

**PORTSMOUTH POLICE COMMISSION**  
**MINUTES OF THE DECEMBER 20<sup>th</sup> MEETING**

Noon (Non-Public) 1:00 PM (Public)  
Wm. Mortimer Conference Room, Portsmouth Police Department  
John D. Kelley, Chairman  
William F. Devine  
Gerald W. Howe

- I. **CALL TO ORDER:** The chairman called the December 20<sup>th</sup> monthly police commission meeting to order at 12:15 PM. (*One cassette tape documenting this meeting is on file for reference*).

**Action: Commissioner Devine moved** to go into non-public session as appropriate under RSA91-A.

**Seconded by Commissioner Howe.**

**On a Roll Call Vote:** The Board voted unanimously to move to non-public session.

The Commission immediately went into non-public session at 12:16 PM.

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**Action: Commissioner Devine moved** the commission adjourn from non-public session and re-enter public session.

**Seconded by Commissioner Howe.**

**On a Roll Call Vote:** The board voted unanimously to move to public session at 1:04 p.m.

**Present during public session:** Commissioners Kelley, Devine, and Howe, Chief Michael Magnant, Deputy Chief Dave Young, Deputy Chief Len DiSesa, officers, dispatchers, and staff of the PD, City Manager John Bohenko, Councilor Harold Whitehouse, City Attorney Robert Sullivan, Aux. Captain John Russo, Foster's Democrat Reporter Doug Guarino, Budget Coordinator Karen Senecal, Executive Assistant Kathe Hoyt.

- II. **PLEDGE OF ALLEGIANCE:** Captain Jim Tucker led the pledge of allegiance.

**III. ACCEPTANCE OF THE MINUTES:**

**Action: Commissioner Devine moved** the board accept the minutes of the meeting held on November 15<sup>th</sup>, 2005.

**Seconded by Commissioner Howe.**

**On a Roll Call Vote:** The board voted unanimously in favor of the motion to accept the minutes and place them on file.

**IV. UNFINISHED BUSINESS: None.**

**V. NEW BUSINESS:**

**A. POLICE COMMISSION:**

**Action: Commissioner Howe moved** the board suspend the agenda and move directly to section V. Chief's Report, Item 1.

**Seconded by Commissioner Devine.**

**On a Roll Call Vote:** The board voted unanimously to suspend the agenda and move directly to the Chief's Report.

**B. CHIEF'S REPORT:**

**1. Presentation to Commissioner William Devine**

Chief Magnant presented outgoing Commissioner Devine with an engraved wall plaque, and spoke to Commissioner Devine's many years of service to the city in various roles and his tireless advocacy for the police department.

Chairman Kelley , Commissioner Howe, and City Manager John Bohenko publicly thanked Commissioner Devine for his service and contributions to the City of Portsmouth. Commissioner Devine also received a gift from the Auxiliary Unit of the Police Department.

**2. Certificates of Recognition**

Chief Magnant explained that although he has had the privilege of reading the Letters of Commendation and Recognition at the police commission meetings these last three years, most if not all of the recommendations to salute the work of individual officers came from Deputy Dave Young. He went on to say that since this will probably be the Deputy's last commission meeting before his retirement, the Chief asked Deputy Young to "do the honors" and reading the letter recognizing the work of the dispatchers and officers involved in bringing the kidnapping/felony stop incident of 12/2 to a safe, successful conclusion.

Letters and Certificates of Recognition were given to Dispatcher Gary Hurd, Dispatcher Dave Rabitor, ECC Supervisor Gil Emery, Sgt. Stephen DuBois, Officer Richard Webb, Officer Sean Evans, Officer Christina Meyer, Aux. Sgt. John Connors, and Aux. Officer Kevin Semprini.

**Action: Commissioner Howe moved** to return to the written agenda.

**Seconded by Commissioner Devine.**

**On a Roll Call Vote:** The board voted unanimously to return to the written agenda.

## **A. POLICE COMMISSION (resumed)**

### **1. Personnel Items that require action**

**Action: Commissioner Howe moved** that the commission promote Lt. Danny Ellis to the position of Captain of the Auxiliary.

**Seconded by Commissioner Devine**

**On a Roll Call Vote:** The commission voted unanimously to promote Lt. Ellis to Captain of the Auxiliary.

**Action: Commissioner Howe moved** that the commission promote Officer Robert Ripley to the position of Lieutenant of the Auxiliary.

**Seconded by Commissioner Devine**

**On a Roll Call Vote:** The commission voted unanimously to promote Robert Ripley to the position of Lieutenant of the Portsmouth Police Auxiliary.

## **B. CHIEF OF POLICE: (continued)**

### **3. Financial Report**

Karen Senecal reviewed the financial summary and the individual accounts. She reported that at the end of November we were 42.3% through the budget, and our expenditures are currently tracking at 39.55%. Overall, each individual department budget is continuing to track below that cap.

Chairman Kelley asked if there were any grants coming up that we were eligible for. Chief Magnant indicated that in fact there is one on the agenda today for the commission's approval.

### **4. Grants and Donations**

Chief Magnant reported that the grant is for a total of \$25,000. The monies are committed to the completion of the back-up dispatch center. The commission was advised several months ago that this grant should have come in at the beginning of the summer, but was still pending because FEMA was dealing with the multiple disasters in the southern states. It has finally come thorough and is before the commission today for approval.

The Chief has also sent a grant proposal for additional homeland security money to Captain Jim Tucker for review, but the decision on eligibility to formally apply for these monies has not yet been made. The Chief will meet with Captain Tucker and review the package.

The Chief confirmed that the COPS grant monies are gone and no longer available to us. Karen Senecal indicated that the ICAC grant application process will begin shortly to renew this Internet Crimes Against Children funding, as the current grant expires in June.

Commissioner Devine asked if these grants required matching funds. The Chief explained that they were in-kind contributions.

**Action: Commissioner Howe moved** the board accept the FEMA grant in the amount of \$25,000.

**Seconded by Commissioner Devine.**

**On a Roll Call Vote:** The Board voted unanimously to accept the grant in the amount of \$25,000 and forward same to the city council.

## 5. Division and Team Reports

- a. Information Systems
- b. Accident Investigation Team
- c. Honor Guard Report
- d. Records Division

**Action: Commissioner Devine moved** that the board accept the division and team reports and place them on file.

**Seconded by Commissioner Howe.**

**On a Roll Call Vote:** The board voted unanimously to accept the division and team reports and place them on file.

## 6. Press Release – Intensive DUI Enforcement Campaign

Chief Magnant explained that Deputy Chief Young, along with Lt. Hoysradt and Sgt. DuBois have started a number of DWI 'hunt' patrols that will take place from now through the end of the calendar year.

In a related matter, Chairman Kelley reviewed the recent ruling of District Court Judge Sharon DeVries which threw out several DUI arrests made at the last sobriety checkpoint operation. The Chief explained that the judge based her decision on the sobriety checkpoint manual's guidelines published by the New Hampshire Attorney General's office, when the checkpoints were established as a tool for law enforcement in this state. These guidelines contain a recommendation that there be an aggressive media campaign prior to the roadblock, i.e. press releases published several days ahead of time. Deputy Young indicated seven days prior is the recommendation.

Chief Magnant said our press release went out a day ahead of time, and Foster's did run the article. Judge DeVries ruled that because we did not comply with the Attorney General's protocol, our roadblocks were unconstitutional. The Rockingham County attorney has informed us that the judge's ruling is not based on constitutional law, and that there is no requirement to put out a press release seven days prior anywhere in any constitutional law or case law. He strongly disagrees with her decision to throw out these cases based on an Attorney General's recommendation, rather than on the law. He feels very confident that if the appeal goes forward through the Attorney General's office, that we will win. Of course, that remains to be seen.

Commissioner Howe requested clarification that this was a recommendation from the Attorney General and not a mandate. The Chief confirmed that was correct.

Chief Magnant went on to explain that the whole purpose of the aggressive media campaign is to undergird all DWI roadblocks. It is well documented that DWI roadblocks are effective in deterring DWI. What makes them effective is not the media publicity before a particular DWI roadblock. It is not about informing the public that in this one instance there is going to be a DWI roadblock and they might be stopped. It is the cumulative effect of the possibility that there may be DWI roadblocks any weekend out there on the road, whether it is in Portsmouth, Rye or Vermont. Therefore the public always needs to pay attention to how much they drink if they're planning on driving, because they may find themselves confronted by a DWI roadblock, and they may be arrested if they are driving under the influence.

When we do our DWI roadblocks, they are usually held in conjunction with the national DWI safety campaign. The Chief said he believed it was in the months of July and December that the government asks law enforcement to go out and help to fund DWI roadblocks. Our activities are all part of a national campaign.

Chief Magnant observed that the very nature of a DWI roadblock causes a heightened level of scrutiny when the resulting cases go to court. This is another mechanism for defense attorneys to attack the DWI charge. He felt it was not surprising to see certain creative arguments being made. But as the Chief of Police, his feeling is that DWI roadblocks are very effective.

### **C. PATROL SERVICES BUREAU:**

1. **Log Activity Reports**
2. **Emergency Communications Center Report**
3. **FTO Report**
4. **Auxiliary Monthly Activity Report**

**Action: Commissioner Howe moved** the commission accept the resignation of Captain John Russo from his position as commander of the Auxiliary Unit.

**Seconded by Commissioner Devine.**

**On a Roll Call Vote:** The commission voted unanimously to accept the resignation of Captain John Russo, with the commission's thanks for more than forty years of service.

5. **Personnel Out Sick or Injured**
6. **Special Events in the City**

Deputy Chief Young briefed the commission on this year's plans for First Night, which has returned to Portsmouth after a few year's absence. The celebrations will include a small parade and fireworks.

### **D. CITY PROSECUTOR REPORT**

### **E. BUREAU OF INVESTIGATIVE SERVICES**

**Action: Commissioner Howe moved** that the commission appoint Sgt. Rod McQuate and Auxiliary Officer Mike Frost to permanent status.

**Seconded by Commissioner Devine.**

**On a Roll Call Vote:** The commission voted unanimously to appoint Sgt. McQuate and Officer Mike Frost to permanent status.

## **VI. MISCELLANEOUS OTHER BUSINESS**

**Action: Commissioner Howe moved** that the police commission approve the contract for Deputy Chief Len DiSesa as written by city negotiator Attorney Tom Flygare and forward it to the city council for their action.

**Seconded by Commissioner Devine.**

**On a Roll Call Vote:** The commission voted unanimously to approve the contract and forward to the city council for their action.

Councilor Harold Whitehouse thanked Commissioner Devine for his many years of service.

## **VII. MOTION TO ADJOURN**

There being no further business before this commission,

**Action: Commissioner Devine moved** the December 20<sup>th</sup> meeting be adjourned.

**Seconded by Commissioner Howe.**

**On a Roll Call Vote:** The Board voted unanimously in favor of the motion at 2:42 P.M.

## **VIII. NEXT MEETING: *Scheduled for Tuesday, January 17<sup>th</sup>, 2005***

*Respectfully Submitted By Kathleen Hoyt, Administrative Aide  
Reviewed By Commissioner Gerald Howe, Clerk*