



Chief David P. Cahill
Chairman

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

PUBLIC MINUTES

August 22, 2017

The 482nd meeting of the New Hampshire Police Standards and Training Council was called to order at 9:01 a.m. by Chairman David Cahill in classroom one at the Arthur D. Kehas Law Enforcement Training Facility and Campus in Concord, New Hampshire.

Members Present: Chairman Chief David Cahill, Sunapee Police Department Chief Anthony Colarusso, Jr., Dover Police Department, Chief Enoch Willard, Manchester Police Department, Judge Sawako Gardner, 10th Circuit-District Division – Portsmouth, Dr. Ekaterina Hurst, Vice Chairman, Chief William Hart, Londonderry Police Department, Sheriff Douglas Dutile, Grafton County, Colonel Christopher Wagner, New Hampshire State Police, President Susan Dunton, Community College System of New Hampshire, Attorney General Gordon MacDonald, Commissioner William Wrenn, NH Department of Corrections, and Debra Noyes.

Members Absent: Sheriff David Dubois, Strafford County Sheriff's Office

Staff Present: Director Donald L. Vittum, Chief Timothy Merrill (Ret.), Captain Benjamin Jean, Charlene Mains, Program Specialist II, Anne Paquin, Investigative Paralegal and Captain James Mulla.

Guests Present: Chief Richard Krauss, Milton Police Department, Eric Knight, Manchester Police Department, Nathan Boudreau, Manchester Police Department, Daniel Shapiro, Barnstead Police Department, Chief Kristoffer Burgess, Brittany Batty, Loudon Police Department, and Harold Parker, Policy Advisor, Governor's Office.

Call Meeting to Order

Chairman Cahill called the meeting to order at 9:01 a.m.

Approval of Minutes

Motion made to accept the Minutes of the July 25, 2017 Public and Non-Public Council meetings by Chief Hart. Following a second by Sheriff Dutile, the voice vote was unanimous in favor of the Motion.

Director's Report

Director Vittum stated that the graduation at UNH went fine and the new Academy starts next week with 67 recruits.

Chairman Cahill also wanted to publicly thank UNH for hosting the graduation Friday as they did a great job.

Financial Report

Captain Jean introduced himself and stated that everything is good with the budget. PSTC is moving forward with the capital budget, working on replacement and repair of parking and driver training lots, the tactical center roof repair is completed, new driving simulator is in, the divider has been replaced and the Planning Session is still set for next month at 9:00 a.m. Letters have gone out inviting people to attend the Planning Session.

Chairman Cahill stated that he and Captain Jean have discussed a more efficient and less costly way of sending out the monthly agendas to Council members. The solution is creating a Drop Box and creating a password so everyone can sign in. Captain Jean tested it out recently with the Chairman. Council would get an e-mail stating agenda is waiting. With a secure login, Council can print the agenda itself and any attachments would be viewable. Council will receive the agenda instantaneously and will not have to wait for a disc in the mail. When the meeting is concluded, the agenda can be deleted from system. The first couple of months the agenda will still be mailed, as well as delivered to the Drop Box, in order to ensure no problems.

New Business

Chief Hart asked if he could make a Motion to reappoint the Director for a four-year term effective today.

Chairman Cahill indicated the only employee Council is responsible for is the Director. Council has authority to appoint a Director and would welcome any questions.

Attorney General MacDonald stated that he was not able to focus on this issue until yesterday, and is concerned about Council's authority to do this. He would like some time for the AG's office to research Council's authority on this matter. Generally, when it comes to appointing someone to a four-year term it cannot be abrogated. Attorney General MacDonald indicated a limited ability when it comes to Governor and Council when anticipating a vacancy, it's 90 days. He feels an obligation as Attorney General to make sure Council has authority to do this and he is not convinced of their authority to do so.

Chairman Cahill stated Attorney Nancy Smith will be in later, and Council can have a conversation with her regarding this. Chairman Cahill stated that his experience in the past, being a member of the Council, the Director has been appointed early prior to his term expiring. Chief Colarusso stated this is what happened the last time when the Director had over a year, close to two, on his term. The reasoning for voting early was all the speculation that surrounds that type of vacancy, and feels it is bad for the staff and the Academy, and is in favor of appointing now. If Council finds out that somehow it is not legal, they change whatever needs to be changed.

Chairman Cahill stated he does not second guess the Attorney General, but this is how it has been done and does not know if the Governor's office gets involved.

Attorney General MacDonald stated he is not suggesting that. He said if you look at the way the state and legislature addresses set term officers, there are terms and if you look at RSA 4, you cannot remove someone from a term unless a very high bar is established. The Attorney General stated the Director has a term until 2018, and to create a new term at this point he is not convinced that it can be done, and he does not support it.

Sheriff Dutile asked with regard to the statute, is it referring to Governor and Council or appointments in general, and Attorney General MacDonald indicated appointments in general. He stated the Director's appointment, Governor and Council has nothing to do with it. He said a very high level process applies if you want to abrogate someone's term. He does not believe a new term can be established at this point with 18 months left of the current term.

Commissioner Wrenn stated he respects the opinion of the Attorney General and Council can all have opinions on what does, and what does not establish a term. He believes Council is the governing body and can decide what to do with the Motion, go forward or not. He does not feel there is legal authority on how it is done, and he is ready to support the Motion today.

Chairman Cahill referred Council to RSA 188-F:27. Judge Gardner stated she believes the statute gives authority and she is comfortable with decision.

Motion made to re-appoint Director Vittum to another four-year term, effective today, made by Chief Hart. Following a second by Sheriff Dutile, the voice vote was unanimous with the exception of Attorney General MacDonald who opposed the Motion.

Attorney General MacDonald wanted to make clear he is opposed.

Chairman Cahill stated that Chief Willard, Manchester Police Department, has been re-appointed to Council. Chief Peter Morency from Berlin Police Department was appointed and will sit on the Council beginning next month.

Chief Richard Krauss, Milton Police Department, introduced himself and stated he is requesting a waiver of Pol. 301.05 (g)(4)(c) – sale of a controlled drug. The Chief chose to go into a non-public session.

Motion to enter non-public session at 9:17 a.m. by Chief Hart. Following a second by Dr. Dunton, a roll call vote was taken and was unanimous in favor of the Motion.

Motion to exit non-public session by Chief Colarusso. Following a second by Sheriff Dutile, a roll call vote was taken and was unanimous in favor of the Motion.

At 9:25 a.m., Council exited the non-public session.

Motion to seal minutes from non-public session because it could affect adversely the reputation of any person other than a member of this board by Chief Hart. Following a second by Colonel Wagner, the voice vote of the Council was unanimous in favor of the Motion.

Motion to approve request of Milton Police Chief Krauss by Chief Colarusso. Following a second by Chief Hart, the voice vote of the Council was unanimous in favor of the Motion.

Manchester Police Department

Sergeant Eric Knight and Officer Nathan Boudreau of the Manchester Police Department were present to discuss their request. Officer Boudreau stated that due to the large number of officer involved shootings, PSTC assisted Manchester with a firearms program. In 2014, five Manchester officers lost their firearms instructor certifications because they did not complete the Firearms Certification with a Police Standards & Training instructor. Manchester Police Department would like to have those five officers re-certified as firearms instructors.

Motion to approve request from Manchester Police Department to have the five individuals who have lapsed in certification go through Police Standards & Training recertification class, and then be recertified upon successful completion and to waive the requirement that they re-attend week long training course by Commissioner Wrenn. Following a second by Sheriff Dutile, the voice vote of the Council was unanimous in favor of the Motion with the exception of Chief Willard, who abstained.

Chairman Cahill suggested a firearms discussion could be held at the Planning Session with regard to certain issues with instructors and the program.

Chief Kristoffer Burgess, Loudon Police Department

Chief Burgess introduced himself and Officer Brittany Battye, and stated he is before Council for a waiver with regard to medical screening, specifically Section 1, Eyes and Vision. They agreed to a public session. He stated Officer Battye is currently employed with the Town of Loudon and sustained an injury to her eye while serving in the military. The injury does not prevent her from doing her job, she holds a valid driver's license, and she qualifies with firearms.

Council asked many questions regarding the vision of the eyes and the doctors and specialists seen, and the reports that were generated.

Chief Colarusso made the statement that there is more to the job than seeing, hearing and smelling. He stated it is how you treat people, how you interact with citizens, knowing the law, and knowing what and what not to do. He indicated that to say somebody cannot be a police officer in the state because of an injury goes against his grain.

Chief Willard added that he agrees with Chief Colarusso, that she has gone through the training, excels at firearms, and is relying a great deal on the faith of Chief Burgess that she can do the job.

Chief Burgess stated that he has no doubt Officer Battye will excel in this profession. She went through a long hiring process and excelled to get to this point.

Motion to waive protocol and grant candidate to be certified through Police Standards and Training by Chief Colarusso. Following a second by Chief Hart, the voice vote of the Council was unanimous in favor of the Motion.

Chairman Cahill stated Addendums #2 and #3 are on the Consent Calendar. Addendum #1 is not under Consent Calendar.

Consent Calendar

PT&E Requests

Officer Charles Rataj, Newport Police Department (DOH: 07/10/17) will be granted certification upon successful completion of the medical exam, entrance fitness test, and the Law Package of the Full-Time Police Officer Academy.

Officer Trevor Dickerman, Claremont Police Department (DOH: 07/19/17) will be granted certification upon successful completion of the medical exam, entrance fitness test, and the Law Package of the Full-Time Police Officer Academy.

Officer Kyle Danie, Rochester Police Department (DOH: 08/20/17) will be granted certification upon successful completion of the medical exam and entrance fitness test.

Requests for Extensions

Note: Extensions granted until the first council meeting following the fitness testing for the requested Academy, and, if testing is successful, to the first council meeting following the end of the requested Academy.

Steven Henderson, Fremont Police Department (DOH: 05/19/16) was granted an extension through the end of the 175th Full-Time Police Officer Academy fitness testing. ****Thirty day lapse, must complete the medical examination and entrance fitness test.**

Annaliese Schmidt, Newmarket Police Department (DOH: 05/22/17 **Part-Time certified**) was granted an extension through the end of the 174th Full-Time Police Officer Academy and, if testing is successful, to the first council meeting following the end of the requested academy with the stipulation that the officer must remain actively enrolled in the 174th Academy.

Lucas Bernier, Deerfield Police Department (DOH: 06/06/17 **Not Part-time certified**) was granted an extension through the end of the 174th Full-Time Police Officer Academy and, if testing is successful, to the first council meeting following the end of the requested academy with the stipulation that the officer must remain actively enrolled in the 174th Academy and may continue working only in the direct presence of a certified officer.

End of Consent Calendar

Motion to approve Consent Calendar by Chief Colarusso. Following a second by Judge Gardner, the voice vote of the Council was unanimous in favor of the Motion.

Addendum #1 – Daniel Shapiro

Chairman Cahill asked whether Daniel Shapiro would like public or non-public and Mr. Shapiro indicated public was fine.

Chief Merrill stated Mr. Shapiro is before the Council regarding whether he needs to do three year fitness testing. He was hired in 1999 working for NH Hospital Police, which was a full-time position by statute but required only part-time certification. He received his part-time certification in 1999 and, therefore, was exempt from three year fitness testing requirements. In January of 2006, the State Police took over NH Hospital Police. In 2007, Mr. Shapiro attended the full-time academy which was an option, but not required by statute, for that job. He received full-time certification. Council, at that time, said Mr. Shapiro would maintain his exemption from fitness testing unless he left the NH Hospital Police and went to another agency on a full-time basis, at which point he would have to comply with the requirements. In 2007, the Webster Police Department hired Mr. Shapiro. Ultimately, Mr. Shapiro ended up with the Barnstead Police Department and last December came before the Council regarding whether he had to comply with the fitness testing as he was full-time. Council indicated last December Mr. Shapiro had a two year probationary period to fulfill the fitness requirements, until December, 2018, for full-time certification. He is no longer working for Barnstead full-time and is looking to get hired part-time by New Hampton. The Chief of New Hampton has inquired if, in fact, Mr. Shapiro would be exempt from fitness testing if he goes part-time.

Commissioner Wrenn questioned why Council and Mr. Shapiro were even entertaining this situation if he has until December, 2018, whether full or part-time, to pass the three year test and Chief Merrill stated that the extension was for full-time certification and Mr. Shapiro is looking to go back to strictly part-time certification in an effort to regain his grandfathered exemption from fitness testing.

Mr. Shapiro stated he intended to go to the Department of Corrections and would like to stay part-time for a local police department. He is looking for a career change, but would like his part-time certification back and will hopefully be full-time certified with the Department of Corrections if he is able to attend the next academy.

Chairman Cahill stated that if someone is full-time certified working part-time hours, there are other things to enjoy such as not being restricted to the 1,300 hours. He stated he believes Mr. Shapiro is incorrect, he is full-time certified which replaces his part-time certification. Commissioner Wrenn indicated that they are not two separate certifications.

Chief Merrill stated that the hospital security officers were allowed to work a full-time position with part-time certification. Commissioner Wrenn stated that Mr. Shapiro, in

actuality, did not gain anything by going to the full-time academy. Chief Merrill stated he believes that is why the Council, back then, would exempt him from three year fitness testing as long as he stayed with NH Hospital campus security.

Mr. Shapiro responded saying he thought the full-time and part-time certifications were separate and withdrew his request. The Council thanked Mr. Shapiro and he exited the meeting.

#17 - Alexander Marvin

Chief Merrill stated that Newport Police Department would like an extension for Alexander Marvin to skip the current academy and begin in January due to military service.

Motion to approve request from the Newport Police Department by Sheriff Dutile. Following a second by Chief Hart, the voice vote of the Council was unanimous in favor of the Motion.

Chairman Cahill acknowledged the presence of Mr. Harold Parker, Policy Advisor, from the Governor's office. Chairman Cahill stated Council appreciated Mr. Parker's appearance and asked if he would like to address the Council members. Mr. Parker introduced himself and thanked Council for their hospitality.

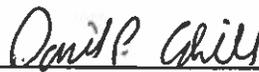
A thank you letter was received from Chief Frank from Canaan Police Department for use of the facility during the cadet academy and PSTC's participation with the cadets.

Next Meeting Date and Adjournment

The next meeting of the New Hampshire Police Standards and Training Council will be held on September 26, 2017.

Motion by Chief Colarusso to adjourn. Following a second by Chief Hart, the voice vote of the Council was unanimous in favor of the Motion.

Respectfully submitted,



Chairman, Chief David Cahill