Raymond).

Chief Colarusso agreed, commenting they had no authority to put PSTC in a contract.

Chairman Prozzo stated that was agreeable to meet with NHTI personnel to discuss the subject.

Chief Baiocchetti agreed to continue communicating with Director Vittum. Director Vittum did not sign the aforementioned contract, and there is no contractual obligation between the Police Cadet Academy the Tech and PSTC.

Chief Colarusso wanted to be clear that the Council was in support of the Police Cadet Academy.

Chairman Prozzo made a request to Professor Raymond, to which he agreed, that he make contact with Vice President Caccia so they can meet and discuss the contract and the signage.

Michelle Grimes – Civilian request to attend Animal Abuse Investigations class in January 2012. Captain Bodanza explained that this was a contract class with an outside instructor. Michelle Grimes is not a law enforcement officer, she is a civilian. The matter for the Council to consider is this out of state, non law enforcement request.

Director Vittum was asked for his thoughts by Chairman Prozzo. Director Vittum was concerned that she was not law enforcement certified, and not sponsored by a town or a police department.

Motion by Chief Sullivan to deny Michelle Grimes request to attend the Animal Abuse Investigations class, with Chief Dodge seconding the motion. The Council voted unanimously in favor of the motion 9-0.

NHTI Signage

Director Vittum received a phone call stating that NHTI would like to erect a sign right by the Arthur Kehas sign. Director Vittum asked that the sign not be put up until he arrived at PSTC. He later learned that signs were already put up around the campus, under the directory board, Community College, with Police Standards and Training. Director Vittum was informed that there were meetings for over two years regarding the signs, he was never contacted about the signs. One issue is perception, (that PSTC is under the school), PSTC is administratively attached to the school, the school has a seat on our board. If NHTI wanted to add PSTC on their sign, they should have come to the Council for permission, and this is why the letter was sent to all Council members on November 15th.

The Council asked if this was something that could be added to the pending discussion with Vice President Caccia. Chairman Prozzo agreed that both he and Commissioner Wrenn will meet with Vice President Caccia in the future to discuss the contract and signage issues.

Discussion ensued about the property. The property is under PSTC authority, it is state land and the building belongs to the Council. There should be communication between NHTI and the Council.

Correspondence

Chairman Prozzo was directed to the appointment letters of both Justice Carroll and Justice Gardner, and once again welcomed them as Council members.

Next Meeting Date/Adjournment

The next meeting of the New Hampshire Police Standards and Training Council will be held on December 13, 2011, at nine o'clock in the morning.

Chairman Prozzo stated that Council would return to the regular schedule in January. Changes in the schedule were made last month with the lack of a quorum for October; the November and December dates were changed in order for Chairman Prozzo to be present.

The Council approved the staff's proposal to have the "Looking Beyond the Traffic Ticket" awards held after the December 13th Council meeting. The awards will run in conjunction with the Council's annual holiday lunch provided by Police Standards and Training Council staff.

Commissioner Wrenn took the time to announce Captain Bodanza's promotion and to congratulate him.

Upon a motion by Chief Colarusso, seconded by Commissioner Wrenn, the Council voted unanimously 9-0 to adjourn the meeting at 11:20 a.m.

Respectfully submitted,



Chairman Michael L. Prozzo, Jr.