

**MINUTES OF THE
PEACE OFFICER STANDARDS
AND TRAINING BOARD
COMFORT INN SUITES
BISMARCK, NORTH DAKOTA
MAY 16, 2018**

MEMBERS PRESENT

Paul Lies
Jesse Jahner
Dan Haugen
John Klug
Chad Kaiser
Tom Falck
Jason Ziegler
Lyn James

GUESTS

Bob Cummings
Dan Seymour
Shaine Towe
Angela Ernst
John Rose
Chris Redmann

ADMINISTRATIVE STAFF

Duane Stanley
Monica Sebastian

MEMBERS ABSENT

Sarah Warner

LEGAL COUNSEL

Mike Mahoney

The meeting was called to order by Chairman John Klug at 11:00 a.m. Duane Stanley took the roll. All members except Sarah Warner were present.

POST Board Hearing – Benjamin Zimmer (18-003) 11:02 a.m.

The POST Board Office received documentation from the ND Parole and Probation Department regarding the involuntary termination of Benjamin Zimmer for misrepresentation of time cards. Chairman Klug gave a brief overview of the case. Some of the facts are as follows. On October 27, 2017, Parole and Probation Supervisor Dan Seymour received an email from a staff member concerned about how much time Benjamin Zimmer was actually working at his job. Mr. Seymour shared his concerns with his supervisor, Director of Parole and Probation Barney Tomanek, and they discussed how to handle the situation. Mr. Seymour received the login/log off information from ITD and compared that to Mr. Zimmer's time sheet that was also kept in a spreadsheet.

Mr. Seymour met with Mr. Zimmer on November 5, 2017, to discuss his finding.

On November 6, 2017, Mr. Zimmer asked to speak with Mr. Seymour and Mr. Tomanek about Mr. Seymour's findings. Mr. Zimmer then admitted to falsifying his timesheets. Mr. Tomanek asked Mr. Zimmer how long this has been going on and Mr. Zimmer stated the past several months.

On December 8, 2017, Mr. Zimmer was placed on unpaid administrative leave. On December 15, 2017, Mr. Zimmer was terminated from ND Department of Corrections.

Dan Seymour was sworn in and provided testimony to the Board and also answered questions from members.

Motion

Dan Haugen made a motion that Benjamin Zimmer did violate the Peace Officer Code of Conduct, specifically 109-02-05-01(4e) and that Mr. Zimmer's conduct has a direct bearing on his ability to perform peace officer duties. Paul Lies seconded the motion. All in favor, motion carried.

Motion

Dan Haugen made a motion to start adverse action in accordance with NDCC 12-63-12. Paul Lies seconded the motion. All in favor, motion carried.

There was discussion amongst the Board members on what sanction should be taken against Mr. Zimmer's peace officer license. Revocation was discussed.

Motion

Lyn James made a motion to revoke Mr. Zimmer's Peace Officer license. Chad Kaiser seconded the motion. All in favor, motion carried.

POST Board Hearing – Kerry Komrosky (18-004) 11:16 a.m.

North Dakota court records showed that Kerry Komrosky was charged in Burleigh County court with Possession of a Controlled Substance with the intent to deliver (Class B Felony), Theft of Property (Class B Felony), Theft of Property (Class C Felony), and Possession of Drug Paraphernalia (Class A Misdemeanor). Chairman Klug gave a brief overview of the case.

Kerry Komrosky was employed with the Burleigh County Sheriff's Department. Mr. Komrosky took an hour lunch and after several hours didn't return to work so another deputy went and did a welfare check on Mr. Komrosky. The deputy that went to check on Mr. Komrosky found a methamphetamine pipe in his residence. A search warrant was subsequently conducted on Mr. Komrosky's residence.

BCI S/A Bob Cummings was sworn in and provided testimony to the Board regarding the case and answered questions from board members as well.

Motion

Dan Haugen made a motion that Kerry Komrosky did violate the Peace Officer Code of Conduct, specifically 109-02-05-01(4b&c) and that Mr. Komrosky's conduct has a direct bearing on his ability to perform peace officer duties. Paul Lies seconded the motion. All in favor, motion carried.

Motion

Dan Haugen made a motion to start adverse action in accordance with NDCC 12-63-12. Paul Lies seconded the motion. All in favor, motion carried.

There was discussion amongst the Board members on what sanction should be taken against Mr. Komrosky. The Board discussed suspension of his peace officer license until the criminal proceedings were complete and the Board had the opportunity to revisit the matter at that time.

Motion

Lyn James made a motion to suspend Mr. Komrosky's peace officer license until the outcome of the criminal matter is decided and the Board revisit the issue at that time. Jesse Jahner seconded the motion. All in favor, motion carried.

Funding Request

The Harvey Police Department is asking for \$14,000 for an ALICE Active Shooter Train the Trainer course in June or July of 2018. There was discussion amongst the Board members that there were already two ALICE Active Shooter Train the Trainer courses in ND around the same time. There was continued discussion about funding several attendees from the surrounding area through the Harvey PD who would attend this same training that was being taught at the school district in Cass County.

Motion

Chad Kaiser made a motion to fund eight spots in the Cass County (School District) training session up to \$4,760. Lyn James seconded the motion. Paul Lies recused himself. All others in favor, motion carried.

Funding Request

The ND Game & Fish Department is asking for \$10,000 for a training session titled Going Viral – Examining Cameras in Policing which is put on by Calibre Press. The Board decided to table this request until the August 15, 2018 meeting since they had specific questions regarding this training and funding.

Chairman Klug called for a short recess at 11:53 a.m. Chairman Klug called the meeting back to order at 11:57 a.m.

Meeting Minutes

Minutes were reviewed from the February 7, 2018, regular POST Board meeting.

Motion

Chad Kaiser made a motion to approve the minutes from the February 7, 2018, regular POST Board meeting. Paul Lies seconded the motion. All in favor, motion carried.

Meeting Minutes

Minutes were reviewed from the April 13, 2018, special meeting along with reviewing the summary of oral and written comments regarding new legislation involving the use of confidential informants.

Motion

Chad Kaiser made a motion to approve the minutes from the April 13, 2018, special POST Board meeting. Jason Ziegler seconded the motion. All in favor, motion carried.

Financial Report

Duane Stanley provided documentation to Board members and gave a detailed financial report on POST Board activity from January 1, 2018, through May 14, 2018.

Motion

Chad Kaiser made a motion to approve the financial report from January 1, 2018, through May 14, 2018. Jesse Jahner seconded the motion. All in favor, motion carried.

Old Business

Administrative Rules Process

Executive Secretary Duane Stanley stated that there will be a hearing on the new proposed administrative rules in front of the Administrative Rules Committee which will be held at the Capital on June 14, 2018.

Forms Update

Executive Secretary Duane Stanley reported to the Board that the fillable forms were completed and the Board approved for forms PFN's 1-16 will be posted on the website for use.

Training Provider Subcommittee

The subcommittee stated they have no new information.

Adverse License Action Updates – Randy Colton II

Duane Stanley relayed that the Complaint was mailed out May 15, 2018 to Mr. ColtonII

Adverse License Action Updates – Matthew Howell

Duane Stanley relayed that and Order to Decline was mailed May 10,2018.

Adverse License Action Updates – Bryton Dahl

Duane Stanley relayed that the jury trial for Mr. Dahl was set for October 2018.

Adverse License Action Updates – Johnny Lawson

Duane Stanley relayed that sentencing for Mr. Lawson was scheduled for May 24, 2018.

Executive Session

Chairman John Klug explained to the Board that the next item on the agenda was to be discussed in executive session. Chairman Klug provided the authority for going into executive session by citing N.D.C.C. § 44-04-19.1 and 44-04-19.2.

Present at the executive session were John Klug, Chad Kaiser, Paul Lies, Dan Haugen, Jason Ziegler, Lyn James, Tom Falck, Jesse Jahner, Mike Mahoney, Duane Stanley, and Monica Sebastian.

EXECUTIVE SESSION BEGINS AT 12:12 p.m.

Motion

Chad Kaiser made a motion to move to executive session. Paul Lies seconded the motion. All in favor, motion carried.

EXECUTIVE SESSION ENDS AT 12:26 p.m.

Extension of Basic Training

The Department of Corrections and Rehabilitation sent a letter to the POST Board asking for an extension of basic training for Jessica Evans to attend the basic training at Lake Region starting August 2018 instead of attending the June 2018 academy in Bismarck.

Motion

Chad Kaiser made a motion to grant the extension of basic training for Jessica Evans. Tom Falck seconded the motion. All in favor, motion carried.

Extension of Basic Training

The ND Parks & Recreation Department sent a letter to the POST Board asking for an extension of basic training for Tyler Schelske and Terry Mitchell to attend the September 2018 academy instead of the June 2018 academy in Bismarck.

Motion

Chad Kaiser made a motion to grant the extension of basic training for Tyler Schelske and Terry Mitchell. Lyn James seconded the motion. All in favor, motion carried.

MOI Waiver

S/A Craig Sandusky sent a letter to the POST Board asking for another MOI waiver. Mr. Sandusky was granted a MOI waiver in 2008 based on his education and teaching experience and let his instructor certification expire June 20, 2016 and failed to send in the proper renewal documentation. Mr. Sandusky is asking for another MOI waiver. There was discussion that Mr. Sandusky needs to learn about the process of instructor renewal which would have happened if he would have attended MOI in the first place.

Motion

Dan Haugen made a motion to deny the MOI waiver for Craig Sandusky. Chad Kaiser seconded the motion. All in favor, motion carried.

MOI Waiver

The ND Game & Fish Department sent in a request asking for a waiver of MOI for Erik Schmidt based on his education and teaching experience.

Motion

Dan Haugen made a motion to approve the MOI waiver for Erik Schmidt as long as he attended partial training of the MOI class where it covers POST Board Administrative Rules. Jesse Jahner seconded the motion. All in favor, motion carried.

Instructor Reinstatement

Art Walgren sent a letter to the POST Board asking for reinstatement of his instructor certification. Mr. Walgren's instructor certifications expired October 2, 2017.

Motion

Paul Lies made a motion to deny the instructor reinstatement for Art Walgren. Jesse Jahner seconded the motion. All in favor, motion carried.

Handgun Qualification regarding Limited License

Lt. Dan Haugen brought to the Boards attention that some basic training recruits are not getting the handgun training prior to attending basic training. This is causing the instructors to spend more time with the ones that are having difficulties and slowing down the other recruits.

There was discussion on having one specific qualification course to obtain a limited license. It was the Board's decision that Lt. Haugen send out an email to agencies detailing the issue along with an attachment that has the current shooting course being utilized at the academy.

At 12:52 p.m., Chairman Klug called a recess for board members to attend the Peace Officer Memorial Service.

At 2:40 p.m., Chairman Klug called the meeting back to order.

It should be noted that Sarah Warner was now in attendance.

Chief John Rose came in front of the Board on behalf of the ND Chief's and Sheriff's Association stating that they would like online hours to go from twenty hours of training to thirty hours of training for license renewals. The Board stated that this was an administrative rule and at this time they had no authority to make the change but for Chief Rose to send in that recommendation in a letter to the Board when a re-write of the administrative rules takes place.

Attorney Chris Redmann came in front of the Board to discuss Brady/Giglio issues and the Peace Officer Bill of Rights. The Board asked Mr. Redmann if he could email Executive Secretary Duane Stanley the Bill of Rights and Mr. Stanley would forward them to the Board members.

Lt. Dan Haugen asked the board members if the Board would approve cutting their training funding monies from \$225,000 to \$202,500 because of the budget cuts that are required by the current administration. The training funds that the POST Board receives are filtered through the ND Highway Patrol's budget. The Board agreed with Mr. Haugen's request.

Motion

Dan Haugen made a motion to adjourn. Chad Kaiser seconded the motion. The meeting adjourned at 3:10 p.m.