

PORTSMOUTH POLICE COMMISSION

MINUTES OF THE MARCH 30TH, 2016 SPECIAL POLICE COMMISSION MEETING

4:00 p.m. Public Session – Wm. Mortimer Conference Room, Police Department

Brenna Cavanaugh, Chair
Joseph J. Onosko
Joe Plaia

UNAPPROVED

- I. **CALL TO ORDER:** The March 30th, 2016 special police commission meeting was called to order at 4:04 p.m. in the Wm. Mortimer Conference Room at the Police Department.

Present during the public session: Commissioners Cavanaugh & Onosko, Commission Plaia was present via telephone, Portsmouth Herald reporter Elizabeth Dinan, and Ms. Wardwell.

II. **NEW BUSINESS:**

A. **POLICE COMMISSION:**

The Chair said there was no agenda for this meeting, and invited either of the two other commissioners to make a motion if they wished.

Commissioner Onosko gave an explanation of his thinking behind bringing the motion forward.

Commissioner Onosko moved that “As the city’s policy making body for the Portsmouth Police Department, the Police Commission is the representative beneficiary of Geraldine Webber’s bequest to the Portsmouth Police Department. However, we were not consulted in the matter of payment to Attorney McEachern, or in the relief of attorney fees for the individual beneficiaries, nor were we given an opportunity to review Attorney Eby’s 579K bill. Therefore, I move to direct our city attorney on behalf of the Portsmouth Police Commission to petition the court:

- a.) To reconsider the matter of relief of attorney fees for four individual beneficiaries (i.e. Wardwell, Lodge, Peterson, and Curry) for courageously insisting upon litigation that served the public's interest,
- b.) To reconsider the matter of payment to Attorney Paul McEachern for his community service by litigating in the public interest and for his central role before and during the probate trial.
- c.) To review Attorney Eby's bill prior to estate funds being dispersed because some of the charges appear to be incorrect and/or unnecessary, and
- d.) For a pro se appearance by a Portsmouth Police Commissioner.

The Chair indicated a second was needed to bring the motion to the floor, but she first stated according to Roberts Rules, the preamble to the motion needed to be removed from the motion, and the motion needed to be restructured.

Comm. Onosko said there were four parts to the motion. He said he would strike the preamble, and the **motion** now reads:

“To direct our city attorney on behalf of the Portsmouth Police Commission to petition the court:

- a.) To reconsider the matter of relief of attorney fees for four individual beneficiaries (i.e. Wardwell, Lodge, Peterson, and Curry) for courageously insisting upon litigation that served the public's interest,**
- b.) To reconsider the matter of payment to Attorney Paul McEachern for his community service by litigating in the public interest and for his central role before and during the probate trial.**
- c.) To review Attorney Eby's bill prior to estate funds being dispersed because some of the charges appear to be incorrect and/or unnecessary, and**
- d.) For a pro se appearance by a Portsmouth Police Commissioner.”**

Commissioner Onosko indicated he had emailed Commissioner Plaia the points of the motion this morning. Commission Plaia confirmed he had received the email with the points, and knew what they were. He indicated he did not have them in front of him at the moment, but knew what they were.

Seconded by Commissioner Plaia for discussion.

Commissioner Plaia indicated the phone transmission kept cutting out. Commissioners Cavanaugh and Onosko said it was cutting out in both directions.

Commissioner Plaia said he did not think the commission had the authority to direct the city attorney to act. Commissioner Onosko said that we may not have that authority. In that case, we will get independent counsel paid for by the police department.

Commissioner Plaia questioned whether or not the response window had passed on this matter. Commissioner Onosko felt it should be looked into anyway.

Commissioner Plaia said the motion to reconsider would be denied because of timeliness, but the other avenue presently open to the commission would be an appeal. He questioned the commission's standing as an outside party to file a motion to reconsider attorney's fees.

Commissioner Onosko felt the police commission does have the standing, not the city manager's office. Commissioner Plaia explained the commission doesn't have the standing for someone else, (in this case, Attorney McEachern's clients). Commissioner Plaia clarified that he is sympathetic to these beneficiaries, but is thinking in legal terms.

Commissioner Onosko asked Commissioner Plaia if he would be willing to vote yes on the full motion, knowing some components would get denied. Commissioner Plaia explained that he has obligations as a lawyer, and would not be inclined to support something that he was sure would be denied.

There was further discussion; both commissioners felt the police commission should have been represented at the meeting where Attorney Eby's bill was discussed.

Commissioner Plaia said he does not have any objection to the commission filing an appearance. Individual portions of the motion were discussed in further detail.

The Chair asked Commissioner Plaia to confirm her understanding that Attorney Eby's bill is available now. Commissioner Plaia said he went to the city attorney's office and asked for the bill a day or two before it was made public, and he was able to review it. Commissioner Plaia then asked for

clarification on the last two point of the motion. He said the first two portions of the motion are moot at this point.

Chairwoman Cavanaugh said the commission has to now vote on the subsidiary motions one by one. She read subsidiary motion ‘a’.

She explained why she did not think making this subsidiary motion was the right avenue to support the four beneficiaries. Both the Chair and Commissioner Plaia voted ‘no’ on subsidiary motion ‘a’.

Subsidiary motion ‘a)’ failed.

The Chair read subsidiary motion ‘b’), and gave her input. The Chair and Commissioner Plaia voted ‘no’.

Subsidiary motion ‘b)’ failed.

The Chair read subsidiary motion ‘c’). Commissioner Plaia said he did not think the police commission had the authority to direct the city attorney.

Commissioner Onosko amended the wording of the motion by adding the words, **‘...or direct an attorney hired by the police commission if the city attorney refuses’**, to the existing motion. The Chair added the existing language, to review Attorney Eby’s bill prior to estate funds being dispersed because some of the charges appear to be incorrect an/or unnessary...”

Commissioner Plaia asked if the motion was still on the floor for discussion, and said he would be in support of the commission taking this step pro se. But as the motion stands, his vote is ‘no’. He repeated his position that he is not in favor of directing the city attorney to do anything.

He said he was in favor of the commission filing a pro se motion without using taxpayer money to hire private counsel.

Commissioner Onosko withdrew his amended motion, and asked Commissioner Plaia to reframe the wording.

The Chair redirected the commission back to subsidiary motion ‘c’).

Commissioner Onosko said he already struck the amended subsidiary motion ‘c’) and Commissioner Onosko invited Commissioner Plaia to restate it.

Commissioner Plaia moved to have a police commissioner file an appearance on behalf of the police commission, a pro se appearance, to request additional time to review Attorney Ebys' bill, 30 days would be appropriate, prior to the estate funds being dispersed.

Commissioner Onosko repeated the motion, and asked if Commissioner Plaia wanted the language, "because some of the charges appear to be incorrect and/or unnecessary." to remain. Commissioner Plaia was okay with keeping that language.

The reframed motion was seconded by Commissioner Onosko.

The Chair asked, "All in favor of the amended motion?" The vote was unanimous to approve the wording of the amended motion.

The Chair asked for additional discussion. There was no further discussion.

The Chair asked for a vote on the motion.

Commissioners Onosko and Plaia voted 'aye'.

Chairwoman Cavanaugh said she had not yet weighed in regarding the motion. She said she doesn't believe the commission needs to review the bill for unnecessary or incorrect charges. That has already been done by the judge and multiple attorneys. The Chair said her personal wish would be to concentrate on getting Attorney McEachern and his clients their money, but there doesn't appear to be a viable path for that. She doesn't think looking over Eby's bill would be a productive effort for the commission at this point. She felt the commission's efforts would be better spent supporting the Chief and advancing the agency. For these reasons, she was voting against the motion.

The Chair voted, 'No'.

The motioned passed with a majority vote.

III. MOTION TO ADJOURN

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

Commissioner Plaia moved to adjourn the March 30th, 2016 special meeting of the police commission.

Seconded by Commissioner Onosko.

On a Voice Vote: The motion passed to adjourn the March 30th, 2016 special police commission meeting at 4:44 p.m.

Kathe Levesque

Respectfully Submitted By Kathleen Levesque, Executive Assistant

Reviewed By Commissioner Plaia, Clerk of the Commission

Joe Plaia