



Sheriff Michael L. Prozzo, Jr.
Chairman

State of New Hampshire
POLICE STANDARDS & TRAINING COUNCIL
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Donald L. Vittum
Director

Approved Minutes

January 22, 2013

The 426th meeting of the New Hampshire Police Standards and Training Council was called to order at 9:10 a.m. by Chairman Michael J. Prozzo, Jr. in classroom one at the Arthur D. Kehas Law Enforcement Training Facility and Campus in Concord, New Hampshire.

Members Present: Chairman Michael J. Prozzo, Jr., Sheriff of Sullivan County; Chief James Sullivan, Hampton Police Department; Chief Peter Morency, Berlin Police Department; Colonel Robert Quinn, New Hampshire State Police; Chief David Cahill, Sunapee Police Department; Chief Anthony Colarusso, Dover Police Department; Commissioner William Wrenn, Jr., New Hampshire Department of Corrections; Judge Sawako Gardner, 10th District Division, Portsmouth; Judge James Carroll, 4th District Division Laconia; (*arrived at approximately 9:20 a.m.) and Attorney General Michael Delaney.

Members Absent: Vice Chancellor Ronald Rioux; Community College System of New Hampshire.

Staff Present: Director Donald Vittum (arrived at 9:16 a.m.), Captain Benjamin Jean, Captain Mark Bodanza, Chief Timothy Merrill and Investigative Paralegal Anne Paquin.

Guests Present: Officer Robert Gauthier, Pittsfield Police Department.

Approval of Minutes

Approval of minutes from the November 27, 2012 meeting had been postponed as many of the Council members present during that meeting were absent at the December 18, 2012 meeting.

Motion by Judge Gardner, seconded by Chief Cahill to approve the November 27, 2012 Council meeting minutes, the vote was unanimous in favor 8-0.

Approval of minutes from the December 18, 2012 meeting.

Motion by Chief Sullivan, seconded by Chief Cahill to approve the December 18, 2012 Council meeting minutes, the vote was unanimous in favor 8-0.

Chairman Prozzo asked that Council member take some items on the agenda out of order this morning. Council proceeded with the approval of the consent calendar.

CONSENT CALENDAR

PT&E Requests

Officer Ralph McClellan, Lyndeborough Police Department

(DOH: 12/12/12) will be granted certification upon successful completion of the medical exam and entrance fitness test.

Officer Richard Young, Jr., Carroll County Sheriff's Office

(DOH: 12/27/12) will be granted certification upon successful completion of the medical exam, entrance fitness test, and the Full-time Law Package of the Full-Time Police Officer Academy.

Officer Ashley Pepelis, Lyndeborough Police Department

(DOH: 12/12/12) will be granted certification upon successful completion of the medical exam, entrance fitness test, and the Full-time Law Package of the Full-Time Police Officer Academy.

Officer Jason MacLeod, Rockingham County Sheriff's Office

(DOH: 01/02/13) will be granted certification upon successful completion of the medical exam, entrance fitness test, and the complete Part Time Academy

Officer Joseph Costa, Rockingham County Sheriff's Office

(DOH: 01/03/13) will be granted part-time officer certification upon successful completion of the medical exam, entrance fitness test, and either the complete Part-Time Academy or the Law Package of the Full-Time Police Officer Academy.

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

160th Academy January 7, 2013 to April 12, 2013; entrance fitness test December 17, 2012.

161st Academy June 10, 2013 to September 13, 2013; entrance fitness test May 28, 2013

Part-Time Police Officer Academy

263rd Academy February 9, 2013 to May 10, 2013; entrance fitness test January 26, 2013

(Extension Full Time)

Officer Christopher Heney, New Hampton Police Department

(DOH: 11/16/12 Not Part-time certified) Will be granted the extension through the date of the entrance fitness test and, if testing is successful, through the end of the 161st Full Time Academy with the stipulation that Officer Heney must remain actively enrolled in the 161st Full Time Academy and may continue to work only in the direct presence of a certified police officer.

Officer Kyle Willett, North Hampton Police Department

(DOH: 10/5/12 Not Part-time certified) Will be granted the extension through the date of the entrance fitness test and, if testing is successful, through the end of the 160th Full Time Academy with the stipulation that Officer Willett must remain actively enrolled in the 160th Full Time academy and may continue to work only in the direct presence of a certified police officer.

Officer Matthew A. Tyler, New Castle Police Department

(DOH: 11/5/12 Part-time certified) Will be granted the extension through the date of the entrance fitness test and, if testing is successful, through the end of the 161st Full Time Academy with the stipulation that Officer Tyler must remain actively enrolled in the 161st Full Time Academy.

(Extension Part Time)

Officer Robert Lombard, Hillsborough County Sheriff's Department

(DOH: 09/07/12) Will be granted an extension through the date of the entrance fitness test and, if testing is successful, through the end of the 263rd Part Time Academy with the stipulation that Officer Lombard must remain actively enrolled in the 263rd Part Time Academy and may continue working only in the direct presence of a certified officer, unless he satisfactorily completes the agency's FTO program, then normal supervision.

Officer Cory Rufo, East Kingston Police Department

(DOH: 08/31/12) Will be granted an extension through the date of the entrance fitness test and, if testing is successful, through the end of the 263rd Part Time Academy with the stipulation that Officer Rufo must remain actively enrolled in the 263rd Part Time Academy and may continue working only in the direct presence of a certified officer.

Officer Adam Gaudreault, Madbury Police Department

(DOH: 08/08/12) Will be granted an extension through the date of the entrance fitness test and, if testing is successful, through the end of the 263rd Part Time Academy with the stipulation that Officer Gaudreault must remain actively enrolled in the 263rd Part Time Academy and may continue working only in the direct presence of a certified officer.

Officer Robert Roy, South Hampton Police Department

(DOH: 09/10/12) Will be granted an extension through the date of the entrance fitness test and, if testing is successful, through the end of the 263rd Part Time Academy with the stipulation that Officer Roy must remain actively enrolled in the 263rd Part Time Academy (law package / test out option) and may continue working only in the direct presence of a certified officer.

Officer Joseph Chivell, Bristol Police Department

(DOH: 08/13/12) Will be granted an extension through the date of the entrance fitness test and, if testing is successful, through the end of the 263rd Part Time Academy with the stipulation that Officer Chivell must remain actively enrolled in the 263rd Part Time Academy and may continue working only in the direct presence of a certified officer

Officer James Berry, Northfield Police Department

(DOH: 06/26/12) Will be granted an extension until the next Full Time Academy entrance fitness test, May 28, 2013.

Requests for Specialized Training Grant Funds Balance: \$15,426.00.

Concord Police Department Will be granted \$1,000 for Sergeant Timothy King to attend the First Line Supervisor Course at Roger Williams University, Portsmouth, RI from April 1, 2013 to April 12, 2013.

NH State Police Will be granted \$340.00 per officer totaling \$680.00 for TFC M. Pelletier and TPR T. Conlon to attend the Post Crash Inspection Course at the Manchester Community College in Manchester NH from February 4 to April 24, 2013 (every Wednesday for 12 weeks from 1400 to 1800 hours).

Requests for Fitness Testing Extensions Ongoing Physical Fitness Testing

The following individuals have fitness dates of 2011 and were granted their third medical extension for fitness testing which will expire June 30, 2013.

Nichole Collins, Nashua Police Department

Stephen Akerstrom, Belmont Police Department

David Miville, Jr., New Hampshire Department of Corrections

Jason Wyatt, New Hampshire Department of Corrections

(END OF APPROVED CONSENT CALENDAR)

Addendum #3 Sheriff Dubois

Extension was granted for an entrance fitness test due to lapse in service.

Motion by Chief Sullivan, seconded by Chief Cahill to approve the Consent calendar including addendum item #3, Council vote was unanimously in favor 8-0.

9:15 Director Vittum arrived.

New Business

Robert Gauthier, Jr. Notice of Hearing pursuant to Pol 402.02(a)(8)(a); Pol 404.06; Pol 404.07 and RSA 188-F27,III-d through

Officer Robert Gauthier, Pittsfield Police Department was present for his hearing. Chairman Prozzo explained the option of having a public or a non-public hearing; Officer Gauthier chose a public hearing.

Chairman Prozzo swore in both Officer Gauthier and Captain Mark Bodanza, Captain Bodanza presented the case to the Council. It was noted that Officer Gauthier was also employed by the New Hampshire Department of Corrections; Commissioner Wrenn stated he would abstain from the vote in this matter.

Officer Gauthier was noticed for this hearing because he was due to participate in three year fitness testing in 2012 and failed to provide a test before the deadline of December 31, 2012. Officer Gauthier was suspended on January 2, 2012. He filed a passing test with medical clearance report form on January 4, 2013 with the staff of PSTC. The filing of the test was "self healing" and his certification was reinstated; however the fact remained that the aforementioned rules were broken.

Captain Bodanza presented a timeline of Officer Gauthier's employment, including information that Officer Gauthier was "grandfathered" for fitness testing for the New Hampshire Department of Corrections, (his date of hire for that agency was *before* January 1, 2001, when RSA 188-F:27 became a requirement). Officer Gauthier also had been grandfathered for a part time police officer certification attained prior to January 1, 2001. There was a lapse in his part time officer certification due to his

employment resignation with the Epsom Police Department and the three year time span before he was hired by Gorham Police Department (2003). He was required to complete the entire part time officer academy again because of this lapse in employment.

This “new” hire date for the Gorham position is what triggered the requirement of on-going three year fitness testing. Officer Gauthier left the Gorham Police Department in 2004, and was hired by the Pittsfield Police Department in 2005. Officer Gauthier completed fitness testing in compliance with RSA 188-F:27 in March of 2007 after being reminded in a letter by Director Vittum. He completed testing again in 2009 after two reminder letters were sent to him at Pittsfield Police Department by Director Vittum.

In 2012, Officer Gauthier was sent a reminder for fitness testing on October 22, 2012, and a phone call by Captain Stafford was made to Pittsfield Police Department on December 27, 2012 to notify the agency of the consequences if Officer Gauthier was not in compliance by December 31. On January 2, 2013, Director Vittum sent a suspension notice to Officer Gauthier at the Pittsfield Police Department because none of the required documents were received.

Captain Bodanza continued his summary stating the staff had received a medical clearance report form dated September 26, 2012 and a passing fitness test dated January 3, 2013. The statute is “self healing” once documents have been received certification will be reinstated. “The information has been received; the question before the Council is because he failed to do anything, does the Council take action against his certification until Pol rule, not under statute; that is where Pol 404.06 and Pol 404.07 come into play in this case”.

Captain Bodanza asked Chairman Prozzo if there were questions from Council members

Attorney General Delaney posed a question about an unsigned RSA 188-F:27 form. Captain Bodanza responded that that document was in addition to an executed RSA 188-F:27 form that had been signed and submitted by Gorham Police Department.

Chairman Prozzo asked Officer Gauthier if he had any questions for Captain Bodanza, or if Council members had any questions, there were no questions at this point.

*Judge Carroll arrived at this point in the hearing, approximately 9:20 a.m.

Officer Robert Gauthier addressed Council members. He explained that he had a tough year personally during 2012, he apologized that he was taking up time for the Council meeting. He went on to say that he had planned on taking a job in the Northern Correctional Facility and was going to resign from the Pittsfield Police Department, therefore he did not think he would need to take his required fitness test in order to maintain his Pittsfield Police Department job. The circumstances changed, he changed his mind about moving north, and he needed to keep his job with Pittsfield. The time had run short for him to take his test, which is why the test was

filed after December 31.

Chairman Prozzo asked Captain Bodanza if he had questions for Officer Gauthier. Captain Bodanza asked Officer Gauthier if he had received the October 22, 2012 letter reminding him to test? The response from Officer Gauthier was that he works sporadically; he had not worked the entire month of November, but received the letter when he came in to work for a shift. Captain Bodanza also asked Officer Gauthier about the medical clearance report form that was dated in September of 2012; Officer Gauthier responded that it had not been dated the day he was at the office for the physical, however he'd gone back to the doctor's office to ask for the medical clearance report form to be signed days before he'd taken the fitness date, and thus the form was back dated to reflect the date of the physical in September.

Follow up by Captain Bodanza revealed that 188-F form was complete by Gorham, but incomplete from Pittsfield.

Chief Cahill commented that Mr. Gauthier should become familiar with the 188-F form; he's been reminded in past about fitness testing and he should cease "wasting all of our time and attend to what he needs to attend to".

Chief Colarusso inquired if a suspension would have any affect on Officer Gauthier's Corrections certification? Chairman Prozzo verified with Captain Bodanza that it would not; Captain Bodanza stating "this suspension has no bearing on his status as correction's officer".

Chairman Prozzo asked for the Council's decision in the matter of Robert Gauthier.

Motion by Chief Colarusso to suspend Robert Gauthier's police certification for 30 days, effective immediately, as a consequence of his actions. The motion was seconded by Chief Morency, and unanimously in favor by the Council 7-0, with Commissioner Wrenn and Judge Carroll abstaining from the vote.

Previous and/or Unfinished Business

Kevin Morales Notice of Hearing pursuant to Pol 402.02 (a) (12) and Pol 402.02 (a) (4) (b)

CO Kevin Morales was not present for this hearing. Captain Bodanza distributed timelines to Council members and also copies of a letter that was forwarded to the staff on behalf of Kevin Morales' former representative counsel. Captain Bodanza noted that there was a conflict with both Commissioner Wrenn and with Judge Carroll for this case.

The decision before the Council was whether or not Kevin Morales should be suspended under Pol 402.02 (a)(4). Captain Bodanza read the rule into the record as follows:

POL 404.02(a)(4)- The Council shall, unless just cause to do otherwise, order the suspension or revocation of the certification of any police or corrections officer for any of the following reasons: (4) The officer has been convicted either prior to or after certification of a crime of moral turpitude or of a crime which tends to bring discredit on the police or corrections service including but not limited to (b) Assault)

Captain Bodanza summarized the timeline of this case for Council members, including dates of hire, certification, promotions, reports of arrest and dispositions from court. He stated that there had been two separate incidents with Kevin Morales within a short period of time, which is why they had been combined, one incident reflected on the other.

In the first arrest on April 11, 2011, Kevin Morales was arrested and charged with Criminal Mischief (RSA 634:2) and False Imprisonment (RSA 633:3). Both class B misdemeanors.

On December 12, 2011, Kevin Morales entered a negotiated agreement in the 4th Circuit Court – Laconia, whereby he entered a Nolo plea to the Criminal Mischief complaint in exchange for the Criminal Mischief being reduced to a violation level offense and the False Imprisonment complaint being Nol Prossed; he was fined \$500.00 suspended for one year on condition of good behavior and continued attendance at the lakes Region Vineyard Church Men’s Group with attendance reported to the prosecutor at 6 and 12 months.

Captain Bodanza explained to Council members that this case was presented to them for consideration to decide whether or not to suspend or revoke Kevin Morale’s certification. Pol 402.02(a)(12), he had entered a nolo plea which was diverted, with a fine and good behavior, this was the first charge to take into consideration.

Captain Bodanza further summarized that the second charge occurred not long after the first charge’s disposition. Nine days after the plea was entered at the 4th District Court, another form G report of arrest by Belmont Police Department was received by the staff at Police Standards and Training.

On December 21, 2011, at approximately 4:45pm, Belmont Police officers responded to the Morales residence for a reported assault in progress. Kevin Morales was arrested for assault and an emergency protective order was issued. Kevin Morales was charged with three counts of Simple Assault, RSA 631:2-a, and Obstructing the Report of a Crime, RSA 642:10, all class A misdemeanors.

On June 29, 2012 Morales, represented by Counsel, entered into a guilty finding on one count of Simple Assault, was fined \$1200 with \$950 suspended for two years on the condition of Good Behavior, Anger Management Evaluation and Compliance with any recommendations. The remaining charges, two Simple Assault against his stepdaughter, and one Assault against his wife, and an Obstructing the Report of a Crime, were all nol prossed by the Belmont Prosecutor.

The second event is Pol 402.02 (a)(4) upon being convicted of assault, whether or not the Council shall suspend Kevin Morale’s corrections certification.

According to the letter provided, Kevin Morales has since left the New Hampshire Department of Corrections.

Chairman Prozzo asked if there were any questions.

Motion by Chief Cahill to revoke Kevin Morales correction's officer certification. The motion was seconded by Chief Sullivan, the Council vote was 7-0 in favor of the motion, with Commissioner Wrenn and Judge Carroll abstaining from the vote.

Christopher Chesley Notice of Hearing pursuant to Pol 402.02 (a) (4) (b)

Captain Bodanza explained that this case was regarding Christopher Chesley, formerly of the New Durham Police Department.

The question before the Council is Pol 402.02 (a) (4), the Council shall unless just cause to do otherwise order the suspension or revocation of the certification of any police or correctional officer for any of the following reasons, (4) the officer has been convicted prior to or after certification of a crime of moral turpitude or of a crime which tends to bring discredit on the police or corrections service including but not limited to (b) Assault.

Captain Bodanza explained that with this case the staff has attempted to serve Mr. Chesley over the past few months with the notice of hearing at the address where staff believed he was living, but the notice of hearing packages were returned, unclaimed.

Captain Bodanza provided Council members with a timeline in this case. The timeline included date of hire at New Durham police department, certification, reports of arrest, warrant and affidavit; resignation from New Durham Police Department and the disposition from Rochester District Court.

Staff at Police Standards and Training received a form G from the Rochester Police Department that outlined their arrest of Christopher Chesley of the New Durham Police Department. The arrest was for three counts of Simple Assault, Domestic Violence related on June 17, 2012. Christopher Chesley was issued a criminal bail order of protection and ordered not to have contact with his wife.

On June 29, 2012, Christopher Chesley resigned from the New Durham Police Department.

On July 24, 2012 Rochester Police Department received information that Christopher Chesley had been calling his wife in violation of the no contact order. After further investigation and a search warrant for Chesley's phone, it was revealed that he had called his wife 70 times between June 28 and July 25, 2012. After this incident, he was arrested again and charged with five counts of Stalking. He was held in county jail for arraignment. On September 10, he entered a guilty plea to two counts of Simple Assault and one count of Stalking. All three of the charges were class A misdemeanors. The negotiated disposition in the case included twelve months house of

corrections, all of which was suspended for two years with good behavior, and two days of pretrial confinement credit, continued counseling until discharge, with monthly reports to the Strafford County Attorney's Office.

Captain Bodanza asked if Council members or Chairman Prozzo had questions.

Chairman Prozzo asked for the Council's decision in this case.

Motion by Chief Cahill to revoke Christopher Chesley's certification as a police officer. The motion was seconded by Chief Sullivan and a unanimous vote of Council members 9-0.

Colonel Quinn began a discussion and asked the staff about the execution of Form B's for resignation. What categories of resignation were on that form, some forms are being filed as "ordinary resignation" when they really aren't "ordinary". Director Vittum explained that many times administrators will file form B's in that manner, which is why staff at Police Standards and Training must be sure to keep an accurate assessment of the file. It may be done as part of negotiations with the officers. Commissioner Wrenn stated that this has been discussed at length many times while he has been on the Council. The Commissioner commented, "Chief's may say, if you resign, I'll put this down as an ordinary resignation before adjudication of the issue or a finding in an investigation. Officers some times will jump to that, they send it in and we have to make heads or tails of it. It's wrong but we haven't been able to figure out a way to correct it."

Colonel Quinn went on to say, "then they end up in someone else's department". Chairman Prozzo remarked that he hoped hiring departments would do complete background investigations.

Chief Colarusso stated, "if you say, resign or be fired, and they resign, they've resigned in lieu of termination, they should be able to put that on the form". Commissioner Wrenn responded that "they'll offer that as something extra, if it does go down as an ordinary resignation you can go to other departments, but if I have to put down it was in lieu of termination then you're going to have a problem, and guys will opt out and say ok I'll resign and put that down. It leaves it to us to try to figure it out which is wrong but again we have not been able to figure out a way to stop it."

Colonel Quinn asked if more options could be added to the form to make it more specific? Commissioner Wrenn pointed out that the "resign in lieu of termination" had been added years back to eliminate the aforementioned, and it hasn't worked. Colonel Quinn suggested "ongoing internal investigation". More discussion ensued and the "Other" selection on the Form B was suggested.

Chief Colarusso suggested an option to make it specific, if the category was there and the agency did not use it, they were omitting information. Chief Cahill noted that this is why it is so important for those hiring to be complete in their background investigations.

Colonel Quinn reiterated his point that when someone is leaving an agency's employment, that is the time to address the issue, not when the person is being hired by a small agency, as they are "stuck holding the bag".

Commissioner Wrenn stated if there is a specific category on the form, it's more difficult for them to ignore, or say they didn't understand it. "In lieu of termination, in lieu of hearing, in lieu of some sort of adjudicated arrest, something that makes it specific you can't say, well, I didn't understand".

Director Vittum stated, "we'll put something together and let you look at it next meeting".

Addendum #2 Jeremy Oleson, Carroll Police Department

Jeremy Oleson Carroll Police Department Request for Medical Extension after January 2, 2013 Suspension

This was a late addendum because the staff did not receive Jeremy Oleson's letter until after the Council agenda deadline. Captain Bodanza summarized the situation for Council members.

Jeremy Oleson was hired by Carroll Police Department July 1, 2009, his Confirmation of Notification of RSA 188-F:27 form signed on June 28, 2009, he attended the 257th Part Time Police Officer Academy and received his Part Time Police Officer Certification on November 13, 2009. A reminder letter was sent October 22, 2012 to inform him that PSTC needed a test or medical extension request in to the Council by December 31, 2012.

On December 27, 2012 staff received a voice mail message from Jeremy Oleson and returned the call. During the phone call Officer Oleson expressed that he had only recently received the October 22, 2013 letter when he came into the department to work a shift. He went on to state that he would not be able to go to the doctor to get a medical extension request for his medical issue until January 2, 2013. He had a medical reason that he could not participate in the fitness test. Staff explained that he would be suspended if PSTC had no information before January 1, 2013.

On January 2, 2013, Officer Jeremy Oleson was suspended for not providing the required medical clearance report and fitness test. The letter to Officer Oleson and to Chief John Trammell was both faxed and mailed.

On January 14, 2013, PSTC received a request for a medical extension for 3 year fitness testing from Officer Jeremy Oleson and on January 18, 2013, a call was placed to the Carroll Police Department; and a message was left for Chief Trammell explaining that the medical extension for Officer Oleson would be on the agenda for the January 22, 2013 Council meeting.

Chairman Prozzo asked what action was necessary, and Captain Bodanza stated that Officer Oleson was in violation of Pol 404.07 for the Council to grant the medical extension.

Question by Commissioner Wrenn, "in his letter it states, I was only made aware of the notice late in December, do you know if there was a delay in receiving it?" Captain Bodanza responded by saying "I'm only deducting that he had this issue in October, that he may have not been working or not been at the police department to receive it, I don't know any other reason why".

Captain Bodanza confirmed for Chief Colarusso, that Jeremy Oleson had not been working since he was noticed by staff at PSTC.

Chief Cahill asked if Officer Oleson had signed a 188-F form, and it was confirmed by Captain Bodanza.

Judge Gardner asked, "Do the officers have some responsibility to know what their requirements are"?

Director Vittum responded "one of the things, your honor, is that we have been very kind here to remind them, to call them, we have gone way over the line, I think to some degree we have gone

so far over the line that they expect it from us. The position that I still think about is, that is *their responsibility*, they sign that form when they get hired, they know that. All we are trying to do is help the department out so that they don't get caught short . . . I think it is a double edged sword. I think we should still try to work with the department on that, but there is responsibility for the officers themselves."

Motion by Chief Morency to suspend Jeremy Oleson's certification for 30 days starting today, automatically reinstate on February 22, 2013 and to grant his request for a medical extension for fitness testing which will expire on June 30, 2012. The motion was seconded by Chief Sullivan and a unanimous vote by Council members 9-0.

Public Hearing for Rules Changes

Captain Bodanza stated that JLCAR had requested PSTC develop a more defined rule for suspended officers, and these rule amendments were the results of their request. Captain Bodanza read the rules' amendments into the record:

Pol 402.02 (k)

k) A person who has had their police, corrections or probation/parole officer certification revoked or suspended shall not be allowed to work in a capacity that would allow them to exercise the same authority as a certified officer or that would give the appearance that they have the same authority as a certified officer during the period of suspension or revocation.
and;

Pol 404.07 (e)

(e) Any officer who is unable to pass the physical performance test shall have his/her certification placed in probationary status for a period of up to 2 years, during which time the officer may submit medical evidence of suitability for testing and of a passed test at any time. If the officer remains unable to meet the standards after the 2 year period, the council shall suspend the officer's certification until such time as the officer is able to pass the medical evaluation and physical performance test.

Chairman Prozzo opened the meeting for public comments and then stated that there were no members of the public present, at which time he closed the public hearing. He confirmed by asking Captain Bodanza, that staff would accept written comments on the rules amendments until January 29, 2013.

Certification of Elected Sheriff's

Chairman Prozzo asked Director Vittum to speak about the certification of elected sheriffs. Director Vittum described the staff's position that if an elected sheriff would like to maintain an active certification that they follow the same procedure as any other officer's hiring process would follow. If a sheriff is a sworn officer before they are elected sheriff, they can choose to maintain that certification, but by doing so they must abide by all the rules required of a sworn officer.

Discussion ensued amongst Council members on this request.

Motion by Chief Colarusso, if an elected sheriff would like to maintain their certification or to acquire certification, that they be allowed to do so, but they are subject to all of the rules of the Council, including rules of decertification and suspension, based upon that certification. The

motion was seconded by Judge Gardner, the unanimous vote of Council was 9-0 in favor of the motion.

** 10:25 a.m. Judge Carroll exited the meeting and Council members took a break.

10:35 the meeting was back in session.

Derek Richardson, Carroll County Sheriff's Office Relinquishment of Certification

Captain Bodanza explained to Council members that PSTC received a letter from Derek Richardson on November 8, 2012 asking to relinquish his certification.

Motion by Chief Sullivan to accept Derek Richardson's relinquishment of certification, seconded by Judge Gardner, unanimous vote by Council members 6-0, with AG Delaney and Colonel Quinn abstaining from the vote.

Three Year Fitness Statistics Update

Chief Merrill summarized statistics on three year fitness testing for Council members. There were seven people who were due to complete three year fitness testing in 2010 who were are their "five year mark" and either failed their tests or were unable to obtain medical clearance to test. Those seven people, one who worked for three departments, were suspended.

Those who were due for fitness testing in 2012, originally 463, four were suspended for doing nothing. There were 25 medical extensions granted and there were 28 who failed their tests, those people are on probation for the next two years. The 28 failed tests represent six percent of those who were due for fitness testing in 2012.

For 2013, there are 818 individuals who are due to complete their three year fitness tests.

Council Appointment Dates

Schedule of Council appointment dates was included with the agenda for this month

MOU – Department of Justice

Chief Merrill explained that the New Hampshire Department of Justice has asked for a memorandum of understanding with Police Standards and Training in order to use the facility in case of a terrorist attack if they were unable to use their own facility.

Director Vittum stated that there is also a request for memorandum of understanding from the US Attorney's Office to use Police Standards and Training facility in the same circumstances, and that the PSTC facility has plenty of room for both NH Department of Justice and the US Attorney's Office if it became necessary. Director Vittum went on to state that he felt it was appropriate for Council members to approve this request.

Motion by Commissioner Wrenn, to approve the MOU between PSTC and the New Hampshire Department of Justice, and to authorize Chairman Prozzo and Director Vittum to sign it. The motion was seconded by Chief Sullivan with a unanimous vote by Council members 8-0.

Academy Graduation Times

This subject will be discussed at February's meeting.

Alternative Times for Fitness testing of ranking officers

Director Vittum spoke about requests he had received from those ranking officers who came from out of state, who did not like having to complete entrance fitness testing amongst new recruits; they would like the Academy to schedule them at a separate time.

Director Vittum expressed to the Council that his response to the request was that the Academy certifies police officers, not chiefs or sheriffs. During entrance testing, the individuals who have requested prior training and experience are the first in line to be tested. Everyone is briefed at the same time on how to do sit-ups, and the ranking individuals think that since they are beyond the recruit level, they should be given another day or different time to be tested. Director Vittum asked for the Council's help to determine a policy on how to complete testing for ranking officers. He expressed that having a separate time for ranking officers to take entrance tests would be more expensive for the Academy, (paying an EMT and a nurse at a separate time) and will also take more of the staff's time. The Academy can accomplish it if done separately, but it will be more expensive.

When asked, Director Vittum stated there were an average of two or three either chief's or returning officers (prior training and experience) who were scheduled to take their entrance fitness tests during the entrance fitness test day for recruits.

Discussed ensued amongst Council members as they weighed the issue that would involve a separate time and/or date to run the entrance fitness testing of ranking officers for prior training and experience.

Motion by Chief Colarusso to continue testing the way it's always been done; and if anyone has a complaint they should request to come before the Council and they can air their grievance with Council members. The motion was seconded by Chief Cahill. Council vote was 7 in favor and one opposed.

Procedure for Emergency Suspensions

Chief Merrill updated the Council as to the staff's request for advice on emergency suspensions to SAAG Nancy Smith, who was unable to make today's meeting. He provided Council members with copies of the procedure, to review for next month's meeting.

10:55 a.m. Council members entered a non-public session, due to a personnel issue

Motion by Chief Cahill, to go into a non public session on the Mike Tollett matter, the motion was seconded by Chief Sullivan, roll call vote 9-0 in favor.

Motion by Chief Morency, to seal the minutes of the non public session, the motion was seconded by Commissioner Wrenn, vote 9-0 in favor

Motion by Chief Sullivan, to come out of the nonpublic session, seconded by Chief Cahill, roll call vote 9-0 in favor.

11:25 The Council was back in public session

11:26 Council members entered a non-public session, due to a personnel issue

Motion by Judge Gardner to go into a non public session, the motion was seconded by Chief Sullivan, roll call vote 9-0 in favor.

Motion to seal the minutes of the non public session by Commissioner Wrenn, seconded by Chief Morency, vote 9-0 in favor

Motion by to come out of non public session by Commissioner Wrenn, seconded by Chief Morency, roll call vote 9-0 in favor.

11:35 a.m. The Council was back in public session.

The matter will be heard on February 19, which will also be the date of the next regular meeting of the Council.

Other New Business

Director Vittum updated Council members on meeting with the House Finance Committee the previous week. Last week he met with the entire House Finance Committee minutes to discuss PSTC. Questions were asked about tuition; however a committee meeting a year ago was held where the Committee had said no to tuition. The Committee asked if funding “lapsed”. Director Vittum stated that he believed that it is a *dedicated fund for police training*. He went on to say “what we need to do is to be consistent on how we handle this for the future, we get a legal opinion about those funds, and I am going to ask the Attorney General to look into that for us; so that when that question is posed for us in the future, we can take our position and go forward with that”.

Chief Cahill commented that he and some of the other chief’s would be meeting with the Governor to speak about PSTC funding as well. Chief Cahill has met with senators, all are in agreement to leave funding for PSTC alone.

Chairman Prozzo also stated that he spoke with the Governor during the last week; he explained to her his position as Chairman for Police Standards and Training, (as well as being Sheriff of Sullivan County) and commented on the great job that Council members do, as well as the staff at PSTC.

Chief Morency asked about making forms interactive on PSTC’s website? Director Vittum deferred to Captain Jean who stated that this was a work in progress.

Next Meeting Date/Adjournment

The next meeting of the New Hampshire Police Standards and Training Council will be held on February 19, 2013 at nine o'clock in the morning.

Upon a motion by Commissioner Wrenn, seconded by Chief Colarusso, the Council voted unanimously to adjourn the meeting at 11:40 a.m.

Respectfully submitted,



Chairman Michael L. Prozzo, Jr.