

APPROVED

POLICE COMMISSION MEETING

Minutes of the Meeting of Tuesday August 18, 2009

The Hooksett Police Commission held a public meeting on Tuesday August 18, 2009, at the Safety Center. Present were Chairperson David Gagnon, Commissioner Henry Roy, Commissioner Joanne McHugh, Chief Stephen Agrafiotis, and Town Councilor Paul Loiselle.

1. Call to Order:

Chairperson Gagnon called the meeting to order at 5:30 p.m.

2. Roll Call:

Chairperson Gagnon motioned, seconded by Commissioner Roy and the motion carried unanimously by roll call vote to enter public session.

Public Session

3. Pledge of Allegiance:

The pledge of allegiance was held.

4. Public Input:

David Pearl 79 Main Street:

A. Mr. Pearl asked if the Police Commission discussed the letter that was sent to the Town Council dated May 27, 2009 and June 2, 2009 reference Police Commission candidates at the May 19, 2009 Police Commission meeting?

Commissioner Roy stated that it was a generic letter that was instituted over 10 years ago and there was no meeting held. The letter was signed individually at different times by the Commissioners. He also commented on the May 27, 2009 letter that Mr. L'Heureux had

Public Input Continued:

applied and the same process was done.

Mr. Pearl stated that Chief Agrafiotis had stated that he had stamped the letter confidential as it was discussed in non-public session.

Commissioner Gagnon stated that the first 2 names were discussed in non-public as the 3rd letter was not received in time for the meeting.

Commissioner Roy stated that confidentiality has nothing to do with this as Councilor Pischetola choose to read the letter in public.

B. Mr. Pearl stated that at the April 4, 2009 meeting they had met with an attorney. Mr. Pearl stated that Commissioner Gagnon stated that if he and Commissioner Roy were to meet that would constitute a meeting. Mr. Pearl asked that if Commissioner Roy and Commissioner Maksalla met to discuss things with attorneys didn't that constitute a meeting?

Commissioner Gagnon stated no, meetings with legal council is a non-meeting and not subject to be posted.

C. Mr. Pearl stated that he had written to the Commission asking for a copy of the policy and procedures and have received no response. Does the Commission have a policy in place for answering questions and correspondence, ect?

Commissioner Gagnon stated they do not.

Commissioner Roy stated that this was discussed at the last meeting that they could submit something in writing if they had questions.

Commissioner McHugh stated that the meetings are conducted via Robert's Rules, and that most of the meetings that are conducted in Town are conducted with Robert's Rules in mind.

Mr. Pearl stated that if he had received a letter stating that would have been fine but had not received anything.

D. Mr. Pearl inquired about the 88 questions that he had submitted in April.

Chief Agrafiotis stated that they are almost completed.

E. Mr. Pearl asked if the cruisers had laptop computers in them, and are they connected to the police station network with the internet.

Chief Agrafiotis stated no, this was the next step in the process. Chief Agrafiotis stated that

Public Input Continued:

they were waiting for the program that was started many years ago and delayed due to equipment and scheduling issues with the companies involved. The last repeater site is on line which had to be completed before moving to the next step.

Commissioner Gagnon stated that it is a long process and very costly. It has been done in pieces, and it is at the last step.

Maura Ouellette, 3 Summer Fare St:

A. Ms. Ouellette stated that the Commission was stating they have no policy and procedures in place for the Commission, but they would not take an unsigned complaint against the Chief because they stated it was a policy of theirs not to accept unsigned complaints. She asked if that was a written policy or not.

Commissioner Gagnon stated that is a department policy.

Chief Agrafiotis stated that a nonspecific complaint will not be taken. They will take anonymous complaint but it depends on the information given and the seriousness of it. If someone comes in with a general complaint they need something to investigate.

Ms. Ouellette asked if they thought the complaint that was presented to them was general.

Commissioner Gagnon stated yes, and that was also the opinion of an attorney.

B. Ms. Ouellette asked about the non-public meeting that was posted for August 6, 2009 at 11:30 am. Did this meeting happen?

Commissioner Gagnon stated that it was cancelled at the last minute.

Ms. Ouellette stated there was one Commissioner present, and did that Commissioner met with an employee.

Commissioner Gagnon stated yes.

Ms. Ouellette asked if it will be common practice that the Commission meets with employees that have resigned. Is this an effort to conduct an exit interview?

A discussion was held reference exit interviews and Chief Agrafiotis stated that the Commission in the past had received legal advice that exit interviews were not a good idea. Chief Agrafiotis stated the reason this meeting was called was because of some comments that the officer made, it was more specific to the Commission probing what that officer had to say.

Ms. Ouellette asked seeing that all 3 Commissioners did not have the opportunity to meet

Public Input Continued:

with that officer would they be willing to do it at this point? Ms Ouellette stated that that officer would be willing to meet with the Commission.

Commissioner Gagnon stated to have the officer contact him.

JR Ouellette, 3 Summer Fare St:

A. Mr. Ouellette asked Commissioner Roy at the May meeting if he had the opportunity to read Maura's copies of e-mail correspondence between her and the Chief. Mr. Ouellette stated that Commissioner Roy stated he had not. Mr. Ouellette stated that Commissioner Roy made a specific claim that Maura released her own press release and a copy she gave him refuted his claim. Maura was seeking his input into the press release, it appeared the Chief did not think it was important enough to forward it to him, or think that his changes were important enough to pass along to Maura. Mr. Ouellette asked him to explain why he did not review this information?

Commissioner Roy stated that probably he was in the middle of tax season and he had other pressing things to do, and had not read it.

Mr. Ouellette stated Commissioner Roy was very strong in his comments about the press release stating that she released her own press release. Mr. Ouellette thinks Commissioner Roy should look at this.

B. Mr. Ouellette stated that on March 28, 2005 the investigation into the Chief concluded that all charges be dismissed except for the complaint regarding performance appraisals and composition of promotion boards. He asked Commissioner Gagnon to outline or describe what has been developed to correct this investigation finding.

Commissioner Gagnon stated that he would have to look into this as it was a while ago.

Chief Agrafiotis stated that for the record he was cleared, and it had nothing to do with promotions it was about the evaluations. He produced to the Commission paperwork that showed that the Commission had approved suspending the evaluation program that was in place when he became Chief, because it was not working. He was not found that there was anything wrong, he was acting at the direction of the Commission. Since then there has been an updated and better evaluation form.

Mr. Ouellette stated that the Commission then indicated that they were going to work with the Chief to bring the department together in a proactive fashion. He asked what proactive changes have been made to resolve the weakness of the system.

Commissioner Gagnon commented that there are people in positions that did not exist back then. There are 2 captains that did not exist, and a dedicated Lt. to patrol. Things have been changed whether people think it is for the good or not.

Public Input Continued:

C. Mr. Ouellette stated that the Commission was going to meet with certain employee groups to make certain progress regarding their important concerns would continue on in a meaningful manner, he asked if this was done.

Commissioner Gagnon stated they have not met with any groups and that would be a violation of the chain of command which they have been accused of doing back in 2005.

D. Mr. Ouellette wanted to know if there have been any changes done to improve the command staff's failure in the constant department's low morale issues.

Commissioner Gagnon stated no.

Todd Lizotte, Hooksett Resident:

A. Mr. Lizotte inquired if he could view the Commission minutes back to 1999 through 2001.

He was advised that there are paper copies at the Police Department that he could view.

B. Mr. Lizotte stated that he was looking at the benefits of accreditation and looked at the CALEA website, and had a discussion with them. He interviewed 10 different departments. He asked a few of the departments if they would be willing to receive the Police Commission on a fact finding mission, looking at how other departments are transformed with accreditation. He stated that he was going to a department to discuss accreditation and if any of the Commissioners wanted to go, he would set up the meeting.

A discussion was held on the last accreditation process and the AOM's that are currently used are based on national accreditation.

Chief Agrafiotis stated that the accreditation had failed before he was hired, and believed it would be better to start at state level accreditation.

Commissioner McHugh asked Mr. Lizotte if the other departments were equal in size to this department.

Mr. Lizotte stated that they were. He thought Durham Police Department was similar in size.

C. Mr. Lizotte commented that the Chief stated at a prior meeting that Mr. Lizotte did not understand the background in regards to Jay Defina. Mr. Lizotte has dealt with issues in retaliation. He did research and looked for key attributes on retaliator behavior, and gave several retaliator behaviors.

Chief Agrafiotis stated that Mr. Lizotte did not know all the facts, and part of the reason for the large legal bill is to make sure that that specific issue is not something that they have

Public Input Continued:

done.

Fred Bishop, Hooksett Resident:

A. Mr. Bishop stated that he was a prior Police Commissioner under Chief Oliver, Acting Chief Plante, and Chief Agrafiotis. Mr. Bishop stated he has listened and watched a lot of the criticism that has taken place over the last few years. Mr. Bishop wanted to thank the Commissioners for the work they are doing and how they are handling themselves professionally in their duties. Mr. Bishop stated that the issues now are no different from when he served as a Commissioner. Mr. Bishop stated that there were a lot of personnel issues, and turnovers, and when he joined the Commission there were 5 vacancies.

Mr. Bishop stated all the speakers tonight were very professional in bringing facts and suggestions, and what goes on behind the scenes on the Hooksett Issues site is something different there is name calling, bullying, and it is unprofessional. Anyone who criticizes anyone in public is unprofessional. Mr. Bishop wanted to compliment the Commission for taking the high road as it would be easy to retaliate for some of the negative name calling and bullying that they have been the subject of. Mr. Bishop stated that Chief Agrafiotis is professional and came with impeccable credentials.

Mr. Bishop also commented that he has been working with the Economic Development Committee they have asked some of the people they interviewed what have been their experience with the departments. Two out of the four that have been interviewed so far singled out the Police Department first, and the Fire Department second, they think very highly of the departments. He stated for them to stay the course and appreciate what they are doing for the citizens of Hooksett.

Michael DiBitetto, 2 Tay Road:

A. See enclosed remarks from Mr. DiBitetto to the Police Commission.

See Attachment #1

Marc Miville, Main Street:

A. Discussed the Commissions vote at the prior meeting of acceptance of comments and statements made by citizens and wanted to submit his minutes from the March and April meetings.

Commissioner Gagnon stated that they would have to be submitted under new business.

B. A discussion was held about the way the Commission submitted the letters for commission applicants to the Town Council.

C. Mr. Miville stated that he is here to examine and understand the process, and wanted to ask several questions.

Public Input Continued:

Commissioner Gagnon asked that Mr. Miville submit his questions and they will be reviewed.

Richard Sullivan, 7 Morgan Drive:

A. Mr. Sullivan gave a brief statement of his view of how interactions at the meetings are being handled, from minute taking to the Hooksett issues blog, to the SRO.

5. Minutes of Last Meeting:

A. Motion was made by Commissioner McHugh to accept the July 21, 2009 public minutes with amendments to page 2, second paragraph to reflect Commissioner Roy and Commissioner Gagnon, and page 9 under CIP Workshop changed to needed to be married to the master plan. Seconded by Commissioner Roy, motion carried unanimously.

B. Motion was made by Commissioner McHugh to accept the July 21, 2009 non-public minutes with amendment to page 2 change word from enforce to reinforce. Seconded by Commissioner Roy, motion carried unanimously.

6. Monthly Reports;

A. Discussed the 2008-2009 final budget report for June the Town was 100% expended and the Police Department was 90.89% expended.

Commissioner McHugh and the Chief held a brief discussion on how the budget expenses are handled, and how the budget process is handled with the Budget Committee.

Commissioner Roy stated that \$292,262 is the largest amount that is being returned to the Town as compared to any other town departments.

B. Commissioner Gagnon inquired if they could use impact fees for the laptops. This will be looked into to see if it could be done.

C. Discussed the 2009-2010 Budget the Town was in week 4 of 52 and expended 7.69% and the Police Department was 6.09% expended.

9. New Business:

PSNH Transformer Move:

A. Chief Agrafiotis informed the Commission that PSNH will be putting out a press release about moving a transformer through Town.

Wal-Mart Grand Opening:

A. Chief Agrafiotis stated that Wal-Mart will be holding their grand opening August 19, 2009 at 7:30 am.

Wal-Mart Grant:

A. Chief Agrafiotis will be accepting a \$2,500 grant from Wal-Mart.

LGC Training- Boards:

Chief Agrafiotis also wanted to remind the board that September 30, 2009 at the Town Council meeting LGC will be presenting training for all board members.

LGC Training- Staff:

A. Chief Agrafiotis stated that the department staff will be attending LGC training on the budget process.

DHART Helicopter Services:

A. DHART will be putting a helicopter at the Manchester Airport, and the heliport in Hooksett could be used if needed.

There was also discussion on the Fire, Forestry and Police Department that may use the heliport in different situations.

Citizens Submittal of Paperwork:

Mr. Miville submitted his paperwork for the March 17, 2009 and the April 21, 2009 minutes.

Space Center:

A. Commissioner McHugh asked if Chief Agrafiotis knew who granted them their liquor license.

Lt. Cline stated that they have one for beer and wine.

Commissioner McHugh stated that if a liquor license is going to be granted to any business in town they should look to the Police Department to see if the Police Department has any issues.

Other Business:

A. Commissioner McHugh asked if they could add a new section titled Other Business on the agenda.

Public Input:

JR. Ouellette 3 Summer Fare St:

A. He wanted to clarify that the letter to the editor that was discussed earlier had nothing to do with guns and drugs. He also inquired about the Sheriff's Department investigation report.

A discussion was held and Chief Agrafiotis stated that they were looking for safe school reports and anything they had.

Mr. Ouellette also asked if the people that had spoken tonight were staged.

He was informed that nothing was staged, they were Hooksett citizens speaking on their own.

B. Mr. Ouellette asked if they were stating that the lack of the internet and the dispatch connection for the laptop in the cruisers is financial.

Commissioner Gagnon stated no, they were waiting for the repeater to be installed and his recommendation was to try to look at the impact fees, or it would need to go to a warrant article.

Chief Agrafiotis stated that some people may perceive the officers can't function properly without this is not correct. It is a nice thing to have but this is not needed to be an efficient police officer.

Maura Ouellette:

A. Ms. Ouellette asked what the criteria was for being placed on the agenda.

She was informed you call and ask to be placed on the agenda.

Commissioner McHugh stated that when a person calls to be placed on the agenda to ask what the topic of discussion would be.

A discussion was held. Commissioner McHugh stated that the Commission would have a discussion on this and decide the process.

B. Ms. Ouellette wanted to know what the process was in order for the Commission to view a personnel file. Has the Chief ever let a Commissioner review a personnel file? Chief Agrafiotis stated no, unless they get to a point of a termination. They do not come in and read personnel files, it could taint them from hearing a grievance or anything in that nature.

C. Ms. Ouellette asked if the legal advice about exit interview was in writing. Chief Agrafiotis stated that he did not think it was in writing.

Public Input Continued:

D. Ms. Ouellette stated that she wanted to reiterate her dismay with the handling with the SRO Program.

Jay Defina:

A. Jay Defina inquired if someone reviews a personnel file is there any type of documentation stating that this was done.

Chief Agrafiotis stated that anytime someone looks at a file it is signed off by whoever is reviewing the file.

Todd Lizotte:

A. Mr. Lizotte wanted to do an exercise on crime analysis for Hooksett.

Chief Agrafiotis told Mr. Lizotte the contact person would be Captain Cecilio.

Mr. Lizotte stated that he would present a letter of what he wanted to achieve. The Town Report was discussed also.

David Pearl, 79 Main St:

A. He asked the Commission to have the patience to answer the questions and comments about real issues, like the SRO, how meetings are conducted and policies. Then to spend time listening to citizens complaint.

B. He discussed the Sheriff's investigation and if the memo from Officer Defina was part of the investigation as he understood that it was not, and if it did, did they determined what happened with the memo.

Commissioner Gagnon stated he does not have an answer right now, and he will check into it.

Commissioner Gagnon asked Chief Agrafiotis to supply Commissioner Gagnon with a copy of the letter and the report for review.

C. Mr. Pearl inquired about the minutes of the March 13, 2009 meeting as he thought they were going to be amended.

Commissioner Gagnon stated that it is still being worked on. Commissioner Gagnon asked Mr. Pearl for clarification on the time frame that he was discussing. Commissioner Gagnon stated that it shows the meeting going longer than 2 minutes.

Mr. Pearl stated that he will review it again and get back to him.

Attachment #1
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Remarks to the Hooksett Police Commission by Michael DiBittetto
August 18, 2009

I was jolted by a recent letter to the Editor in the Hooksett Banner which read, "I am appalled at the behavior of the Hooksett Police Chief and the Hooksett Police Commission." What's to be appalled about? Are we to be appalled that in the face of a constant and withering nearly year long assault, that the Chief and the Commissioners have demonstrated unbelievable restraint?

Over the past months going on nearly a year, I have observed much appalling behavior, but none on the part of the Hooksett PD. The chief and the commissioners have responded professionally and respectfully.

Let's review some of the recent events that have brought us to this place. The recent irritants appear to originate from two events: the first arises from the decision to reduce the hours of the School Resource Officer and seek some cost sharing between the PD and the School Department; the second relates to the replacement of the Safety Center Signage. Due to the limits of time, today's comments will be limited to the first matter.

The issue of the SRO commenced as a respectful exchange of communications and proposed solutions between the School Superintendent and the Police Chief. In an apparent effort to bolster the case for maintaining a full time officer, an elected official, School Board Member Maura Ouellette, wrote a letter to the editor that created an impression that the Hooksett Schools were infested with drugs and weapons. As could have and should have been anticipated, a firestorm ensued.

When the smoke cleared, a number of facts were evident. First, the number of drug and weapons related issues was far fewer than we were led to believe. Secondly, the nature of those issues did not support the level of concern that was raised in that letter. One of the highlighted drug issues involved a "pot" pipe that was found in the teachers' lounge. The much reported weapons incident involves a knife that was taken from the school and made its way onto a bus. How did these incidents happen? Has anyone investigated how a pot pipe made its way into the teachers' lounge? Did it fall out of a teacher's purse or pocket? How about the knife? How did a student sneak a knife out of the Cowley School and onto a school bus? And finally, why were these reports not communicated to the P.D. in a timely manner? Doesn't the school resource officer have the responsibility to file daily reports just like any other officer would have?

A very serious question has been raised about whether those issues were being reported properly and in a timely manner and whether those confidential incidents may have been shared with a party or parties not authorized to access them. NH General Law Chapter 193 and the NH Board of Education directive ED 317 address reporting requirements for certain incidents; specifically, written reports of covered incidents must be filed within 48 hours. The Statute limits the exchange of these confidential matters to Law Enforcement Officials and School Administrators.

Has an investigation addressed the question of whether Maura Ouellette had accessed any of those reports which she has cited? Would not that access have been a violation of Chapter 193? It is clear that Officer DeLima and Maura Ouellette have had extensive communications. If this confidential information has been shared with unauthorized parties, have the affected parents been notified?

Attachment #1

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Furthermore, what is really behind this effort to protect the SRO position? We can now clearly see that the focus of the effort is not just to protect the position of the SRO, but the objective is to specifically save the position for Officer Defina. The proponents have made it clear that no other officer will be acceptable. Why?

Clearly, the tenure of Officer Defina has been marked by a near constant conflict with the administration and he has faced repeated disciplinary actions.

We can see that this conflict dates all the way back to the hiring of Agraftotis as the Hooksett Police Chief. Whatever promises may have been made by prior chiefs or acting chiefs, it became very clear early on that a number of officers harbored resentments at the hiring of a new chief from outside of the organization.

In typical response to the latest disciplinary action, an anonymous list of grievances against the chief has appeared. Reappeared would be a more accurate word, as this list is essentially a warmed over recitation of the same list that was raised four years ago. Those charges were made and adjudicated and found to be without merit. Most importantly, that incident left the commission realizing that its ill advised attempt to respond to the complaint left it severely compromised and left the Chief unfairly maligned. I would trust that no amount of badgering will compel this board to repeat that mistake.

It is important to note that despite the many allegations made against the chief by this officer, and considering the long history of the Teamsters' willingness to grieve such complaints; that, no record exists of any complaint having been brought before either the Superior Court or the NH Public Employees Labor Board. Instead, the actions that have been taken are in direct violation of the union contract which specifically prohibits any officer from taking actions which are outside of the agreed upon grievance process. It is abundantly clear that this officer has conspired with public officials to interfere with the Hooksett Police Department operations? The Budget Committee's actions to punish the chief and the department through the budget process are a clear violation of state laws regulating the behavior of public officials.

Has this commission enforced the contractual obligations of the Teamsters Union to restrain Officer Defina from taking his grievance outside of the process? The citizens of Hooksett are a party of interest to the contract and have a right to be assured that its provisions are enforced.

One final note, the coordinated attack letters in the Banner never fail to assert that they represent the opinions and feelings of the citizens of Hooksett. Let me assure you that they do not represent a silent majority that finds them unfair, distasteful and abhorrent. Many have communicated their interest in correcting the problems with the public officials who are responsible and are willing to take the necessary legal steps to do so.