

# **APPROVED**

## **POLICE COMMISSION MEETING**

### **Minutes of the Meeting of Tuesday July 20, 2010**

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The Hooksett Police Commission held a public meeting on Tuesday July 20, 2010, at the Safety Center. Present were Chairperson Joanne McHugh, Commissioner Henry Roy, Commissioner Clark Karolian, Chief Stephen Agrafiotis and Town Councilor James Gorton.

#### **1. Call to Order:**

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

#### **2. Proof of Posting:**

Chairperson McHugh provided a copy of the meeting notice.

#### **3. Pledge of Allegiance:**

The pledge of allegiance was held.

#### **Non-Public Session**

At 5:32 PM, the Commission entered a non-public session by a motion made by Chairperson McHugh, seconded by Commissioner Roy, the motion carried unanimously by roll call vote to enter non-public session in accordance with the provisions of NH RSA 91-A:3,II (a).

#### **1. NH RSA 91-A:3, II, (a).**

A motion was made by Commissioner Karolian to seal all the minutes of the non-public session. The motion was seconded by Commissioner Roy and the motion was carried unanimously by roll call vote.

The motion was made to come out of the non-public session at 5:44 PM.

#### **Public Session**

#### **4. Vote for Police Commission Chair**

Commissioner Karolian made a motion to nominate Commissioner McHugh for the chair position. Seconded by Commissioner Roy motion carried unanimously.

## **5. Minutes of Last Meetings:**

A. Chairperson McHugh stated they needed a formal motion in public session to accept and approve the February 16, 2010, March 16, 2010, April 15, 2010, and May 18, 2010 nonpublic minutes as this was not done at the June 15, 2010 meeting.

A motion was made by Commissioner Roy to formally accept the approved nonpublic minutes from February 16, 2010, March 16, 2010, April 15, 2010, and May 18, 2010 seconded by Chairperson McHugh. Motion carried. Commissioner Karolian abstained.

B. Chairperson McHugh asked that the June 15, 2010 public and nonpublic minutes be set a side.

## **6. Public Input (5 minutes)**

### **Mary Farwell 24 Grant Dr., Hooksett, NH**

A. Ms. Farwell stated she received a code red notification at 6:55 AM this morning informing her that there were houses without electricity and many road closures in town. She commented there was no place on the town website indicating road closures and asked if the Police Commission could work with the Town to figure out if there is a way that this information could be posted.

She stated that she did contact the town offices and spoke to Evelyn who advised her to contact the Police Department, Highway Department, or Fire Department to see if they had any information. She contacted the Highway Department and left a message, then contacted the Police Department, and was informed of the locations of the road closures.

Chief Agrafiotis stated there was a meeting held a few months ago between the Chief, Town Administrator, Emergency Management and the Fire Chief. The Emergency Management person was directed to be in charge of this procedure. He suggested that they discuss this with the town administrator about possibly expanding the notification process.

### **David Pearl 79 Main St, Hooksett, NH**

Mr. Pearl stated he was frustrated with the Police Department, there was a lack of transparency, he stated the Chief read a letter in August and he had filed five right to know requests to receive a copy of the letter and have been denied. There is a lack of accountability and integrity. He had filed a complaint and has not received an acknowledgement if that complaint has been accepted. He wants to see a full audit of the Police Department.

Chairperson McHugh informed Mr. Pearl that the matter is under discussion and she could not tell him when but he would receive a response.

### **Maura Ouellette 3 Summer Fare St., Hooksett NH**

She wanted to discuss with the Police Commission her concerns about the Jason Defina public grievance hearing. The hearings have been postponed several times due to scheduling conflicts. She has concerns with the legality of an alternative Police Commission. She asked if they had been sworn in and if background checks were completed. She stated the Commission needed safeguards put in place to ensure a valid process is allotted to Jason Defina and other Police Department employees. She asked if the current Police Commission would reconsider their position on this and hear the case themselves.

She stated that the Department has just received two more resignations one from a patrol officer and a sergeant. The last four officers to leave the Department three of them have been sergeant, and taking pay cuts to their salary. The Department has funding for 25 police officers and as of August 6, 2010 will have 21 certified police officers. There are approximately 40 employees, certified and civilian positions, and last year they lost 10 employees. Stating that was 25% of the workforce.

She stated the sally port is full of tires and a stack of tires fell on a police officer when bringing a prisoner into the station. The tires are being stored here since the funding for the storage unit was cut. She asked why overtime was being denied why officers are seeing a diminished amount of court time. Is this being done in an effort to boost the bottom line for legal fees? She asked why the Commission had an attorney and the Chief has an attorney. She suggested to the Commission do a complete audit.

**Bill Gahara 16 Misty Ln. Hooksett, NH**

Mr. Gahara stated he was there as a Town Councilor Representative.

He introduced Town Council Representative James Gorton as he would be the new liaison to the Commission.

Councilor Gahara asked if the Commission would consider having the Town Council Rep sit at the table with them with a nameplate at the meetings and if the Commission would consider moving the meetings to the Town Council chambers which has more space available.

He also extended an invitation for a workshop between the Town Council and the Commission for August 25, 2010. He asked if the Commission would take this under consideration.

**Todd Lizotte, 21 Post Rd., Hooksett, NH**

He asked why the command staff is being prepped by lawyers for a simple hearing. His biggest concern with the alternate commission was the legal issues and liability to the Town. He asked if there was a conflict with the Department having two lawyers opposing each other, in regards to protecting an individual versus upholding the integrity of the Department.

**Marc Miville, 42 Main St., Hooksett, NH**

He stated at the May 18, 2010 meeting there was a motion presented by Commissioner Roy to seek retainer fees for legal counsel. He read a section from the May 18, 2010 minutes reference this, and an article that was in the newspaper describing the discussion on the motion. He wanted to know if the vote on May 18, 2010 was a vote to encumber funds for the legal retainer, or was it a vote to carry over and to seek information.

Chairperson McHugh stated that this was researched and it could not be done, and the Commission would address it later.

He wanted to know what line the pay equity adjustments were coming out of as the new budget has started.

**Jr. Ouellette, 3 Summer Fare St., Hooksett, NH**

Mr. Ouellette asked if he could give the same paperwork that he handed to the Commission last month to Commissioner Karolian. Chairperson McHugh stated he could.

He stated he and his wife have been attending Commission meetings for the past several years and complaints seem to be falling on deaf ears. That is why the issues keep coming up month after month they need to move forward. He would like to see the Commission move towards creating solutions.

He has not heard anything on the complaint he had filed last month. The K-9 officer and many other officers feel they were targeted. The Department has lost veteran officers many shifts are running short with less experienced officers.

He stated not moving forward on a complaint of untruthfulness against the highest ranking officer in the Department could prove to later to be negligent for liability, this needs to be investigated.

Chairperson McHugh stated his complaint was under review at this time.

## **7. Monthly Reports:**

A. Chief Agrafiotis informed the Commission they did not have a town budget report as it is the end of the budget year and the numbers are still being finalized.

The Commission has a preliminary Police Department budget which shows it has been expended 88.59%.

Chairperson McHugh stated they held a discussion last month referencing to an over expenditure report to do an authorization when they are spending from another line. She asked if the Chief considered this. Chief Agrafiotis stated that Chairperson McHugh was going to give a sample report to review. She stated she would get a sample to him.

Chairperson McHugh asked Chief Agrafiotis what the average number of police officers that they had over the course of the year. Chief Agrafiotis stated the numbers that Chairperson McHugh and himself looked at was for 24 officers. She stated she hears repeatedly about the remaining funds in the salary line and wants to see if he can obtain that number.

B. Commissioner Karolian asked Chief Agrafiotis the wages were under spent by \$244,480 and the overtime wages were under spent by \$151,336. Chairperson McHugh stated that was correct and that money would be returned. A discussion was held on the budget Commissioner Karolian asked why approximately \$450,000 was being returned. Chief Agrafiotis stated that most of that was wage money that was not spent. A discussion was held on the hiring process for police officers.

Chairperson McHugh stated there is a memorandum of understating that the unused funds for the FICA, health, dental, life and disability insurance, and the New Hampshire retirement funds would be returned to the Town.

Commissioner Karolian asked if next years budget was reduced by this amount. Chairperson McHugh stated that next year's budget is reduced by approximately \$414,000.

Commissioner Karolian asked Chief Agrafiotis how many patrol officers does the department have currently. Chief Agrafiotis stated I don't know, he doesn't have that at the moment and will get the information for him.

Chairperson McHugh stated she was surprised there were no monthly manifests being done. She stated that the Chief informed her he was given authority by the Commission that he is the one that reviews the manifest. She was suggesting that someone reviews the manifest seeing the Chief is the one that approves all the authorizations for the expenditures. Someone review the manifest and then when they are sent on to the Finance Department she knows that they have been reviewed.

Chairperson McHugh had a conversation with the Finance Director she stated she did not know anything about the expenditures as they did not have any authority over it.

Chairperson McHugh was looking for the Commission comments on how to deal with this.

Commissioner Karolian discussed the Chief's purchasing guidelines. The Chief is authorized to purchase anything up to \$7,500, and after that the Chief and the Commissioner Chairperson are authorized to purchase up to \$10,000. Anything above \$10,000 needs the Commission's full approval. A discussion was held on how the current purchasing process is handled.

Chairperson McHugh stated that it is a list of the expenditures that happen over the course of the month. It's signing off as a Commission. The Chief does sign each statement in regards to the expenditures.

Chief Agrafiotis stated that a list is currently given to the Commission with every monthly report.

Chairperson McHugh stated that the Commission could approve it at the meeting. She wanted to review it before the payments are sent and then send it to finance.

Chief Agrafiotis stated if that is the procedure they want to set up that is fine, but there are times where there would be late fees and the Town would get a stack of the bills at one time. He asked that Chairperson McHugh get a sample of the report. Chairperson McHugh stated that the Town would not send out the checks until the report was reviewed by the Commission. Chief Agrafiotis stated they should talk to the Finance Director. Chairperson McHugh stated the Town Administrator reviews them and signs off and the checks are sent out.

Commissioner Karolian stated they are looking to have this authorized by the Police Commission prior to being paid out. He asked what happens if the Police Commission decides not to pay for it. Chairperson McHugh stated that there might be a question about expenditures. Commissioner Karolian stated if the Chief wanted to make a purchase from \$0 to \$7,500 he is authorized to do this himself without going to the Commission, then they go to \$10,000 the Chairperson and the Chief have to authorize the purchase.

Commissioner Karolian stated unless they wanted to change the dollar amount this would stand as is and any purchases the Chief makes up to \$7,500 he can order whatever he wants as long as he is removing it from his annual budget and it doesn't need to get approved by anyone.

Commissioner Karolian stated they needed to review this and have more discussion on this.

Chairperson McHugh asked if they wanted to bring this back and she would get a copy of the school manifest and how they do this.

Chairperson McHugh inquired about the bids, and if the Department gets 3 bids. Chief Agrafiotis stated they do not always do this it depends on what the item is.

Chief Agrafiotis commented that there is a procedure that is followed and if it is going to change they want to be on the same page and understand the pros and cons of doing this.

## **8. Old Business**

### 1. Crimeline Update (schedule meeting, fundraising and purchase of signs)

A. Chief Agrafiotis discussed the memo for the purchase of the neighborhood watch signs. A discussion was held on the neighborhood watch groups and there locations and the number of signs needed. The Commission agreed to purchase the signs and it would be taken out of the community service line.

B. Chief Agrafiotis stated Crimeline meets once a month, and the Commission has not decided on the fundraising and whether they are going to move forward.

Chairperson McHugh stated they did have a discussion about having an outside company soliciting donations, it was considered counter productive. They need to decide if they will accept donation or do fundraising.

Chief Agrafiotis suggested with the new commissioner knowing how these things work when he has some time to meet with the detectives and review the types of crimes. He stated the efforts that will go into fundraising be necessary or are they doing a lot of the same things with the neighborhood watch.

Commissioner Karolian agreed and wanted to find out what there is for crime stats and perhaps the neighborhood watch would work. A discussion was held on the stats for the department and how the process worked.

Chairperson McHugh suggested holding a follow-up meeting to the crime watch meeting that was previously held at the library. Chief Agrafiotis stated he would suggest doing this in the fall or early winter, they could show what has been done and see if other people would show up to see what they could do in their neighborhood.

Commissioner Karolian stated they needed to keep in mind they did not want the neighborhood watches to take the function of the Police Department, and if they work on getting the personnel up to the proper staffing level they would not have to worry about people taking turns doing a neighborhood watch.

Commissioner Karolian would be willing to meet with the detective and get the statistics.

### 2. Annual Town Report

Chief Agrafiotis informed the Commission the annual town report is due by July 30, 2010. A draft was done by the department, and a copy was given to the Commission for review.

Chairperson McHugh stated it was an opportunity for the Department to state things that have been done over the course of the year like the neighborhood watch. She asked Commissioner Roy if he wanted anything added to the report.

Chairperson McHugh stated they would come back to this and address it later.

### 3. Commission Rules & Regulations Update

Chief Agrafiotis stated this was the document that Chairperson McHugh was looking at back in April to change some of the language.

Chairperson McHugh asked what the Commission wanted to do with this. She had some language changes and Chief Agrafiotis stated they added issues that related to electronics devices.

Chief Agrafiotis stated he could distribute this information again to the Commission so the new Commissioner would be informed and then proceed from there. This would be put on the agenda for next month.

Commissioner Karolian asked the Chief if the Commission has only the authority for Chapter 1 the Rules & Regulations verses the Standard Operations Procedures (SOP). Chief Agrafiotis stated the SOP's the Commission could weigh in on but it would have to be done one by one on a vote.

Chairperson McHugh stated the Chief would not bring them in for a discussion with the Commission but they would receive a copy of the changes. If the Commission wanted to make changes they needed to vote them in.

### 4. Town Website Access

Executive Assistant Swafford informed the Commission that she had been contacted yesterday and had a meeting set for July 23, 2010 to meet with Bob Betz to give her access to the Town's website.

Chairperson McHugh gave a brief background to Commissioner Karolian as there have been past issues of the Department not having the ability to get meetings posted in a timely fashion because the person at the town hall was not in, and they had to end up canceling a meeting due to it not being posted.

## **9. New Business**

### 1. Agenda Criteria

A. Chairperson McHugh stated the Commission needs to decide what constitutes an agenda item.

Commissioner Roy stated he was reviewing the guidelines from the Hooksett School Board meeting and he believes they would be adequate for the Commission. He stated he wanted 3 minutes for public input at the beginning and end, and anyone who wants to be put on the agenda has to address the chair and then it is discussed by the board.

Commissioner Karolian does not want to be entertaining the same comments from people who want to be put on the agenda over and over again. It bogs the Commission down on the work that they have to do. He is not talking about complaints or issues people have, but to be put on the agenda for a presentation he does not believe it should be allowed. He stated he wanted 5 minutes for public input and for the agenda also. The Commission discussed keeping the 5 minutes public input and as for the time allowed for being on the agenda it would depend on the topic and how important it is to the Commission and they needed to know the subject matter.

Chairperson McHugh wanted clarification as what the criteria is on the subject matter. Commissioner Karolian stated if the subject matter is a complaint about the Police Department or

any employee that should not be put on the agenda. They needed to adopt a system and referred to a letter the Chief sent out regarding P-252.

Commissioner Karolian stated in the rules and regulations there is a criteria for the public if they wanted to make a complaint about the Police Department or someone in the Police Department. He stated a complaint should be in writing that comes into the Commission so it can be reviewed. He prefers it not to be anonymous; if an investigation needed to be done the Commission could not contact someone. Chairperson McHugh asked if they wanted to put a time frame on a complaint that is received. Commissioner Karolian stated the rules have to be followed in a non-public session when it comes to someone making a complaint about an employee, which in his opinion includes, the Chief of Police. They need to follow guideline that are in line with what they currently have and if a complaint is made on an employee of the Police Department it goes through the chain of command. The problem they would have is the chain of command stops with the Commission, and if the complaint is about the Chief of Police it has to come directly to the Commission.

Commissioner Karolian stated there is a directive the Commission needs to address about the chain of command that was put into effect by the Commission on June 23, 2005. It states the Commission is untouchable by anyone and they need to go through the chain of command. He believes that it needs to be rescinded, and change it to if an employee wants to talk to the Commission they should be able to do this.

Commissioner Roy stated they should fine tune this and address it later. The Commission agreed to this and to contact LGC.

Commissioner Karolian made a motion to keep the public input to 5 minutes, seconded by Chairperson McHugh. All in favor of the motion Commissioner Karolian yes, Chairperson McHugh yes, Commissioner Roy no. Motion carried.

Commissioner Karolian stated the criteria for subject matter for the agenda will come to the Commission for approval before it is put on the agenda. Chairperson McHugh commented they would speak with LGC she asked if it was possible to set up a workshop with LGC. Chief Agrafiotis stated he did speak with LGC about the workshop issue. He talked to the staff attorney and was advised it should be posted with an agenda, and there would be no public input.

Chief Agrafiotis stated the Commission should check with the Town Administrator who has worked with LGC about meeting guidelines to give them direction.

## 2. Mr. Todd Lizotte

A. Mr. Lizotte offered his services for statistics if needed.

He did a presentation on productivity and cost savings. He discussed the high turnover rate, current issues - scheduling instead of strategic use, overtime pay to be used more as a strategic advantage, there being no career growth opportunity, forced to promote less experienced officers. He gave a general analysis and looked at the work load stating an average daily log for a day was about 59 items over a 24 hours period of about 35.4 items in the log, he stated looking at one officer per shift the load is about 1.5 incidents per hour, turnover rate, less experience recruits replacement rate, losing more officer. He looked at a 10 hour work shift using overtime have 6 hours of overlapping shifts. Look at strategic planning and scheduling have shift bidding. Discussed busy times during shifts and career growth opportunities.



Chairperson McHugh asked if he knew of any other community that used this type of strategic model. He stated he did not look into anything in New Hampshire. He stated that over the years the Commission has lost situational awareness.

Commissioner Karolian stated Mr. Lizotte was looking at 4 days on and 3 days off at 10 hours a day. He asked if Mr. Lizotte saw a problem with 4 days on and 3 days off who would get which 3 days off who would get Friday, Saturday, Sunday every week. Right now they have a rotating shift 4 days on and 2 days off. Commissioner Karolian stated there is a CBA they have to follow. Mr. Lizotte stated there is a strategic issue he stated the budgets have been under spent 1.3 million of the funds on other things it goes back to strategic planning. A discussion was held on shift bidding and seniority.

Commissioner Karolian stated that with a small department you can not use the rules that are used from larger departments. He agrees with his concerns but there are certain perimeters that they have to follow.

### 3. Commission Authority Signature Pages

A. Chief Agrafiotis asked if the Commission reviewed the Commission authority signature page. When the Commission changes a new page is signed by the current Commission.

Commissioner Karolian asked if this would carry on if the current Commission doesn't sign it now. It was decided the Commission would wait to sign it until the changes have been made to the rules and regulation.

### 4. Commissioners Service Recognition

Chairperson McHugh asked Commissioner Roy what the practice has been in reference to this. Commissioner Roy stated he has only been there for one Mary Anne Maksalla and she never came to a meeting to accept it, and David Gagnon indicated that he did not want anything.

Commissioner Karolian wanted to publicly state that they recognized David Gagnon for his years of service and thanked him.

### 5. Rules & Guidelines for Hooksett Police Commission Meeting.

A. The Commission held a discussion reference the Town Council liaison sitting at the table with the Commission.

Commissioner Karolian researched and found they need to keep a separation for the public there can not be any perceived influence that the Town Council has any authority over the Police Commission or the Chief of Police. That is the main reason for having this separation and he believes it is in the state law. He has always maintained you need to have no political influence when it comes to the Police Department. He would suggest the Commission not allow the liaison to sit at the Commission table.

Commissioner Roy stated that he agrees with Commissioner Karolian and this should also include moving the meetings to the Town Council chambers also.

Commissioner Karolian stated he did not see a conflict of interest holding the meetings at Town Council chambers.

Chairperson McHugh wanted this researched more legally if they should or should not do this.

Chief Agrafiotis stated that at times if there was information the board wanted at a meeting they could not access it immediately. He stated the media room does have audio and video set up and town hall doesn't have video set up.

Commissioner Roy stated he thinks it would be an undue burden they would have to take everything over to town hall, there are members of the command staff in the audience that get called out by the OIC on occasions and that can't happen if they are over there. He thinks they should be on the premises.

Chairperson McHugh asked Chief Agrafiotis to contact LGC and ask if it is legal for the Town Council Representative to sit at the table. She also stated to repeat to LGC Commissioner Karolian's concerns about the Town Council. It is suppose to be separate the Town Council is not suppose to have any influence on the Chief of Police.

Chief Agrafiotis asked Commissioner Karolian to send him an e-mail to that effect so he has all the information. He stated he would do this.

## **10. Other Business**

A. Commissioner Karolian wanted to discuss the substitute commission. He believed the Commission erred when they thought they could appoint a substitute commission. He did not believe they had the authority to do this. If you research the RSA on police commission there is a process to be followed. It does not indicate in the state law that the Commission has the authority to appoint a substitute commission regardless of the reasons. The collective bargaining agreement is very specific when it comes to grievance procedures and to hear these. If a substitute commission was to hear a case they would be facing another unfair labor practice it would go back to the PELRB on the grounds the Police Commission did not hear this case, he believes it would be sent back to the Commission to follow the procedures that are in the collective bargaining agreement.

Commissioner Roy stated this was done on the advice of Attorney Higgins they should have a meeting with Attorney Higgins before next Wednesday if that would answer his questions.

Commissioner Karolian stated it would not, and if Attorney Higgins gave the Commission authority to put in place a substitute commission, he believes he was wrong.

Chairperson McHugh stated she doesn't believe Attorney Higgins has no the authority, but they have the authority to appoint, what do you do in her case of someone that needs to disqualify themselves.

Commissioner Karolian stated it is clear what the duties of the Police Commission are and no where in Chapter 412 does it say they can appoint another Commission. They have to follow the collective bargaining agreement; he does not think a commissioner should excuse themselves.

Commissioner Roy stated they need to discuss this with Attorney Higgins he is the one who said they had the authority. She thinks each person has to decide whether or not it's appropriate for them, and in her case she felt she should not be sitting based on the circumstances. Commissioner Karolian stated she is duty bound.

Chairperson McHugh stated they are not going to settle this tonight they have to find a way to get an answer to the questions.

Commissioner Karolian stated he doesn't need to debate it with Attorney Higgins he is looking at the duties he is bound to do, he sees no where in the state law that they can appoint a substitute commission.

Commissioner Karolian made a motion to abolish the substitute Commission and cancel the hearings for next week and reschedule it to be heard in front of this board.

Chairperson McHugh stated she can understand what he is stating but in her case she felt she needed to step down. They need to find the answer to this question whether or not she can or can't sit, Commissioner Roy feels he was told they could appoint a substitute commission, and Commissioner Karolian feels they can't. She was looking for a way to resolve this issue and get an answer.

Commissioner Karolian wanted to postpone the upcoming hearing in case they get the opinion that Commissioner Karolian was correct and Chairperson McHugh should hear it.

Commissioner Karolian made a motion to postpone the hearing for July 28, 2010 and July 29, 2010 until they receive a ruling from legal counsel as to what the concerns are.

Commissioner Karolian wanted to go on record he did not want to be any part of that deciding fact of the substitute commission.

Commissioner Roy stated this question has come up before and it has been answered by statutory authority.

Chairperson McHugh asked if Commissioner Karolian wanted to ask the question to the attorney or would he prefer to ask the town's attorney. He stated he would, but he wanted to make the motion. If the town's attorney says Commissioner Karolian's assumptions are correct they will need to move this and having 5 days is not enough, until both sides are agreeable.

Chairperson McHugh asked if he was agreeable if the attorney comes back and states that it was right will he accept that. Commissioner Karolian stated if the attorney comes back and says the substitute commission is ok, and as long as his name is not on any legal paperwork, he does not want to be liable in any way. If the attorney wants to show him in writing where they have the authority to do this that is fine.

Chairperson McHugh stated she was inclined to hold off on the hearing but she wanted to get the answer to the questions. She doesn't believe that she should be hearing this. She stated they would ask the town's attorney.

Commissioner Roy stated they should call Attorney Higgins tomorrow and state the authority. They are going on a year; he doesn't know why they should incur an expense with Hage and Hodes.

Commissioner Karolian wanted to move the date to a date that is agreeable for both parties in case it comes back they have to hear it and the substitute commission can't they would not incur another grievance and more lawyer's fees.

Chairperson McHugh asked if Commissioner Karolian would agree to get an opinion with the town's attorney. He stated yes. Commissioner Roy stated he does not agree.

Commissioner Karolian stated according to Commissioner Roy, Attorney Higgins has already rendered an opinion on it and it would not change, so he wanted to go with an outside opinion.

Commissioner Karolian made a motion they seek an opinion from Hage and Hodes in regards to the legality of the appointment of the substitute commission by the sitting Commission to hear the grievance and they postpone the scheduled hearing for next week to another date that would be agreeable as soon as they get an answer back from the town's attorney. Seconded by Chairperson McHugh. All in favor signified by saying I, Chairperson McHugh, I, Commissioner Karolian I, Commissioner Roy, no. Motion carried.

Chief Agrafiotis would notify the attorneys and advise them of this.

Chairperson McHugh stated she would notify the Town Administrator about counsel.

## **11. Next Agenda**

1. Bids
2. Expenditure Authority
3. Manifest
4. Commission Rules & Regulations Update

## **12. Public Input (5 minutes)**

### **Mr. David Pearl 79 Main St., Hooksett, NH**

A. Wanted to thank the Commission for a productive meeting as a member of the Budget Committee he stated anyone can contact LGC and if they identify themselves as a board member of the Town you can talk to them directly. As a taxpayer paying the legal cost he hoped that once they receive an opinion that it would be produced in writing, they should have had that to look over and read instead of having to go back to another attorney.

B. He wanted to ask the Chief a question that he had asked several months ago. Chairperson McHugh stated she wanted to warn him if he doesn't want to respond there is nothing stating that he has to.

Commissioner Karolian stated whatever is going to be stated it can't be something that needs to be included in a non-public session.

Mr. Pearl stated 6 months ago he asked the Chief if he had a plan to move the Department ahead. He stated he was told that would be something he would take under consideration. He wanted to ask again does he have a plan to move the Department ahead. Chief Agrafiotis stated yes the command staff has a plan. Mr. Pearl asked why this couldn't be shared with the public. Chief Agrafiotis stated the public doesn't help run the Department the command staff does.

Chairperson McHugh stated this will not be an ongoing debate the Chief answered the question.

Mr. Pearl asked the Commission if they would direct the Chief to give a presentation and inform the public what that plan is.

**Greg Martakos, 1465 Hooksett Road, Hooksett, NH**

A. He stated he doesn't think the substitute commission is appropriate and that the Chief should not have any contact with the substitute commission.

B. He stated the Commission should start doing exit interviews. There is 1 sergeant with 8 years on and 1 officer with 1 year on that is leaving.

**Maura Ouellette, 3 Summer fare St., Hooksett, NH**

A. She stated she does have comments to make and based on what the Commission is stating she was wondering if it should be said in non-public session.

Commissioner Karolian stated if she had complaints and accusations she needs to follow the complaint procedure. She needs to be careful there are no liable suits.

She stated she had statements and pictures to back up what she was saying.

Commissioner Karolian asked if she wanted to submit that to the Commission, then it should be done in non-public and they could take the complaint.

Chairperson McHugh asked if they should take the complaint. They asked if she could wait till next month as they would have the rules instituted as soon as possible.

**Marc Miville 42 Main St., Hooksett, NH**

A. He stated he thought he heard there was a compliment of 24 officers now in the budget. He thought there were 25 officers budgeted.

Chairperson McHugh stated she found out that was taking out the dollars of the equity pay and that is how they arrived at it.

He stated they are removing a police officer to pay for the equity pay. Chairperson McHugh stated she is not saying that, she is saying she thinks that is what the reasoning was when they arrived at the 25 from the Budget Committee this is what she was told by the Finance Director.

He stated it was his understanding during the budget process there would be 25 officers. Chairperson McHugh stated she understood that also and when she went back to figure out the numbers the dollars did not match. The Finance Director stated the reason was they were taking into account those dollars for the equity pay. If they took the pay equity increase the dollars were there.

Mr. Miville stated that the Budget Committee members were voting on the amount based on the fact it was going to supply 25 officers. Chairperson McHugh stated this is what Christine Soucie the Finance Director had told her.

B. He asked if the Department was going to hire 2 more officers to bring it to 24 again. Chairperson McHugh stated yes.

C. He stated the Town Council Representative should be seated at the table out of respect, and

Chapter 412 addresses the fact the Council can't get involved in any operations of the Police Department.

D. He stated the Town Council replaces any replacements of the Commission.

Commissioner Karolian stated I would not be stepping down, the state law is specific the only people the Police Commission can appoint is the premature absence of the Police Commissioner until the end of that persons term.

He asked for clarification on what happens to the current Police Commission if the substitute Commission is used.

Chairperson McHugh stated they needed to resolve the question first.

He stated he asked a question back in March what was the legal justification for establishing a replacement Commission. He stated that Commissioner Gagnon read a statement. He said Commissioner Gagnon quoted the chapter he doesn't remember the month.

**Michael Sorel, Hooksett, NH**

A. He extended his apology to all the members of the Police Commission for his outburst, and hopes they accept his apology.

B. He stated in his experience different law firms render different opinion on the same subject it depends on their expertise in that area of law. He stated Commissioner Karolian has raised some reasonable and genuine questions and they need to be addressed.

**Dick Sullivan Morgan Dr., Hooksett, NH**

A. He welcomed Commissioner Karolian and distributed a copy of Chapter 412 to the Commission.

He stated at the last meeting he asked if Chairperson McHugh was familiar with 412 and he asked if she had reviewed 412 since the last meeting. She stated she had. He asked if she understood that the Commission was an independent autonomous authority in terms of any actions from the Police Department. His reason for bringing this up was some members on the Town Council feel as though they should have say on things that are going on in the Police Department. If the Commission sets a salary they want them to go before the Town Council to get their approval. 412 places all that authority with the Commission. He stated in terms of operations there is no other body in town that has any authority over the Commission or the Police Department.

He stated the Town Charter indicates the Police Commission continues to perform their duties as prescribed by law and the Police Commission is vested with the authority to manage the affairs of the Police Department and exercises that authority in a manner it sees fit without interference by Town Council or within the limit of funds appropriate by town meetings. He stated over the past year there has been a number of attempts to change this that have not been successful, and some members of the Town Council still believe they should have authority over the Commission. He stated that this needs to be emphasized so the leaders of the community understand.

B. He stated in terms of the substitute commission it was his understanding at the time this was discussed the purpose was this Commission heard hearings, took testimony, made decisions, and dismissed the individual. If he wanted to appeal this it comes back to them for appeal there should be another body and that is why the substitute Commission was chosen.

**Todd Lizotte, 21 Post Rd., Hooksett, NH**

A. He was concerned of the legal liability issues in regards to the substitute commission, and with comments made at the hearing by the Commission with them having prior knowledge they should not have had.

B. He stated Attorney Higgins opinion should be a written opinion.

C. He discussed Chapter 2 of the AOM stating it has specific laws the Commission has the final say in regards to these. He does not see any records anywhere in the minutes of any changes in the AOM's. He stated the Chief has said several times the Commission does not have legal authority on Chapter 2.

He commented that the substitute commission is not up to date on what the AOM's contain or the protocols.

**JR Ouellette, 3 Summer fare St., Hooksett, NH**

A. He wanted to answer Commissioner Karolian's questions on the number of patrol officers the Department has it is 10 officers with 1 leaving at the start of August and one new hire going to the academy in August. There are currently 13 in administration, with 1 sergeant leaving at the end of this month.

B. He stated the Commission needs to reexamine the budget for wages, many of the officers that left the Department were senior officers, and based on his calculation there is funding for 25 officers.

**Non-Public Session**

At 8:45 PM, the Commission entered a non-public session by a motion made by Commissioner Karolian, seconded by Commissioner Roy, the motion carried unanimously by roll call vote to enter non-public session in accordance with the provisions of NH RSA 91-A:3,II (a),(c)& (i).

**1. NH RSA 91-A:3, II, (a),(c)&(i).**

A motion was made by Commissioner Roy to seal all parts of the minutes of the non-public session. The motion was seconded by Commissioner Karolian and the motion was carried unanimously by roll call vote.

The motion was made to come out of the non-public session at 9:35 PM.

Meeting adjourned at 9:36 PM.

Drafted by: Executive Assistant Francine Swafford