

NEW HAMPSHIRE FIRE STANDARDS & TRAINING COMMISSION

Location: 98 Smokey Bear Blvd, Concord, NH
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MINUTES OF MEETING

October 6, 2016

(Approved)

Voting Members Present:

Commissioners:

Robert Buxton, Stephen Carrier (Chair), Justin Cutting, Kerry LeBlanc, Peter Lennon, Richard McGahey, Kevin Pratt, Steven Sherman, Nancy J. Smith, Esq., and Jeremy Thibeault (Vice Chair) (10)

Voting Members Absent:

Commissioners:

Richard Bailey, Jr., William Campbell, William Degnan, and Michael Joyal (4)

NHFSTEMS Staff:

Director Deborah A. Pendergast, Assistant Director Jeffrey Phillips, and June Connor (minutes) (3)

NOTE: “Action” items are in bold red.

I. CALL TO ORDER

Item 1. Call to Order The meeting of the New Hampshire Fire Standards & Training Commission was called to order by Chair Carrier at 9:00AM on Thursday, October 6, 2016 at the Richard M. Flynn Fire Academy, 98 Smokey Bear Blvd., Concord, NH. A quorum was present with 9 voting members in attendance; Commissioner LeBlanc arrived a few minutes later. The Pledge of Allegiance was led by Commissioner Buxton. The commission remained standing for a moment of silence in honor of retired Chief Joseph Kane

II. APPROVAL OF MINUTES

A motion was made (Smith/Lennon) - to approve the minutes from the FST Commission meeting held on June 2, 2016; passed unanimously.

(NOTE: The September 1st meeting was cancelled due to procedural issues.)

III. NON-PUBLIC SESSION

- **A motion was made (Cutting/Thibeault) – to approve the non-public session minutes from the June 2, 2016 session; passed unanimously.**
- **A motion was made (Cutting/Buxton) – to seal the minutes from the June 2, 2016 non-public session because a person's name, other than that of a commissioner, appears throughout the minutes; passed unanimously.**
- **A motion was made (Thibeault/Lennon) to enter non-public session at 9:06AM; passed unanimously.**
- Five cases were heard by the commission during this session involving exam re-take requests, a hiring requirement issue, and a revocation of a certification.
- The Public Session reconvened at 10:35AM.

IV. COMMITTEE REPORTS

Item 1. Emergency Medical Services (Chief Nick Mercuri)

- Legislative items:
 - * EMS bill will take effect January 1, 2017, and includes language regarding background checks.
 - * PART Saf-C 5922 will be the new set of rules having to do with criminal background checks. These rules delve into the details of the criminal background check process
 - * The BEMS is looking at separating the Medical Control Board Chair position and the State Medical Director position (Dr. Jim Suozzi); the State would like to have the SMD move from the volunteer level to a contract position and so potential conflicts of interest have to be considered.
 - * There could be a Narcan Bill intended to mimic a program happening in Massachusetts where large amounts of Narcan are being purchased by the state. Representative Linda Massimilla is working on this.
 - * Line of Duty bill for EMS Providers has been filed by Representative Mark Proulx.
 - * EMS Rules still a work in progress; the EMS Coordinating Board discussed the criminal rules at their last meeting on September 15, 2016.

- The new ambulance will be delivered in December.
- The infection control MOA with Health and Human Services will be signed by both commissioners; this will bring someone on board at the BEMS for a couple of years.
- Narcan training continues through December; around 130 law enforcement officers in the state have been licensed.
- Still working through an EMS system evaluation; an RFP is being developed.
- User Management Module – still a work in progress. IT will be taking a look at it. This will move EMS licensing to an online process and will replace our current Access database.
- Candidates have been interviewed for the EMS program specialist position, but there are no final results yet.
- Federal HR 4365 (protecting patient access to medications) – moved on to the hearing stage. This has to do with EMS carrying narcotics.
- There have been issues regarding hospital drug supply chains; the Federal Government has been trying to track drugs from when they are manufactured to when they actually get used, and this has become problematic for some hospitals when they supply drugs to EMS services.
Please contact Chief Mercuri if you hear anything about this.
- November 17, 2016 – all day strategic planning session with the 3 EMS boards at the Academy. The event will be facilitated by Chief Don DeAngelis (Epping).
- Trauma Registry – now has between 300 and 400 patients.
- Elite Program – There have been some data issues; some of the submitted tickets were not being captured. (Commissioner Thibeault reported that the system is still too slow; QA/QI is essentially impossible when a new call is opened up.)

Item 2. Fire Marshal's Office (Fire Marshal J. William Degnan)
The Fire Marshal was not present, and no report was submitted.

Item 3. Forest Protection Bureau (Chief Steven Sherman)

- Promotion of Commissioner Sherman to Chief of the Forest Protection Bureau.
- Fire season – just over 550 acres.
- Training – joint Wildland Academy with the White Mountain National Forest; 4 day training session. There will be another one in June, 2017.

Item 4. Curriculum Review (Assistant Director Jeffrey Phillips)

- Online programs continue to be rolled out.
- Haz Mat Awareness – Redefined specific awareness and operations sections.
- Instructor I – Just finished this program using teleconferencing equipment, and will also use it for an Instructor II/III program coming up.
- 2 Haz Mat Technician programs will be held at the Academy and in Nashua.
- Online content is being developed for the Firefighter II program.
- Individuals can obtain credit for online courses, but groups of people cannot.

Item 5. Academy Awards & the Committee of Merit (Chair Carrier)

- The Committee of Merit awards ceremony was held at the Concord Audi on September 26, 2016, and it went well. Academy Awards were handed out during the ceremony to the following people:
 - * Bureau of Aeronautics Team – Award of Excellence
 - * Eric Uitts – Academy Award
 - * Chief Donald DeAngelis – Academy Award

IV. REPORT OF THE DIRECTOR

Apparatus

About 8-9 weeks away from delivery of our new training ambulance which was 85% grant funded

Facilities

Yesterday, there was an energy conference at the FA 10a-2p, hosted by the DOS green team. We continue to work to convert our facility to be as NRG efficient as possible.

After more than a year of working with DOT Aeronautical, And FAA, we finally received a total of \$400,000 of federal grant funds to repair and upgrade our ARFF prop, gas distribution system, and electronics. This project will now go out to bid per the State policy.

I attended the North American Fire Training Directors meeting in Milwaukee along with 38 other directors. Spent a day working on strategic planning among other items.

Training/programs

Friday we graduated 25 firefighters from our recruit program. This was the first class that passed all quizzes and all written tests on the first try. A very academically sound class!

On Tuesday, we began an Instructor II / III class in Concord. We also have 3 students in the North Country for this class through our teleconferencing equipment. On Wednesday we completed a fire instructor I class and received good to excellent evaluation scores.

We are currently running 3 firefighter I programs in the state.

We ran a driver/Operator pilot in Concord last week and are doing a second pilot in Derry. This new curriculum includes the TIMS program. We will report back to the Commission with an evaluation of the new curriculum, I suspect it will be approved and we will be scheduling these new programs going forward.

Finally, under programs, I wanted to report on the success of the industrial training program. We hired a part time coordinator, John Hill, who is getting this program off the ground and bringing in income for the academy as well as filling a need in our communities

We completed a second round of interviews for our Southeastern field captain on Monday. We are preparing to make a conditional offer to a candidate from out of state, to fill the position that was vacant since April.

Update on restructuring of Division.

I continue to be proud of the staff and instructors at the Academy. As you know, we have had deaths of 3 employees in just over 2 years.

Each time staff has been amazingly supportive of each other and of the families.

We have some really dedicated professionals and I consider myself blessed to work with them.

Post report comments/questions:

Commissioner Cutting asked if the proper hearings had been scheduled for the EVDT program that is scheduled to be discussed at the October 25th meeting as well as time for the Curriculum Committee to meet. Director Pendergast will arrange this with Chair Carrier and will send out an email. The final vote for the EVDT program will be at the January FST Commission meeting.

Chair Carrier wanted to make sure that the quality of the programs would not be adversely affected by the Division re-organization. Director Pendergast answered that, in fact, the re-organization should help to improve the quality of programs: a new field captain will be hired for the southeastern area and there will be a new deputy chief position which will free up the existing deputy chiefs to concentrate more on what they need to do. In addition, Jeff Phillips

will now become the Assistant Director in charge of operations for the entire Division, and Nick Mercuri will become the Chief of Strategy and Planning, allowing the Division to transition from being reactionary to proactive. Commissioner Barthelmes supports the plan, and new positions will not impact the budget because they are re-written job descriptions from old vacant positions.

Commissioner Cutting also asked for more details regarding the specifics on position descriptions in the new Division re-organization plan. Jeff Phillips explained:

- * Deputy Chief Andy Anderson – Firefighter training
- * Deputy Chief Jon Bouffard – EMS education and operations
- * Deputy Chief (vacant) – Instructor, Fire Officer, Fire Investigator programs, online training, course processing, ProBoard, test validation

V. OLD BUSINESS

Item 1. Retirement System Partnership with NH FST&EMS

- Monthly Group II enrollment reports are now being received from the NH Retirement System.
- Commissioner Cutting asked about how the audit of the hiring requirement information was done. June Connor, hired in October of 2014 as the Director's Administrative Assistant, stated that the first step was to scan all of the existing paper files at the Academy for those who had been enrolled in Group II by the NHRS. Secondly, the files for those who had not yet been enrolled or for whom there was some sort of issue were scanned. An Excel spreadsheet was set up listing all of the issues that had not been resolved, and then phone calls were made/emails sent to those who had not completed the hiring requirement verification process, going back to 2014. This project was done throughout 2015 and into 2016, and many of the issues were resolved.
- The first NHRS enrollment report since June, 2013 was emailed in June, 2016. Their enrollment lists are checked against the Form A's that are received at the Academy to make sure that everything matches. Once the lists are checked, June lets NHRS know if there is anyone who does not meet hiring requirements. At this point, this more streamlined process seems to be working.
- Director Pendergast added that in the proposed rule changes, there is language asking fire departments to submit lists of their members on an

annual basis. This will be another checklist for the Division to use in checking hiring requirement information.

- **This item can now be removed from the agenda.**

Item 2. EVDT/DOAV Visiting Committee

(Moved to October 25th meeting. This will be a public hearing, and a second public hearing will be scheduled.)

Item 3. Fraudulent certificate update

Still under investigation.

VI. NEW BUSINESS

Item 1. Right to Know Rule Changes

Commissioner Smith emailed a summary of the Right-to-Know changes back on June 21, 2016. The changes were incorporated into the forms that are used in non-public sessions.

Item 2. Nominations for the FST Commission

- Members of the nominating sub-committee: Kerry LeBlanc, Steve Sherman, and Richard McGahey
- This committee should meet and have nominations submitted by the October 25th meeting. Voting will take place at the January meeting. Anyone who is interested in being the Chair or Vice Chair should contact [Kerry LeBlanc](#).
- (POST meeting note: An email was sent out to the commission members on Oct. 11, 2016 reminding them to submit their nominations to Commissioner LeBlanc.)

Commissioner LeBlanc left the meeting at the 11:30AM lunch break.

Item 3. Administrative Rules Sub-Committee presentation

- Commissioner Smith thanked David Hilts and Michelle Beasley for their help in getting the rules in the proper format for submission to JLCAR.
- David Hilts gave a description of what needs to be done to move this through the rules process and the time line, given that the current rules expire on November 12, 2016.
 - * The initial proposal for the rule making needs to be filed with Legislative Services.

- * If the filing occurs, then there is a statutory extension of the rules' validity during the rule making process.
- * In order to file with Legislative Services, the following two things need to be done:
 1. The FST Commission and the Commissioner both have to approve the proposed rules due to joint rule-making authority.
The FST Commission must approve the set of rules in a noticed meeting at which a quorum is present. (The October 25th meeting would be the target for this to occur.)
 2. After this, the rules need to be sent to the legislative budget services for a fiscal impact analysis. By statute, they have up to 10 business days to turn that around. This means that it may take until November 8th for them to complete what they need to do...just 4 days before the rules expire.
- * Within a week of filing, notice of the rule making will get published in the rule-making register, a weekly newsletter put out by the Office of Legislative Services.
- * By law, we cannot have a public hearing any earlier than 3 weeks after the rule-making is published in the register. (around the end of the first week of December, 2016). The public hearing would be at the Academy during a noticed meeting of the FST Commission at which a quorum is present. David Hilts can be present or send someone in his place and can bring recording equipment. The recording will be burned to a disc and will be part of the rule-making file. Comments will be inventoried, and there is also a 5 day period after the hearing to get written comments. If any of the comments trigger a change in the proposal, then the changes will be written into the "final proposal".
- * Though an agency can wait up until 150 days after the rules have been published in the register to put in the final proposal, most agencies want to move things along more quickly; so the next deadline for submitting the final proposal is two weeks in advance of the JLCAR hearing in which the rules will be considered.
- * According to the timeline mentioned above, we will miss the December JLCAR meeting. JLCAR will meet again on January 19, 2017.
- * Once approved by JLCAR (which could possibly be on that same day), the FST Commission and the Commissioner will have to adopt them independently. The commission must adopt them at a noticed meeting at which a quorum is present.
- * Once approved by both parties, they will go through a final approval process before they get posted on the legislative services website.

- * If JLCAR does not approve the rules, we will have 45 days to submit a preliminary objection response.
- Commissioner Smith suggested that the Rules sub-committee should meet with the Commissioner before the October 25th meeting to make sure he is on board with the proposed rule changes.
- When asked about keeping the rules as they are now, David Hilts explained that the timeline would be easier, but that public hearings would still have to be held.
- Attorney Hilts then explained that, regarding credentialing, there is nothing that prevents a rule from being written that currently does not have statutory authority, as long as by the time we go to JLCAR, the statutory authority exists. The credentialing piece is a “scale” issue because if there is a one rule section that authorizes national background checks, and it turns out that we do not get that legislation, then this part is gone. If this is done with the whole credentialing piece, it is the same concept but on a different scale.
- David Hilts read the JLCAR rule, 401.05, that says that the committee may object to a rule-making as being beyond an agency’s authority if it’s prohibited under 541.a 22 III, and compared the provisions to the existing Administrative Rules.
- Commissioner Buxton asked about what would be involved if the commission voted to keep the rules as they are and then update them at some other time. David Hilts answered that nowadays, rules that are adopted last for 10 years before expiring. If the commission were to re-adopt the current rules, then it could come back at any time to rule-make again. He also mentioned a “conditional approval request” as an option.
- Commissioner Smith cautioned that JLCAR could object to the existing rules.
- Attorney Hilts left the meeting at 12:40PM.
- Commissioner Buxton requested the group to have a strategic conversation about how to get the rules through the process, cautioning about the effects of an upcoming election and the budget on new rules getting passed.
- Commissioner Cutting proposed a new plan for 2016-2017, and handed out a sheet detailing his proposal.

A motion was made (Cutting/Pratt) to submit the existing administrative rules to JLCAR for re-authorization, create a sub-committee of the Commission to create and publish a strategic plan within the next twelve months by conducting a NH Fire Service training needs assessment, examine the history, role, function and makeup of the Commission and identify, analyze and discuss the relevant RSA’s, Administrative Rules,

curriculum, funding mechanisms, infrastructure, personnel and other resources; after discussion, the motion failed with 1 in favor (Cutting) and 8 opposed. Though the commission was in favor of Commissioner Cutting's vision, they felt that moving forward with the rules would not prohibit a 21st century vision from becoming a reality.

- Commissioner Buxton suggested that the rules be moved forward without a reference to credentialing.

A motion was made (Buxton/Smith) *to accept the draft rules with the deletion of Section 404, credentialing, and that any reference in the draft rules to credentialing be identified and removed*; the motion passed with 8 in favor and 1 opposed (Cutting).

- After further discussion, the following **motions were made to amend** the draft rules:

(Thibeault/Pratt) *to amend the language in 703.01b to read, "Any full-time career fire service personnel that is placed in lay off status due to a reduction in force shall have up to 12 months from the date of lay off to transfer to another fire department."* After discussion, the motion passed unanimously.

NOTE: A discussion occurred regarding 701.01(d) and 701.01(e) and how to word the language regarding the CPAT requirement and those who are laid off due to a reduction in force. A motion was attempted and withdrawn. **The rules sub-committee will work on this and consult David Hilts.**

(Cutting/McGahey) *to amend the language in 701.01(e) to include a cancer screening.* After discussion, the motion failed with 2 in favor (Cutting and Lennon), 4 opposed (Carrier, Sherman, Smith, and Buxton), and 2 abstentions (Pratt and Thibeault). **NOTE:** Though the Commission agreed in principle, there were concerns about what a cancer screening would look like, how it would affect hiring, etc.

(Cutting/Thibeault) *to eliminate the new proposed suspension language in Chapter Fire 500 and revert back to the existing current language.* After discussion, the motion failed with 3 in favor and 5 opposed.

(Cutting/Buxton) *to strike Fire 402.03(a) (15) "continuing education requirement, if applicable" from the minimum information required for course approval.* The motion passed unanimously.

(Thibeault/Pratt) *to revert back to the current instructor rules.* The motion passed unanimously.

- Commissioner Thibeault asked for clarification regarding the language used for mental disorder (Fire 101.19). Commissioner Cutting expressed concern about how this would affect those with PTSD. Assistant Director Phillips stated that this falls under Chapter 500.

VII. GOOD OF THE ORDER

There were no items for the good of the order.

IX. ADJOURNMENT

A motion to adjourn at 2:05PM was made by Commissioner Thibeault; seconded by Commissioner Lennon; passed unanimously.

2016 FST Commission meeting remaining schedule:

October 25 – Next meeting

2017 FST Commission schedule will be voted on at the October 25th meeting.

Proposed first meeting in 2017: January 5, 2017

Respectfully submitted,

Deborah A. Pendergast, Director

Prepared by June Connor, Administrative Assistant I