

**MINUTES OF THE
PEACE OFFICER STANDARDS
AND TRAINING BOARD
LAW ENFORCEMENT TRAINING ACADEMY (LETA)
BISMARCK, NORTH DAKOTA
FEBRUARY 8, 2023**

MEMBERS PRESENT

Jesse Jahner
Dan Haugen
Joe Cianni
Steve Armstrong
Erik Dietrich
Lyn James
Tom Falck
Roger Hutchinson

MEMBERS ABSENT

Jason Zeigler

GUESTS

Shannon Wellen
Tarek Chase
Jesse Walstad

LEGAL COUNSEL

Mike Mahoney

ADMINISTRATIVE STAFF

Duane Stanley

Chairman Dan Haugen called the meeting to order at 1:00 p.m. Duane Stanley took the roll. All members were present for roll call. It should be noted that Steve Armstrong and Lyn James appeared through the Teams platform. There were other individuals present as guests online through the Teams platform or call in.

POST Board Hearing – Cody R. Trom (23-002) 1:01 p.m.

Chairman Haugen provided an overview of the case. On January 17, 2023, Cody R. Trom plead guilty in Burleigh County District Court to DUI – Refusal – 1st Offense a Class B Misdemeanor. Mr. Trom was present and addressed questions from the board.

Motion

Jesse Jahner made the motion that Cody Trom did violate the Officer Code of Conduct specifically 109-02-05-01(4c) and that Trom's conduct has a direct bearing on his ability to perform peace officer duties. Joe Cianni seconded the motion. All in favor motion carried.

Motion

Jesse Jahner made a motion to start adverse action in accordance with NDCC 12-63-12. Erik Dietrich seconded the motion. All in favor, motion carried.

There was discussion by board members regarding a possible sanction of Trom's Peace Officer License. Board members discussed various times of suspension followed by probation.

Motion

Erik Dietrich made a motion to suspend Trom's peace officer license concurrent with the police department suspension until March 2nd, 2023 , followed by a period of probation until January 12, 2023 and that Trom have no other violations of administrative rule or criminal law during this time. Jesse Jahner seconded the motion. All in favor, motion carried.

POST Board Hearing – Joseph M. Clower (23-001) 1:17 p.m.

Chairman Haugen provided an overview of the case. On July 10, 2022, Joseph M. Clower was initially charged in Dickey County District Court with DUI – Intoxicating Liquor – 1st Offense –a Class B Misdemeanor. Mr. Clower subsequently plead guilty on October 5, 2022 to Reckless Endangerment a Class A Misdemeanor.

Mr. Clower's legal counsel Jesse Walstad was present and provided a statement to the Board. Mr. Clower was not present due to the fact Mr. Clower was in the Air Guard and currently deployed.

Motion

Jesse Jahner made the motion that Joseph Clower did violate the Officer Code of Conduct specifically 109-02-05-01(4c) and that Clower's conduct has a direct bearing on his ability to perform peace officer duties. Erik Dietrich seconded the motion. All in favor motion carried.

Motion

Jesse Jahner made a motion to start adverse action in accordance with NDCC 12-63-12. Roger Hutchinson seconded the motion. All in favor, motion carried.

There was discussion by board members regarding a possible sanction of Clower's peace officer license. Board members discussed a period of suspension followed by probation.

Motion

Jesse Jahner made a motion to suspend Clower's peace officer license for two weeks starting February 8, 2023 and for probation to run concurrent with the court ordered probation through September 30, 2023 that Clower have no other violations of administrative rule or criminal law during this time. Jesse Jahner seconded the motion. All in favor, motion carried. Steve Armstrong seconded the motion. All in favor, motion carried.

New Business

NDHP Trooper Tarek Chase and McKenzie County SO Lt. Shannon Wellen were present and addressed the Board regarding Standardized Field Sobriety Testing. Trooper Chase provided a detailed explanation to the Board regarding the various certifications and how the program was currently set up. The goal of the presentation was to start a dialogue with the Board for the purposes of how best to maintain the integrity of the program by having some type of standard

when it came to maintaining an instructor certification. There was discussion by board members on utilizing a PFN7 and how best to require a FSFT Instructor Refresher and how best to track this either through DOT or the POST Board. There was also discussion on the length of a refresher course. No final decision was made as this was once again, just to get a dialogue going as to the current issue and what a possible solution may be.

POST Records Retention

Executive Secretary Duane Stanley provided an overview of the current records retention schedule that is followed by the POST Board regarding expired licenses, expired instructor certifications, and adverse license action. Stanley also explained the fact there is no retention schedule for documents that are supplied to the POST Board Office for review, but then adverse license action is declined. Stanley wanted clarification on how long to keep those records. Discussion involved reducing the time frame for keeping expired license documents and expired instructor certification paperwork from thirty years to five years for each and keeping adverse license action paperwork for thirty years. The Board also discussed keeping declination paperwork 30 days past the next meeting where a declination report was previously given.

Motion

Erik Dietrich made a motion to accept the changes as discussed keeping expired license and expired instructor certification paperwork for five years, adverse license action for 30 years, and paperwork that has been declined for 30 days past the next meeting date after a declination report is given, Lyn James seconded the motion. All in favor, motion carried.

Board Approval for Ratification of Licenses

Executive Secretary Duane Stanley provided an overview of the categories of licenses totaling 553 that had been issued by the office between November 8, 2022 through February 6, 2023.

Motion

Steve Armstrong made a motion to ratify the licenses that had been issued by the POST Board Office during the time period discussed. Roger Hutchinson seconded the motion. All in favor, motion carried.

Funding Request

Minot PD had submitted a funding request for \$3,500.00 to host a K9 training. Brief discussion was had by board members and administrative staff relaying that the training fund for the '21-23 biennium had already been expended and there currently were no funds in the account.

Motion

Jesse Jahner made a motion to deny the funding request. Erik Dietrich seconded the motion. All in favor, motion carried.

Board Approval for Chair to Testify on Upcoming Bills.

Chairman Danny Haugen and Executive Secretary Duane Stanley provided the Board with an overview of their neutral testimony given regarding HB1537. There was Board discussion on the fact there are times when a bill comes before a committee with little notice and the bill language may have a direct impact on the POST Board. Chairman Haugen asked that the Board give authority to the Chair to testify at these hearings if there isn't sufficient time to call a special meeting.

Motion

Erik Dietrich made a motion to grant authority to the board Chair to testify on any bills relating to the POST Board. Lyn James seconded the motion. All in favor, motion carried.

OLD BUSINESS

Weston W. Cline

Executive Secretary Stanley gave an update on Weston W. Cline. The office had received a fully executed Stipulation and Order of Suspension dated January, 11, 2023.

Steven L. Johnson

Executive Secretary Stanley gave an update on Steven L. Johnson. The office had received a fully executed Stipulation and Order of Probation dated November 18, 2022.

Travis M. Skar

Executive Secretary Stanley gave an update on Travis M. Skar. The office had received a fully executed Stipulation and Order of Probation dated November 20, 2022.

EJ Parks

Executive Secretary Stanley gave an update on Travis M. Skar. The office had received a fully executed Stipulation and Order of Revocation dated November 21, 2022.

Shaine M. Towe

Executive Secretary Stanley gave an update on Shaine M. Towe. The office had received a fully executed Stipulation and Order of Suspension dated November 30, 2022.

Joshua W. Rau

Executive Secretary Stanley gave an update on Joshua W. Rau. The office had received a fully executed Stipulation and Order of Revocation dated November 22, 2022.

Megan M. Christopher

Executive Secretary Stanley gave an update on Megan M. Christopher. The office had received a fully executed Stipulation and Order of Suspension dated November 19, 2022.

Meeting Minutes

Minutes were reviewed from the November 9, 2022, regular meeting.

Motion

Chairman Dan Haugen asked if there were any additions or corrections. Hearing none, the Chairman stated the motion stands approved as distributed.

Minutes were reviewed from the December 7 and December 29, 2022, special meetings.

Motion

Chairman Dan Haugen asked if there were any additions or corrections. Hearing none, the Chairman stated the motion stands approved as distributed.

Declination Report

Executive Secretary Duane Stanley relayed to the Board that the office had reviewed two complaints, one involving Kidder County and one from Burleigh County. Based on all the information gathered and reviewed, the Board declined to move forward with the adverse license action process.

Financial Report

Executive Secretary Duane Stanley gave a detailed overview of the financial activity that occurred from November 9, 2022 to February 6, 2023.

Motion

Chairman Dan Haugen asked if there were any additions or corrections. Hearing none, the Chairman stated the motion stands approved as read.

Items from Members

Chairman Haugen conducted a round table from members. Sheriff Jahner brought up the issue of law enforcement working a variety of security jobs and wanting some clarification as to the requirements and when law enforcement can or can't provide these services. Secretary Stanley relayed that it is not uncommon for the office to receive these questions from the field. POST Board Legal Counsel and the Board Chair emphasized that the POST Board does not regulate private investigators or security officers and that those questions should be answered by that entity. Secretary Stanley did provide the Board with an Attorney General's opinion dated February 26, 2016 that addressed some of these issues.

Executive Session

Chairman Haugen read into the record the authority from N.D.C.C. § 44-04-19.1 (2)(5) to go into executive session for attorney consultation.

Motion

Jesse Jahner made a motion to go into executive session. Erik Dietrich seconded. All in favor, motion carried.

Executive session started at 2:50 PM

Motion

Jesse Jahner made a motion to leave executive session. Erik Dietrich seconded. All in favor, motion carried.

Executive session ended at 3:07 PM

Chairman Haugen went on record explaining that the public has been invited back into the regular meeting and in open session. Chairman Haugen explained that the Board did discuss with legal counsel whether to begin the disciplinary process against a former licensee.

Chairman Haugen continued the round table with board members. There was discussion on the process that is utilized to administer the POST board exam and what type of precautions are used to when proctoring the test to alleviate the potential for cheating.

At 3:13 PM Chairman Haugen made a motion to adjourn the meeting.