

APPROVED

POLICE COMMISSION MEETING

Minutes of the Meeting of Tuesday October 19, 2010

The Hooksett Police Commission held a public meeting on Tuesday October 19, 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 5:30 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). Commissioner Karolian, Aye, Commissioner Roy, Aye, Chairperson McHugh, Aye.

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

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. Chairperson McHugh Aye, Commissioner Roy, Aye, Commissioner Karolian Aye.

The motion was made to come out of the non-public session at 6:01 PM.

Public Session

4. Minutes of Last Meetings:

a. Motion was made by Commissioner Roy to accept the June 15, 2010 public minutes, approved with amendments, Seconded by Chairperson McHugh, motion carried. Roy, Aye, McHugh Aye. Commissioner Karolian abstained.

Page 10: Mr. Miville asked were the petition to form the union is if they have not been notified.

Amend: Mr. Miville asked whether the petition to form the union is if they have not been notified.

b. Motion was made by Commissioner Roy to accept the July 20, 2010 public minutes, approved with amendments, Seconded by Commissioner Karolian motion carried. Roy, Aye, McHugh Aye, Karolian Aye.

Page 4: Commissioner Karolian asked Chief Agrafiotis how many patrol officers does the department have currently. Chief Agrafiotis stated that he doesn't have that at the moment and will get the information for him.

Amend: 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.

Page 6, 4th paragraph: Chairperson McHugh stated they did have a discussion about having an outside company soliciting donations, it was counter productive. They need to decide if they will accept donation or do fundraising.

Amend: 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.

Page 10, 9th paragraph: Chairperson McHugh stated she doesn't believe Attorney Higgins gave the authority, but what do you do in her case of someone that needs to disqualify themselves.

Amend: 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.

Page 14, 3rd paragraph: Commissioner Karolian stated they 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.

Amend: 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.

c. Motion was made by Commissioner Roy to accept the July 29, 2010 public minutes. Seconded by Commissioner Karolian motion carried. Roy, Aye, McHugh Aye, Karolian Aye.

d. Motion was made by Commissioner Roy to accept the August 17, 2010 public minutes, approved with amendments, Seconded by Commissioner Karolian motion carried. Roy, Aye, McHugh Aye, Karolian Aye.

Page 4, 2nd paragraph: Can the Commission remove a position if they have budget concerns, it is well know this department is top heavy can one of the command staff positions be eliminated and replace with a patrol position.

Amend: Can the Commission remove a position if they have budget concerns, it is well known this department is top heavy can one of the command staff positions be eliminated and replace with a patrol position.

Page 5, 8th paragraph: He thinks it would be beneficial to everyone involved and nothing is being hidden. It would eliminate anyone questioning.

Amend: He thinks it would be beneficial to everyone involved and that nothing is being hidden. It would eliminate anyone questioning.

Page 13, 6th paragraph: Commissioner Karolian stated that this was a year ago he rendered this opinion.

Amend: Commissioner Karolian stated that this was a year ago Commissioner Roy rendered this opinion.

Page 13, paragraph 8 Chairperson McHugh stated it is telling her something totally different than what she was told. She stated she needed that opinion.

Amend: Chairperson McHugh stated this opinion is telling her something totally different than what she was told. She stated she needed that opinion.

Page 20, 7th paragraph: Are they going to have an attorney do the negotiations or whether they are going to have the commission and the police department do the negotiations and then have it reviewed by the LGC if they have questions on language.

Amend: Are they going to have an attorney do the negotiations or whether they are going to have the commission and the police department do the negotiations and then have it reviewed by and attorney.

e. Motion was made by Commissioner Roy to accept the August 27, 2010 public minutes, approved with amendments, Seconded by Commissioner Karolian motion carried. Roy, Aye, McHugh Aye, Karolian Aye.

Page 2, 2nd paragraph: Her concerns are if they don't have detectives to resolve some investigations the crimes will continue.

Amend: Commissioner McHugh's concerns are if they don't have detectives to resolve some investigations the crimes will continue.

f. Motion was made by Commissioner Roy to accept the September 7, 2010 public workshop minutes, approved with amendments, Seconded by Commissioner Karolian motion carried. Roy, Aye, McHugh Aye, Karolian Aye.

Page 6, 2nd paragraph: Captain Cecilio stated some of the accepted shifts that show as accepted now were taken by the detectives so some of the officers wouldn't be enforced for more shifts than what they are already being forced into now.

Amend: Captain Cecilio stated some of the accepted shifts that show as accepted now were taken by the detectives so some of the officers wouldn't be forced for more shifts than what they are already being forced into now.

Page 7, 9th paragraph: How is right, who is wrong?

Amend: Who is right, who is wrong?

g. Motion was made by Commissioner Roy to accept the September 13, 2010 public minutes. Seconded by Commissioner Karolian motion carried. Roy, Aye, McHugh Aye, Karolian Aye.

h. Motion was made by Commissioner Karolian to accept the September 28, 2010 public minutes, with amendments. Seconded by Chairperson McHugh motion carried. Roy, Aye, McHugh Aye, Karolian Aye.

Page 2, 2nd paragraph: She also stated Commissioner Roy had contacted her and stated he would not be here for the commission meeting and he had been recued and had submitted his statement for the hearings.

Amend: She also stated Commissioner Roy had contacted her and stated he would not be here for the commission meeting and he had been recused and had submitted his statement for the hearings.

Page 3, paragraph 4: Chairperson McHugh stated her concern is overtime and they may fall short, and the staffing issue or the hiring process status if they were to hire new employees, were are the funds coming from.

Amend: Chairperson McHugh stated her concern is overtime and they may fall short, and the staffing issue or the hiring process status if they were to hire new employees, where are the funds coming from.

Page 3, paragraph 10: Commissioner Karolian stated with all the testing they came up with 4 candidates.

Amend: Commissioner Karolian stated with all the testing they only came up with 4 candidates.

5. Public Input (5 minutes)

Vincent Lembo 56 Main Street, Hooksett, NH

A. He spoke with Chief Agrafiotis about the question he had at the last Commission meeting and stated that he was told there is no pre-termination clause in the collective bargaining unit (CBA). He asked the Commission to show him where the clause is in the CBA. The citizens of Hooksett have a financial liability in this because of the Commission's decision that night.

Chairperson McHugh stated there are steps in the contract that need to be followed and case law that applies to that. He was also provided with the name Loudermill for research.

Mr. Lembo stated if there is a case law he would like to read it.

Commissioner Karolian stated he should read the Loudermill decision.

JR Ouellette, 3 Summerfare Street, Hooksett, NH

A. He expressed his dissatisfaction with the department concerning Officer Defina's grievance hearing. There is wasteful spending and disregard to the taxpayers of the community there has been ¼ million dollars spent in the last 2 years for legal. He asked the Chief be placed on paid administrative leave while a full audit done on the department. The taxpayers want something done. He requested a letter be sent to Sheehan, Phinney Bass and Green indicating their services are no longer needed.

David Pearl, 79 Main Street, Hooksett, NH

A. He asked the Chief a few questions. During the one year that Officer Defina was fired was he aware according to the law he was suppose to have that hearing?

Chief Agrafiotis stated he was not discussing any issues that are under litigation.

Mr. Pearl stated the Chief was quoted in the Union Leader "If they need to call an attorney the procedure he has followed for years was to call the Chair who gives me permission." Mr. Pearl asked does he contact the chair once per incident or does he keep the chair informed of the situation and the cost that is accumulated?

Chairperson McHugh stated he was not going to respond.

He asked the Chief to explain how a retainer that was approved before July of 2009 was relevant in the 2010 – 2011 budget year.

Chief Agrafiotis stated he was not going to answer any of his questions.

He asked Chief Agrafiotis why is it necessary to retain a lawyer to deal with supervisors who were attempting to form a union.

Chairperson McHugh stated that was a decision that was made by the Commission.

He stated 2 years ago the Chief stated people should come to the meetings and get the whole story. He was told that they could ask questions by the chair and if the answer was known they would be given the answers. It is not happening.

Donna Lapointe, 4 Debbie Street, Hooksett, NH

A. She stated the high cost of legal fees that are going on is hard on the taxpayers and she doesn't see any level of transparency. What was the point of going from LGC to an attorney?

Chairperson McHugh stated LGC retains staff attorneys that give general responses to legal questions they will not render opinion and if it is not a question they can answer they would suggest them to follow it up with an attorney. They might look to the Towns attorney, if they have rendered an opinion they could share the opinion, but if it is new and they would have to research there would be a cost. If the commission is of one opinion and the municipal government of another, there is no agreement, the Town's attorney would not handle it for either side.

LaPointe stated she is a taxpayer who is unemployed and struggling with the recession and doesn't want to see the wastefulness going on. She wants accountability for her tax dollars.

Marc Miville, 42 Main Street, Hooksett, NH

He inquired about Commissioner Roy's leaving the meeting and not being noted in the minutes. He was informed the minutes would be corrected to reflect that he was excused from the meeting.

He inquired about the exit interviews and it needs to be addressed and finalized.

He asked for an update on the broadband cards that were purchased for the police cruisers have they been implemented into the cruisers yet.

John Lycars 142 Hackett Hill Road, Hooksett, NH

He stated they expect the employees that handle the money from the taxpayers to be used as if it was their own, to watch how they spend the money.

Discussed the redacted bill article that was in the Union Leader, and asked the Chief to be put on paid administrative leave until a procedure has been put in place that requires the Chief to get approval from the police commission before expending anymore on legal bills.

He agrees with Mr. Lembo about the financial liability concerns it is inexcusable and clear there is a problem with the management.

6. Monthly Reports:

A. Chairperson McHugh discussed the overtime for September and asked why it was high, it was due to the 5 pay periods in September. Chief Agrafiotis also stated it was due to the extra shifts that were covered.

Chairperson McHugh inquired about the publications line. Chief informed her of renewals and LGC publications that were purchased.

Commissioner Karolian inquired about the legal line for the commission. He was advised that the bill from last month that was put under police equipment was moved to the legal line. Discussed the legal bills that were in this line also for the month.

Commissioner Karolian inquired about legal bills from Sheehan, Phinney, Bass and Green, reference the retainer. Chief Agrafiotis stated that retainer was approved before Chairperson McHugh was on the board to review personnel plans, training as needed on personnel issues as laws changed and to address personnel issues. Commissioner Karolian asked who approved the retainer and how much the retainer was for. Chief Agrafiotis stated he would have to look to see the amount and if the commission wanted he could ask for the retainer to be returned.

Commissioner Karolian made a motion they contact Sheeney, Phinney, Bass and Green and request the balance of the retainer be returned. When attorneys need to be contacted for legal advice by anyone from the Hooksett Police Department it needs to be approved by the majority of the police commission before it is done. Seconded by Chairperson McHugh. Commissioner Roy Aye, Commissioner Karolian Aye, Chairperson McHugh Aye. Motion carried.

7. Old Business

A. PELRB Decision

Chairperson McHugh informed the commission the PELRB ruled in favor of the commission. Chief Agrafiotis stated the police supervisors attempted to form a union, the PELRB denied the request for the proposed union as they did not have the required numbers.

B. Hiring Status

Captain Daigle discussed the hiring status and informed the commission additional hiring packets have been sent out. Two candidates will be administered the psychological exams tomorrow. A candidate will be in on Friday to move forward with his background. Detectives would possibly handle background packets for the additional candidates and the investigator has 4 he is currently

working on. A discussion was held on the process for the background packets and the steps for the hiring process. An eligibility list would be put together for the process also.

A discussion was held on the budget, hiring extra officers, possibly adjusting of the command staff, shift coverage and hiring part-time police officers until they get to a full compliment of officers. Chief spoke about the part-time requirements set by PSTC and he advised the legal department that PSTC advised him part-timers have to fall under the same qualifications for hiring as a full-time officer. Commissioner Karolian asked who he had spoken to at PSTC and the Chief advised he spoke to Tim Merrill.

Commissioner Karolian made a motion that the Chief of Police pursue looking at part-time officers and getting together with the Union to see if there are any objections. Commissioner Roy seconded. Chairperson McHugh Aye, Commissioner Roy Aye, Commissioner Karolian Aye. Motion carried.

C. Manifest

Chairperson McHugh stated all departments in town do a manifest. Chief Agrafiotis inquired how they wanted to handle this process. Commissioner Karolian stated any expenditure that is done prior to approve will be of a necessity. The Chief would have to decide and make sure it is a necessity.

Recessed at 8:00 PM

Reconvened at 8:05 PM

D. Spending Authority

Spending authority was discussed the Chief is authorized to spend \$7,500 and \$10,000 would require the Chief and the Commission Chair approval, anything above that would require the full commission. It was decided to look at the approval of the manifest and if there is something that would not be approved look at it, review and discuss it with the Chief.

Discussed phone polls with the commission. Phone polls were not legal under the Right to Know Law, unless there is an emergency.

A discussion was held on e-mails does that constitute as a meeting? It was decided the Chief would look into this.

Commissioner Karolian made a motion that before the bills can be paid a manifest has to be put forth by the Chief of Police monthly to the police commission for approval prior to payment before it is sent to the finance department. Seconded by Commissioner Roy. Commissioner Roy Aye, Commissioner Karolian Aye, Chairperson McHugh Aye. Motion carried.

Chairperson McHugh made an amendment to the motion that before the bills can be paid the bills have to be approved by the commission on expenditures, a manifest has to be put forth by the Chief of Police monthly to the police commission for approval prior to payment before it is sent to the finance department. Commissioner Roy Aye, Commissioner Karolian Aye, Chairperson McHugh Aye. Motion carried

There was no decision on the spending authority at that time.

A discussion was held on the overtime for the department. Commissioner Karolian stated that no overtime be approved with the exception of patrol and dispatch. It was stated there were 130, 4 hours blocks of overtime shifts for patrol. There are weekly overtime reports submitted with the weekly time sheets for the department they were reviewed and discussed by the commission.

Lt. Cline stated there were 130, 4 hour blocks for the month of September, October there were 60 shifts, and November there are 41 shifts and 23 shifts are forced for 4 hours.

Commissioner Karolian made a motion that no overtime be granted by the Chief of Police except for patrol officers, and dispatch and for emergencies for detectives. No overtime for support staff.

Discussion was held about holding commission meeting during the day, not feasible for the public.

Discussion was held about increasing floaters hours and see if they could assist with the work load for the admin staff and cut back on the overtime.

Commissioner Karolian amended the motion to state that no overtime would be granted by the Chief of Police except for patrol officers, dispatchers and detective emergencies, and for the executive assistant to attend the police commission meetings only. No overtime for support staff. Seconded by Chairperson McHugh. Commissioner Karolian Aye, Chairperson McHugh Aye, Commissioner Roy Aye. Motion carried.

F. Staffing Update:

Lt. McDaniel is a supervisor on midnights. Captain Cecilio is filling Lt. Cline's days off. Evenings Sgt Labrecque is on and the swing shift is Sgt. Crotty. This covers the 2 -1, and 3 – 1 on busy days. Shift coverage was discussed with the commission.

Commissioner Karolian inquired why Officer Defina was going through the training process due to him being out for an extended period of time as he was the only one that has had to do this. Chief Agrafiotis stated this is a process that is done for anyone who is out for an extended period of time. He will be put on the evening shifts and the detective will be put back into detectives. West side coverage is only on certain days.

Commissioner Karolian asked why not put Officer Defina back as the SRO and pull the sergeant who is doing SRO duties back as the supervisor. Chief Agrafiotis stated he would have to discuss this in non-public session.

G. Neighborhood Watch

Chief Agrafiotis stated that the meeting was going to be rescheduled and he can explain in non-public session. The Highway Department has been contacted reference posting of the signs, and they are waiting to hear back from them.

Chairperson McHugh stated someone should contact the neighborhood watch groups and advise them the meeting will be canceled for the 23rd.

H. Police Department Website

Chief Agrafiotis stated there are no updates. Chairperson McHugh stated they needed to follow up on this and to put it on the agenda.

I. Exit Interviews

A discussion was held how exit interviews should be handled. It was decided Chairperson McHugh would contact MRI and see if they do exit interviews.

8. New Business

A. Discussion of Draft Budget 2011 -2012

Chief Agrafiotis gave copies to the commission for review of the draft budget for 2011-2012 and review for the meeting that will be held on October 26, 2010 at 5:30 PM.

9. Other Business:

A. CodeRed

Chief Agrafiotis stated this year the town is applying for the Edward J. Burn Memorial Justice Assistance Grant to cover the cost of the Code Red notification system. The Town Administrator asked if emergency management writes the grant and manages the money for the program. The money would be in the emergency management budget for next year. The police department would review the paperwork and sign the grant.

B. Animal Control

Town Council held a discussion about the animal control position. It is in the police department's budget draft for 2011-2012 under support services.

C. CIP

Chairperson McHugh stated the Town Administrator had already made her recommendation. It hasn't been to the CIP yet and it is not close to what they commission was proposing. That Chairperson McHugh explained the reason why the commission was asking for the extra \$40,000. A CIP was put in place to keep the tax rate from spiking.

10. Public Input (5 minutes):

David Pearl 79 Main Street, Hooksett, NH

He sees inefficiencies and they need information access at these meetings to get the information now and not later.

He doesn't see a problem with the commission doing exit interviews and they should do them.

He stated other boards hire people to do their minutes it would be more economical to look into it.

He inquired about recording of the non-public meetings and asked the tapes be preserved. Chairperson McHugh stated non-public minutes are not recorded. Mr. Pearl stated then they should be recorded.

John Lycars 142 Hackett Hill Road, Hooksett, NH

He wanted to thank the commission for their approval of legal expenditures, manifest, the consideration of part-time police officers, and keeping the overtime down. It will make the department more transparent.

He stated he had an e-mail from someone at town hall reference doing exit interviews. If they are interested he could get them her name she was not opposed to doing them. Exit interviews need to be done. Chairperson McHugh stated the Town Administrator was opposed to the HR doing them.

JR Ouellette, 3 Summer fare Street, Hooksett, NH

He discussed the Sheehan, Phinney, Bass and Green retainer in the amount of \$30,000 that was paid in June 12, 2008.

He wanted to know why the Chief didn't ask for the funds to be returned after the discussion from the commission it was found out it was illegal to use funds from one fiscal year to another.

He asked Chairperson McHugh if she gave the Chief the authority to contact the attorneys as indicated in the Union Leader?

Chairperson McHugh stated this is the way she dealt with it when she became Chair if there was an issue that came up and the Chief called her on something. She stated if it was an opinion that they needed to get she felt it was not her decision alone, that should dictate whether or not they should do something it should be the commission. As discussed in the past they wanted to get an opinion in regard to the substitute commission, the commission decided that. There were times when the Chief did have specific things that he needed to get done he was given approval from her but she did not, and does not make it a practice to give the Chief approval for everything as far as attorneys.

Mr. Ouellette stated after reading the article it indicated that everything went through the Chair. She stated no. Chairperson McHugh asked the Chief who made the decision with regards to the commission getting an opinion from Attorney Lefevre? Who made the decision with getting Attorney Higgins opinion? Who made the decision to fight the union? Chief Agrafiotis stated the commission. She stated there are specific things she gave permission to do, but did not make it a practice.

He wanted to remind the commission the grant they have for \$22,000 that could be used for the part-time officers.

Todd Lizotte, 21 Post Road, Hooksett, NH

Held a discussion on scheduling and looked at programs and informed the commission on how to save time.

Marc Miville 42 Main Street, Hooksett, NH

Discussed CIP and stated the department should go forward with IT improvements for the computers.

He stated the commission should do the exit interviews, and who is handling human resource issues who is doing them now. He stated they needed a human resource person and it would be worth the money to hire someone.

He asked if the Chief contacted attorneys for advice without the permission of the commission chair or the majority of the board to their knowledge?

He stated in support of the commissions decision at the Defina hearing 7 attorneys were used stating there was a need for a pre-termination hearing under the CBA. The only issue that was in dispute was which meeting constituted the pre-termination hearing. None of the 7 attorneys or the commission disputed. He sees no wrong doing by the commission to determine the CBA ruling in favor of the officer to return to duty.

Non-Public Session

At 10:07 PM, the Commission entered a non-public session by a motion made by Commissioner Karolian, seconded by Chairperson McHugh, 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).

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

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

The motion was made to come out of the non-public session at 11:34 PM.

Meeting adjourned at 11:35 PM.

Drafted by: Executive Assistant Francine Swafford

Amended: November 22, 2010

Amended by Dawn McDonald, Recording Clerk

June 13, 2011