



Chief David P. Cahill  
Chairman

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

**Approved Minutes**

**September 26, 2017**

The 483rd meeting of the New Hampshire Police Standards and Training Council was called to order at 1:00 p.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, Vice Chairman, Chief William Hart, Londonderry Police Department, Attorney General Gordon MacDonald, Chief Enoch Willard, Manchester Police Department, Sheriff David Dubois, Strafford County Sheriff's Office, Sheriff Douglas Dutile, Grafton County Sheriff's Office, Major David Parenteau, New Hampshire State Police, William L. Wrenn, Jr., Commissioner, New Hampshire Department of Corrections, Judge Sawako Gardner, 10<sup>th</sup> Circuit-District Division – Portsmouth, Dr. Ekaterina Hurst, Susan Dunton, Community College System of New Hampshire, Chief Peter Morency, Berlin Police Department and Debra Noyes.

Staff Present: Director Donald Vittum, Captain Benjamin Jean and Charlene Mains, Program Assistant II.

**Call Meeting to Order**

Chairman Cahill called the meeting to order at 1:00 p.m.

**Approval of Minutes**

**Motion** made to approve the Public Minutes of the August 22, 2017 Council meeting, with the caveat that Debra Noyes, whose name was not listed as attending, be added to the Public Minutes by Sheriff Dutile. Following a second by Judge Gardner, the voice vote was unanimous (with the exceptions of Chief Morency and Sheriff Dubois who abstained) in favor of the Motion.

**Motion** made to approve the Non-Public Minutes of the August 22, 2017 Council meeting, with the caveat that Debra Noyes, whose name was not listed as attending, be added to the Non-Public Minutes by Chief Hart. Following a second by Dr. Hurst, the voice vote was unanimous, with the exceptions of Chief Morency and Sheriff Dubois who abstained, in favor of the Motion.

Chairman Cahill welcomed Chief Peter Morency as a member of the Council and stated he will be a great asset.

### **Director's Report**

The Director thought that everyone had the weekly reports; he had nothing to add.

### **Financial Report**

Captain Jean introduced himself and stated the budget is moving along, it is nearing the end of the quarter at which time the State requires a report. That process will be accomplished within the next few weeks. The paving project is progressing. Public works has the basic drawings done and it will be put out to bid in December or January.

### **Previous/Unfinished Business**

Chief Hart stated that last month the Council voted to appoint the Director to another four year term, to take effect immediately, August of 2017. Following the vote, there were concerns of the action of Council, due to shortening the duration of the Director's current term, which is inconsistent with the statutory interpretation of the word "term".

Based on that, reappointment would seem out of the Council's authority. As law enforcement officers, adhering to the guidelines established by statute is necessary. Chief Hart would like to move that the Council reconsider, and vacate the actions of August 27<sup>th</sup> (granting a new term which was effective immediately), and proposed the following Motion:

**Motion:** As the appointing and supervising authority for the Director of Police Standards and Training, it is important that this Council have a process for evaluation of the Director and that the appointment and reappointment process be consistent with other State unclassified agency head positions that are established with a specific term of years, as well as that it be known to the Director in advance. Therefore, I move that the Council adopt a policy regarding the reappointment of the Director as follows:

1. The beginning date for the Director's terms is March 1, 2015 and runs for four (4) years. Any vacancy in the position is filled for the unexpired remainder of the current term.
2. The Council will schedule non-public sessions with the Director to conduct reviews at 18 months after the beginning date of a full term, and annually thereafter. The third or final review during a term shall occur no more than six (6) months and no less than three (3) months before the Director's term will expire. If a Director is appointed to fill an unexpired term, the intent is that reviews be conducted on an annual basis, with the last review during a term approximately three to six months before the end of the term. The Director shall be asked and shall provide a response at the final review before the end of the current term identifying whether they are seeking reappointment.
3. If the Director is seeking reappointment, the Council shall vote on reappointment of the Director no more than three months before the end of the term. It is the intent of the Council to vote as close to three months before the end of the term as possible, based on the Council's meeting schedule.
4. If the Director is not seeking reappointment, or if the Council does not vote for reappointment, the Council shall establish a search process for identification and

selection of candidates as early as possible.

**Motion** made by Chief Hart to approve the above Motion; followed by a second from Attorney General MacDonald.

Council members discussed the Motion.

Judge Gardner inquired about the three to six month period, and Chief Hart re-read that portion of the Motion for clarification. Chief Hart indicated this would be consistent with terms for non-classified agency heads, giving a window of approximately 90 days before the end of the term to make any decision.

Chairman Cahill had reviewed the last couple of appointments, and they were three to six months out and indicated that the Council's legal counsel, Attorney Smith, was satisfied with the three to six month reappointment. By approving the motion, the Council is staying consistent with what happens in State government.

Commissioner Wrenn asked the Chairman if all Council members could obtain a copy of the Motion so they could follow along with the language. Captain Jean made copies of the Motion and distributed to all Council members.

Chairman Cahill stated there is no statute covering the three to six month language for PSTC, but the language allows the Council to remain consistent. Chief Hart indicated that the bottom line had been to follow up, and review other agency's use of the word "term". Chairman Cahill explained that this Motion is for direction and guidance as PSTC is not governed by a specific statute in dealing with the appointment of a Director.

#### **Chief Willard exits meeting at 1:20**

Further discussion ensued about whether or not the appointment of Director policy would be a change in PSTC's Administrative Rules, whether the Motion from August to reappoint Director Vittum was legal. Commissioner Wrenn stated he could not vote in the affirmative for the new Motion, and he did not understand reversing last month's Motion.

Judge Gardner asked that since this was the first time Council members had seen the Motion, could they have more time to review it?

Attorney General MacDonald stated that he would like the Council to vote on the Motion today. He had expressed concern at the last meeting, regarding the legality of the vote. His concern is that he does not believe, as a matter of law, the Council has the authority to shorten the term of the Director based on the interpretation of the statute. He had asked for a chance to look at it last month, but the Council voted immediately on the Motion. He believes that the Council is a body acting that is acting responsibly upon further information.

#### **Chief Willard returns to meeting at 1:25**

Commissioner Wrenn voiced the following concerns about the new Motion being proposed:

- Were there discussions after last month's meeting that he was not aware of?
- What is the language in the statute being referred to today?
- The Council took an action last month. Was the action improper?
- Attorney Nancy Smith gave advice to the Council on the matter but was not in attendance for discussion;
- The new Motion was being seen the first time today by Council members.

Dr. Hurst could not agree and she would abstain from voting.

Director Vittum indicated there was a discussion between the Attorney General's office, the Chairman and Vice Chairman, which they then spoke to him about. He agrees with the Motion and thinks it is an appropriate thing to do. If it needs to be tweaked in the future, that is fine. He thinks it makes sense and commends the Attorney General for taking the position he did and bringing it forward so present Council and Councils in the future have a proper way of appointing a Director. He believes it is a well-drafted and appropriate Motion.

Commissioner Wrenn asked if the Motion could be tabled until next month, indicating the Motion will still be the same.

Chairman Cahill opened up a discussion to table the Motion.

Ms. Noyes questioned the Motion as follows: (1) was it to rescind last month's vote, and (2) take current Motion and put it in place for procedures in the future in appointing a Director?

Chairman Cahill confirmed.

Commissioner Wrenn was concerned with which statute was being referred to; Chairman Cahill indicated it was 188-F:26. Chairman Cahill is not aware of any private conversations, other than when he spoke with Attorney Smith.

Commissioner Wrenn questioned why the clarity was needed this month as opposed to last month? Chairman Cahill's response was that the word "term" was unclear in last month's motion, and it had been looked into in the past month. The current Motion allows Council a means of how to proceed in the future, so there will be no confusion.

**Motion** to table the current Motion – five in favor and eight opposed. The Motion failed.

Chairman Cahill stated the original Motion is back on the table.

Attorney General MacDonald stated in addition to the legal discussion that was held that a term cannot be shortened as a matter of law, and he does not believe the Director could be fired, but there is a procedure under RSA:4 for someone in his position. He said that last month he stated that the Director's current term expires in March of 2018, and that was incorrect. If it had been correct, it would possibly fall within the six month window. That is a factual basis on which some people may have relied, which was not correct.

**Motion** made by Chief Hart to approve the Motion on the table. Following a second from Attorney General MacDonald, a roll call vote was taken and there were ten in favor, two opposed and one abstained. The Motion passed.

**Chief Hart exits meeting at 1:40.**

Chairman Cahill asked Council whether they enjoyed using Drop Box as a means of receiving the agendas as opposed to the CD's. Captain Jean explained the process again. Judge Gardner indicated that the system she uses does not allow her to gain access to it, but will provide staff a different e-mail to use. It was decided that the CD's and box will be used one more time to work out any other issues.

Captain Jean stated the Annual Report needs to be approved because it will be going before Governor and Council.

**Motion** made by Sheriff Dutile to approve the Annual Report. Following a second from Debra Noyes, the Annual Report was approved by unanimous vote.

**Officer Jonathan Graham, Charlestown Police Department** (DOH: 11/01/17) will be granted full-time police officer certification based on prior training and experience upon successful completion of the medical exam, entrance fitness test, and the Law Package of the Full-Time Police Officer Academy and, in addition, the Driving Classroom and Practical.

**Officer Scott Chase, (fka Scott Moodie) NH Department of Justice** (DOH: 05/22/17) will be granted full-time police officer certification based on prior training and experience upon successful completion of the medical exam, entrance fitness test, and the Law Package of the Full-Time Police Officer Academy.

**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.

**Ferenc E. Silye Jr. Littleton Police Department** (DOH: 12/01/16 Not Part-time certified) Law Package was granted an extension through the end of the 174th Full-

Time Police Officer Academy to successfully complete the Complaints and Warrants Exam and the Academy Final Exam for the Academic Requirements.

**Matthew Yao, Thornton Police Department** (DOH: 03/20/17 Not Part-time certified) was granted an extension until the first council meeting following the fitness testing for the requested academy and, if testing is successful, to the first council meeting following in the end of the requested academy with the stipulation that the he officer must remain actively enrolled in the 175<sup>th</sup> Academy.

#### **End of Consent Calendar**

**Motion** to approve the Consent Calendar by Dr. Hurst. Following a second from Sheriff Dutile, the voice vote of the Council was unanimous, with the exception of Attorney General MacDonald who abstained from voting on Scott Chase, in favor of the Motion.

Chairman Cahill stated he and Chief Hart have a meeting with the Governor on October 4, 2017 regarding appointments and re-appointments of Council. If there are any issues Council members would like him to bring up, he would be happy to entertain them. He stated he believed the Planning Session held this morning went very well and thanked everyone for attending.

#### **Next Meeting Date and Adjournment**

The next meeting of the New Hampshire Police Standards and Training Council will be held on October 24, 2017.

**Motion** by Major Parenteau to adjourn at 1:45 p.m. Following a second by Debra Noyes, the voice vote of the Council was unanimous in favor of the Motion.

Respectfully submitted,



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Chairman, Chief David Cahill