

PORTSMOUTH POLICE COMMISSION
MINUTES OF THE OCTOBER 26TH, 2015 MONTHLY POLICE
COMMISSION MEETING

6:00 p.m. Public Session – Conference Room ‘A’, City Hall

John F. Golumb, Chairman
Brenna Cavanaugh
Wayne Lehman

UNAPPROVED

- I. **CALL TO ORDER:** The October 26th, 2015 monthly police commission public session was called to order at 6:05 p.m. in Conference Room ‘A’ in city hall.

Present during the public session: Commissioners Golumb, Cavanaugh, and Lehman, Mayor Robert Lister, City Manager John P. Bohenko (the manager excused himself at 6:30 p.m. to attend the Assessment 101 meeting in Council Chambers), Chief Stephen DuBois, Acting Deputy Chief Frank Warchol, City Attorney Robert Sullivan, Admin. Manager Karen Senecal, Exec. Assistant Kathleen Levesque, members of the public and the press.

- II. **PLEDGE OF ALLEGIANCE:** The Acting Deputy led the Pledge of Allegiance.

- III. **ACCEPTANCE OF THE MINUTES OF THE MEETINGS HELD ON:** September 28th, October 7th, and October 20th.

Action: Commissioner Cavanaugh moved to accept the minutes of the September 28th, October 7th interim minutes & the October 20, 2015 final minutes.

Seconded by Commissioner Lehman.

On a Voice Vote: The motion passed to accept the minutes of the September 28th, October 7th interim minutes & the October 20, 2015 final minutes.

Chief DuBois asked the Chair if the rules could be suspended to go directly to the recognitions, awards, and donation.

Action: Commissioner Lehman moved to suspend the rules to address the recognitions, awards, and donation.

Seconded by Commissioner Cavanaugh.

On a Voice Vote: The motion passed to suspend the rules to address the recognitions, awards, and donation.

B. CHIEF OF POLICE

- 1. Recognition of Detective Joshua McCain**
- 2. Medal award presentation to Officer Charley Raizes**
- 3. Donation of patrol bike LED equipment by Steve Bakula of Pedal Power Cycle.**

At the conclusion of the recognitions, the Chair gave Mayor Lister the floor. The mayor spoke for a few moments on the example set by the officers recognized tonight. He emphasized the fact that this is the type and caliber of work done everyday by the officers of the Portsmouth Police Department. The Mayor thanked the officers in the room for the work they do everyday. When he finished his remarks, Commissioner Lehman spoke on behalf of the commission to also thank the officers.

Chief DuBois gave some background information on the position of acting deputy chief. He said in late spring, the department started the search process after the resignation of the deputy; it was subsequently put on hold. It was started up again at the beginning of the summer, but was put on hold again after Commissioner Howe stepped down, and has been on hold until now. With the Chief leaving his office at the end of the year, he felt it was important to get someone in place to assume some of the deputy's duties, and to take on some of the chief's duties as well during the period of transition. That appointment occurred last week.

IV. UNFINISHED BUSINESS: None.

V. PUBLIC COMMENT SESSION

Public comment is limited to three minutes.

Ms. Bess Mosley – 302 Springbrook Circle – Ms. Mosley said that in just eight or nine days we may well have a new police commission. She feels the only honorable way for the commission to proceed tonight is for the commission to table any new business until after the election.

Ms. Jane Zill – 27 Shaw Road – Ms. Zill asked that any business related to the selection of a new deputy chief and chief be tabled until the election takes place. She indicated Commissioner Lehman said the process is already taking place. Ms. Zill asked that it cease. She referred to having been the person who originally requested the police commission put information up on the city's website about

how to directly contact Mr. Michael Pardue. Mr. Pardue is the investigator looking into a letter that made allegations about Commissioner Cavanaugh, that was anonymously written to the commission. Ms. Zill requested the commission rewrite the current information, because she feels the current statement make it appear the anonymous letter has merit against the commissioner.

Please rewrite current info. on the website. She added the event referred to in the letter is 13 years past the statute of limitations.

Ms. Kathleen Logan – 21 Blossom Street – Ms. Logan also said the statement on the website appears to be looking for information against the commissioner. She feels this gives Portsmouth a black eye in the eyes of anyone in the country looking at our website to consider applying for the chief's job. The fact the information is still up there give the appearance the commission has a lack of will to conclude the matter.

The city manager asked the commission if there was a need for the information to still be up on the website. Commissioner Lehman deferred to the city attorney. Attorney Sullivan said it was his opinion there was no need for the information to remain up on the website.

Action: Commissioner Lehman moved to take down the contact information related to the investigation of the anonymous letter.

Commissioner Cavanaugh said she would abstain because she felt it was inappropriate for her to vote, being the subject of the letter.

Seconded by Commissioner Golumb.

Action: Commissioner Lehman asked for discussion, saying he was fine with Commissioner Cavanaugh voting on this. Commissioner Lehman said when he came on the commission two months' ago, he said the investigation should be closed. Commissioner Cavanaugh voted to have the original investigation done, so Commissioner Lehman felt it would be appropriate for her to vote on whether or not to take the information down.

Commissioner Cavanaugh said she felt it was inappropriate to ask anyone to weigh in on their own investigation, and asked Attorney Sullivan for his input. Attorney Sullivan indicated he has spoken to investigator Mike Pardue and Mr. Pardue was close to concluding the investigation and would not be taking any more public input. So he repeated his position that there was no need for the contact information to remain up on the city's website.

Commissioner Lehman reconfirmed with the Chair that since there were two votes, could the commission close it (take down the information).

The Chair said he had seconded the motion to take the paragraph down.

Commissioner Cavanaugh asked the Chair, if she could ask a question. She asked if the motion passed, would that mean the investigation would just be closed, or would the commission have the opportunity to read the report.

The city attorney said that was a fair point. The Chair responded that his understanding was the commission was just voting whether or not to take the paragraph down off the website.

Attorney Sullivan spoke to Commissioner Cavanaugh's question, saying since the commission itself commissioned the investigation into the letter, it would only be reasonable for the commission to receive the resulting report for review before it decided what would be done with the report.

The city manager said his point was just to take the paragraph down off the website, as requested by people in the audience. The Chair affirmed that was the motion.

Commissioner Lehman suggested they amend the motion to take the paragraph down from the website.

Seconded by Commissioner Golumb.

The city attorney clarified the motion now before the commission was to take the paragraph down from the website.

Commissioner Lehman repeated his vote in the affirmative.

Commissioner Golumb repeated his second.

The motion carried.

Chief DuBois said he would take it down tomorrow.

VI. NEW BUSINESS:

A. POLICE COMMISSION:

Personnel items that require action:

1. Accept the resignation of Katie Tovar.

Action: Commissioner Cavanaugh moved to accept the resignation of Dispatcher Katie Tovar which was effective October 14th, 2015.

Seconded by Commissioner Lehman.

On a Voice Vote: The motion passed to accept the resignation of Dispatcher Katie Tovar which was effective October 14th, 2015.

2. Accept the notice of retirement from Captain Mike Schwartz, effective November 16th, 2015

Action: Commissioner Cavanaugh moved to accept the notice of retirement from Captain Mike Schwartz, which is effective November 16th, 2015.

Seconded by Commissioner Lehman.

On a Voice Vote: The motion passed to accept the notice of retirement from Captain Mike Schwartz which is effective November 16th, 2015.

3. Develop a draft document addressing procedures and deadlines for development of the PC meeting agenda for commission review.

Action: Commissioner Cavanaugh moved the commission direct Executive Assistant Kathe Levesque to develop a draft document addressing procedures for assembling the PC agenda for the commission to review. Commissioner Cavanaugh said she was making the motion for discussion.

Commissioner Cavanaugh asked for more information from the Chair on this item. The Chair explained he wanted the procedure for assembling the agenda for commission meetings to look more like the city councils process. Commissioner Cavanaugh said she thought there already was a process, and Kathe Levesque explained the agenda item was just to have whatever the commission decides it wants the process to look like put into writing. There is presently no written process. The city manager directed the commission to the city's rules and order to see what the city submission process looks like. He said his office would work with Kathe Levesque to develop something for the commission to consider.

Chairman Golumb asked if there was any more discussion; there was no further discussion. The Chair asked for a vote on item #3.

On a Voice Vote: The motion carried to have a draft document developed addressing procedures and deadlines for development of the PC meeting agenda for commission review.

B. CHIEF OF POLICE, (cont'd with #4)

4. Chief DuBois introduced Lt. Maloney who was to review the new Citizen Complaint and IA procedure at the request of the commission. Lt. Maloney is the supervisor of the Personnel & Training Department.

Lt. Maloney explained that in late spring he was tasked with revising and updating the current policy. He ultimately ended up incorporating the citizen complain policy into the revised IA policy. Lt. Maloney attended a class taught by FBI LEEDA, which is the FBI's continuing education arm. The instructor was a retired FBI agent and a retired chief of police out of Florida. He is also an adjunct professor with the International Association of Chiefs of Police. The lieutenant explained that a good policy can't be overly restrictive or unworkable. He said our policy allows for anonymous complaints; a person doesn't have to come in, and doesn't have to fill out a specific form in order to make their complaint; it can be written on a napkin and we will take it. He said the policy needs to be able to handle both routine and unusual complaints.

Lt. Maloney said a lot of our policy comes directly from CALEA standards. Lt. Maloney expanded on a highlighted list of CALEA standards that are contained in the revised Portsmouth policy. In addition to CALEA language, we added internal investigations language to this same policy. At the conclusion of his presentation, the lieutenant answered questions from the commission.

Chief DuBois asked acting deputy Frank Warchol to talk about the meeting taking place tomorrow with representatives from the Arlington, Mass. police department. We are looking at what Arlington has put in place to address opiate addiction and the resulting untimely deaths. Arlington's is a version of the Gloucester program which was in the news several month's ago. He said Sergeant Dave Keaveny has become very involved in this work for the department. Deputy Warchol said that Portsmouth's framework is in the very beginning stages. We want to see if this is something that can be put into place in Portsmouth. Frank outlined some of the elements we are looking at bringing to Portsmouth. He added that notwithstanding, these measures, criminal investigations will continue against those who are

manufacturing, transporting and selling the drugs. The deputy said this has always been a complicated issue. He then answered questions from the commission.

Mayor Lister said he would be interested in meeting with Frank after Frank meets with Arlington PD. The Mayor said some councilors have talked about having a forum involving the hospital and other agencies, and he feels it would be prudent to involve the police department.

5. Financial Report – Karen Senecal briefed the commission and answered questions.

- 4. Commissioner Cavanaugh moved** to accept the donation of patrol bike LED equipment by Steve Bakula of Pedal Power Cycle.

Seconded by Commissioner Lehman.

On a Voice Vote: The motion passed to accept the donation of patrol bike LED equipment by Steve Bakula of Pedal Power Cycle.

Chairman Golumb returned to item #2 under commission business, which was to confirm the status of the two non-voting commission members and whether they were to be seated on or off the dais. The chair said he would like some discussion on this. Commissioner Lehman thought the commission should leave the decision on where to sit up to the mayor and the manager. Commissioner Cavanaugh said she was okay with whatever was decided as long as it was in compliance with the charter.

The chair asked the city attorney to weigh in. Attorney Sullivan said in order to be in compliance with the law, it just needs to be very clear the mayor and the manager are not part of the commission. He said he sees their presence as more of a liaison between the commission and the council. Under the charter, neither the mayor nor the manager have any direct authority to take action on commission business. However, it is not unprecedented for elected officials to consult with the manager or the mayor on a wide variety of items.

Commissioner Cavanaugh felt participation in the meetings is another matter. Attorney Sullivan reiterated that as long as it is understood they are liaisons, not commissioners, there is no issue.

Action: Commissioner Cavanaugh moved to accept the division reports and place a copy on file.

Seconded by Commissioner Lehman, who noted in seconding the motion that several areas of crime are all down again, and the department is to be congratulated.

On a Voice Vote: The motion passed to accept the division reports and place a copy on file.

VII. PATROL DIVISION - Contained in the commission packet, not covered in the meeting.

VIII. COURT OFFICE REPORT - Contained in the commission packet, confidential document, not covered in the meeting.

IX. MISCELLANEOUS

Commissioner Cavanaugh said a gentleman emailed the commissioners asking why the department was not enforcing the Uber ordinance. She asked the Chief or acting deputy to speak to this issue. Chief DuBois gave background on the status of this law. He explained the importance of crafting the wording that will be used on summonses issued in connection with the new ordinance. Frank added additional information, and the city attorney further addressed the matter, saying Portsmouth has developed an entirely unique approach, one which is not being taken anywhere else by anyone else. The Portsmouth ordinance is remarkably simple, being only four pages. The objective is to insure that when a person gets into a car in Portsmouth, they can be assured the driver has had a background check, and the vehicle is insured.

X. NEXT MEETING: The next police commission meeting is scheduled for Wednesday, November 18th, 2015. The meeting will start at 5:00 p.m. in council chambers, and it is anticipated the commission will go into a non-public session immediately, as provided for under RSA 91-A. The public session will then resume in the Eileen Dondero Foley Council Chambers at or about 6:00 p.m.

XI. MOTION TO ADJOURN

There being no further business before the commission, the chair asked for a motion to adjourn.

Action: Commissioner Lehman moved to adjourn the October 26th, 2015 monthly Police Commission Meeting.

Seconded by Commissioner Cavanaugh.

On a Voice Vote: The motion passed to adjourn the October 26th, 2015 monthly Police Commission Meeting at 7:20 p.m.

Kathe

Respectfully Submitted By Kathleen Levesque, Executive Assistant

Reviewed By Commissioner Cavanaugh, Clerk of the Commission

Brenna Cavanaugh