

**LAW ENFORCEMENT PROFESSIONAL STANDARDS SUBCOMMITTEE
Professional Development Center
West Virginia State Police Academy
Dunbar, West Virginia**

May 29, 2014

MEMBERS PRESENT: Mayor Robert Newell
Sheriff Tom McComas
Retired Lieutenant Steve Walker

MEMBERS REPRESENTED: Colonel Jay Smithers by
Captain David Lee
Colonel David Murphy by
Lieutenant Tim Coleman
Chief Ray Fridley by
Chief Brad Rinehart
Acting Director Marykaye Jaquet by
Retired Sergeant J L Johnson
Retired Lieutenant Terry Miller by
Retired Corporal Dave Gentry

ABSENT: Retired Chief Steve Stephens
Retired Lieutenant Dave Malcomb
Ms. Patti Hamilton

STAFF: Ms. Kimberly Mason
Ms. Judy Strickland

GUESTS: Deputy Attorney General Marty Wright

The May 29, 2014 meeting of the Law Enforcement Professional Standards (LEPS) Subcommittee was called to order at 9:06 a.m. by Sheriff Tom McComas who was sitting in as Chair for Retired Chief Steve Stephens in his absence. There were eight (8) members either present or represented at the start of the meeting.

The following actions were taken during this meeting in reference to the agenda items scheduled:

1. Agenda Item 1 – Notice of additional items to be added to agenda provided to Subcommittee Chair. Motion made, Mayor Newell, seconded Retired Sergeant Johnson, to approve adding emergency item to be discussed under Agenda Item 9. Motion was approved unanimously with no discussion.
2. Agenda Item 2 – Minutes from the April 22-23, 2014 Rules Review and April 24, 3014 LEPS Subcommittee meeting will be provided and reviewed at the June 26, 2014 meeting.
3. Agenda Item 3 – Ms. Mason provided the update for the FY2014 LEPS Fund. She noted that the balance as reflected on the report, page 1 of the agenda packet, was \$783,345. She informed the members that this balance does not include the two basic classes and the FY2015 Civilian Salaries grant all which were approved during the April 24, 2014 Subcommittee meeting, and the actual balance is approximately \$308,000. Motion made, Retired Lieutenant Walker, seconded Retired Sergeant Johnson to accept the financial report as given. Motion was approved unanimously with no discussion.
4. Agenda Item 4 – Motion made, Retired Lieutenant Walker, seconded, Retired Sergeant Johnson, for the approval of the applications for individuals to be approved as certified law enforcement instructors. The motion was approved unanimously with no discussion.
5. Agenda Item 5 – Motion made, Captain Lee, seconded, Retired Sergeant Johnson, the approval of applications for additional areas of expertise to be approved for previously certified law enforcement instructors. The motion was approved unanimously with no discussion.
6. Agenda Item 6A – Motion made, Mayor Newell, seconded, Retired Sergeant Johnson, that the classes listed in the agenda packet for training year 2014 through June 30, 2014 be approved for annual in-service credit. The motion was approved unanimously with no discussion.
7. Agenda Item 6B – Motion made, Retired Sergeant Johnson, seconded Retired Lieutenant Walker, that the classes listed in the agenda packet for training year 2014 be approved for supervisory in-service training credit. Retired Corporal Gentry informed the Subcommittee that instructor listed for

the Practical Leadership Concepts class sponsored by the Raleigh County Sheriff's Office should be Captain Barley instead of Sergeant Barley. The motion was approved unanimously with no further discussion.

8. Agenda Item 6C – Motion made, Retired Corporal Gentry, seconded, Retired Lieutenant Walker, that the listed classes in the agenda packet be approved for 2014 personal in-service training credit. The motion was approved unanimously with no discussion.
9. Agenda Item 6D – Motion made, Mayor Newell, seconded, Retired Sergeant Johnson, that the classes listed in the agenda packet for training year 2015 – July 1, 2014 to June 30, 2015 – be approved for annual in-service credit. The motion was approved unanimously with no further discussion.
10. Agenda Item 6E – Motion made, Captain Lee, seconded, Retired Sergeant Johnson, that the classes listed in the agenda packet for training year 2015 be approved for supervisory in-service training credit. The motion was approved unanimously with no discussion.
11. Agenda Item 6F – Motion made Retired Lieutenant Walker, seconded Retired Sergeant Johnson, that the listed classes in the agenda packet be approved for 2015 personal in-service training credit. The motion was approved unanimously with no discussion.
12. Agenda item 6G – Officer appeared before the Subcommittee seeking approval for in-service credit hours for a financial training class, “Financial Peace Government Edition”, for law enforcement officers. Discussion followed with the consensus of the members being that the class would be beneficial to the law enforcement community or anyone taking it. Motion made, Chief Rinehart, seconded, Retired Corporal Gentry, that the course be approved for 12 hours of in-service credit. The motion was approved unanimously with no further discussion.
13. Agenda Item 6H – Officer appeared before the Subcommittee presenting an overview of a Patrol Rifle Instructor Course (Train the Trainer) that his department would like to teach. Their intention is to instruct their own officers, and those in surrounding communities, so they do not have the expense of sending them elsewhere. Chief Rinehart suggested that they submit the criteria they intend on using for this course. Sheriff McComas suggested the decision on this request be tabled until additional information has been submitted to the Subcommittee for review. It was stressed by several members of the Subcommittee that this training needs to be taught at the same level throughout the State. Request was tabled until more information is submitted.

14. At the indication of Sheriff McComas that there were personnel related matters to be discussed under Agenda Item 7, a motion was made by Captain Lee, seconded, Retired Sergeant Johnson to go into executive session which was approved unanimously without discussion, at 10:01 a.m. Motion made, Captain Lee made a motion, seconded, Mayor Newell, and approved unanimously without discussion, for the Subcommittee to come out of executive session at 10:13 a.m.

Deputy Attorney General Wright appeared before the Subcommittee for discussion related to Agenda Item 7 concerning the proposed changes drafted by Retired Captain Sadler for the procedural guide concerning appearance involving officer certification and related reviews. Motion made, Captain Lee, seconded, Retired Sergeant Johnson, to approve the amended document as presented in executive session. The motion was approved unanimously with no further discussion.

15. The members took a break at 10:59 a.m. The meeting resumed 11:10 a.m.

16. At the indication of Sheriff McComas that there were personnel related matters to be discussed under Agenda Item 8, 9, 11, 12A, 12B, 13A, and 13B, a motion was made by Captain Lee, seconded, Retired Sergeant Johnson and approved unanimously without discussion, for the Subcommittee to go into executive session at 11:11 a.m. Motion made, Captain Lee, seconded, Mayor Newell, and approved unanimously without discussion, for the Subcommittee to come out of executive session at 3:23 p.m. Sheriff McComas moved to determine if there was action desired to be taken by the members as to the agenda items discussed during the executive session.

17. Agenda Item 8 – Order to Stop Working. Order was not issued, discussion as to officer being made anew to attend entry level training. Officer resigned a prior cadet class due to personal reasons but was changed to medical reasons in May 2012. Officer is now enrolled in a basic training class. No action taken, no action required as the change to the prior resignation being medical related allowed him to return to work at another West Virginia law enforcement agency as he had done.

18. Agenda Item 9A – Criminal conviction records as to applicants for entry level training program. Officer #1 – Motion made, Retired Lieutenant Walker, seconded, Chief Rinehart, that after review of this officer's prior arrest record, he be allowed to continue working and attend the next equivalent training certification class. The motion was approved unanimously with no further discussion.

19. Agenda Item 9B – Criminal conviction records as to applicants for entry level training program. Officer #2 – Motion made, Retired Lieutenant Walker, seconded, Retired Sergeant Johnson, that, after review of officer’s prior arrest record, he be allowed to continue working and attend the next basic training class. This officer was not eligible for the equivalent certification class due to not becoming employed as a law enforcement officer in the state where he received his training and therefore was not a certified officer in that state. . The motion was approved unanimously with no further discussion.

20. Agenda Item 10 – Request to attend the entry level training program as a private citizen. There were none, no action required.

21. Agenda Item 11 – Certification Reviews – Due to a provisional plea of guilty to one count of Battery, plea having stemmed from an original charge of Domestic Battery and Unlawful Detention, motion made, Mayor Newell, seconded, Lieutenant Coleman, to decertify this officer based on plea entered and the information that was provided to the Subcommittee. Discussion followed. Retired Sergeant Johnson said he doesn’t agree that it was a plea. Mayor Newell said that a fine was paid in magistrate court making it a plea.

Vote taken: Five in favor (Mayor Newell, Retired Lieutenant Walker, Captain Lee, Lieutenant Coleman, and Chief Rinehart)
One opposed (Retired Sergeant Johnson)
One abstained (Retired Corporal Gentry)
The Chair, per standard practice, does not vote except to break a tie vote.

Motion passed.

Motion made, Captain Lee, seconded, Mayor Newell, for Position Statement to be prepared with all the documents provided the Subcommittee to be included. Motion passed.

22. Lunch delivered to PDC - Break 1:55 p.m. for lunch. Meeting was resumed 2:21 p.m.

23. Agenda Item 12A – Motion made, Retired Lieutenant Walker, seconded, Retired Sergeant Johnson, to approve the full reactivation of the law enforcement officers listed in the agenda. This motion was approved unanimously, with no discussion, to allow full reactivation for the eleven officers.

24. Agenda Item 12B – Motion made, Captain Lee, seconded Retired Sergeant Johnson that action on this officer by the Subcommittee remains tabled

pending action on charge disposition. The motion was approved unanimously with no discussion.

25. Agenda Item 13A – Determination of required training for recertification following separation of more than sixty (60) months as a West Virginia law enforcement officer. Officer #1 – motion made, Captain Lee, seconded, Retired Sergeant Johnson, to allow this officer to attend the next 3-week recertification class. Discussion followed.

Vote taken: Five in favor (Mayor Newell, Chief Rinehart, Captain Lee, Retired Sergeant Johnson, and Retired Corporal Gentry)
2 opposed (Lieutenant Coleman and Retired Lieutenant Walker)
The Chair, per standard practice, does not vote except to break a tie vote.

Motion passed

26. Agenda Item 13B – Determination of required training for recertification following separation of more than sixty (60) months as a West Virginia law enforcement officer. Officer #2 – Motion made, Retired Lieutenant Walker, seconded, Captain Lee, to allow this officer to attend the next 3-week recertification class. Discussion followed.

Vote taken: Six in favor (Mayor Newell, Captain Lee, Retired Lieutenant Walker, Chief Rinehart, Retired Corporal Gentry, Retired Sergeant Johnson)
One opposed (Lieutenant Coleman)
The Chair, per standard practice, does not vote except to break a tie vote.

Motion passed.

27. Agenda Item 14 – Equivalent certification program reviews as to decisions made. There were none, no action required.

28. Agenda Item 15 – Review of officer's ability to enter and complete the entry level training program. There were none, no action required.

29. Agenda Item 16A – Legislative Rule Review 149-1 update, 2015 Legislative Session. Remove 149-1-12 Declaratory Ruling; Procedures. Motion made, Mayor Newell, seconded, Captain Lee that drafted changes be approved for initial filing with the Secretary of State's Office and open for public comment. The motion was approved unanimously with no further discussion.

30. Agenda Item 16B – Legislative Rule Review 149-2 update, 2015 Legislative Session. Motion made Mayor Newell, seconded Retired Sergeant Johnson that drafted changes be approved for initial filing with the Secretary of State's Office and open for public comment with the exception of the section addressing who was responsible for payment should additional medical examination be determined to be required on an Academy application. The consensus of the members present was that this section be addressed at a following meeting of the Subcommittee, if necessary during a phone conference call open meeting to be set. The motion was approved unanimously with no further discussion.
31. Agenda Item 17 – Information concerning "The Americans with Disabilities Act and Hiring Police Officers" was provided for informational purposes only.
32. Agenda Item 18 – Mailings of 1st and 2nd PAT failures provided for informational purposes only.
33. Agenda Item 19 – the next scheduled meeting of the LEPS Subcommittee will be June 26, 2014 at the PDC.

There being no further agenda items set for discussion a motion was made by Mayor Newell, seconded, Retired Sergeant Johnson to adjourn this meeting. Meeting adjourned at approximately 3:45 p.m.