Michigan Commission on Law Enforcement Standards
Commission Meeting Minutes
January 11, 2017
Lansing, Michigan

COMMISSION MEMBERS PRESENT

Sheriff Jerry Clayton, representing the Michigan Sheriffs' Association
Director John Calabrese, representing the Michigan Association of Chiefs of Police
Colonel Kriste Etue, representing the Michigan State Police
Sheriff Doug Wright, representing the Michigan Sheriffs' Association
Ms. Anica Letica, representing Attorney General Bill Schuette
Mr. Michael Wendling, representing the Prosecuting Attorneys Association of Michigan
Chief Donald Mawer, representing the Michigan Association of Chiefs of Police
Mr. Ken Grabowski, representing the Police Officers Association of Michigan
Chief David Molloy, representing the Michigan Association of Chiefs of Police
Trooper Nate Johnson, representing the Michigan State Police Troopers Association
Mr. David Hiller, representing Michigan Fraternal Order of Police
Mr. Thomas Zulch, representing Police Officers Labor Council
Sheriff Timothy Donnellon, representing Michigan Sheriff's Association
Mr. Richard Heins, representing Michigan Association of Police
Mr. Thomas Adams, representing the Public
Cpl. Brian Earle, representing Deputy Sheriff's Assoc. of Michigan
Mr. Mark Diaz, representing Detroit Police Officers Association

COMMISSION MEMBERS EXCUSED

Professor Ron Bretz, representing the Criminal Defense Attorneys of Michigan
Chief Tim Bourgeois, representing Michigan Association of Chiefs of Police

STAFF PRESENT

Mr. David Harvey, MCOLES Executive Director
Ms. Hermina Kramp, MCOLES Deputy Executive Director
Mr. John Szczubelek, Assistant Attorney General and Commission Counsel
Ms. Jacquelyn Beeson, MCOLES Staff
Mr. Wayne Carlson, MCOLES Staff
Mr. Danny Rosa, MCOLES Staff
Mr. David Lee, MCOLES Staff
Mr. Wayne Aldrich II, MCOLES Staff
Mr. Ryan Speidel, MCOLES Staff
Ms. Deb Thelen, MCOLES Staff
Ms. Barbara Johns, MCOLES Staff

Ms. Diane Horwath, MCOLES Staff
Mr. Pat Hutting, MCOLES Staff
Ms. Rhonda Hooson, MCOLES Staff
Ms. JuaQuita Grady, MCOLES Staff
Mr. Darnell Blackburn, MCOLES Staff
Mr. John Steele, MCOLES Staff
Mr. Lynn Ried, MCOLES Staff

GUESTS (SIGNING-IN)

Ms. Anne Armstrong, Office of the Governor
F/Lt. Chris Hawkins, Michigan State Police

CALL TO ORDER

The Commission meeting was called to order by Chair Jerry Clayton on January 11, 2017 at 10:30 AM. The meeting was held at the MCOLES Office in Lansing, Michigan.

INTRODUCTIONS

Chair Clayton introduced himself and asked the Commissioners, staff and members of the audience to do the same.

ACCEPTANCE OF THE DECEMBER 7, 2016 COMMISSION MEETING MINUTES

A **MOTION** was made by Commissioner Molloy and supported by Commissioner Donnellon to approve the December 7, 2016 Commission Meeting Minutes as written.

A correction was requested to the Minutes by Commissioner Zulch. Under "New Business" comments were attributed to Rich Weiler but were actually made by Fred Timpner.

A **VOTE** was taken. The **MOTION** carried.

ADDITIONS/CHANGES TO THE AGENDA - None

CHAIR'S REPORT

Law Enforcement Officer Population Report -The electronic distribution contained the LEO Population report for the month of December. The number of agencies decreased by one with the closing of the Concord Township Police Department. There was a significant increase in the

officer count primarily due to the completion of a MSP academy session.

Special Use Requests - This report was contained in the electronic distribution and made available prior to the meeting. There were no questions or comments.

Floor Nominations for Chair and Vice-Chair – Chair Clayton advised that the floor would be open for nominations for the new commission chair. After the nominations were received he would close the nominations and ask for a roll-call vote. After the chair had been elected the process would be the same for electing the vice-chair.

Commissioner Donnellon nominated Commissioner Michael Wendling for chair. There were no other nominations.

A **ROLL-CALL VOTE** was taken. The following votes were recorded. The **MOTION** carried.

Commissioner	Vote
Commissioner White	YES
Commissioner Hiller	YES
Commissioner Grabowski	YES
Commissioner Adams	YES
Commissioner Mawer	YES
Commissioner Diaz	YES
Commissioner Wright	YES
Commissioner Heins	YES
Commissioner Letica	YES
Commissioner Donnellon	YES
Commissioner Molloy	YES
Commissioner Zulch	YES
Commissioner Etue	YES
Commissioner Earle	YES
Commissioner Clayton	YES
Commissioner Johnson	YES
Commissioner Wendling	YES

Chair Clayton congratulated Chair Wendling and turned the remainder of the meeting over to him.

Chair Wendling opened the floor for vice-chair nominations. Commissioner Etue nominated Commissioner David Molloy for vice-chair. There were no other nominations. The chair closed the nominations.

A **ROLL-CALL VOTE** was taken. The following votes were recorded. The **MOTION** carried.

Commissioner	Vote
Commissioner White	YES
Commissioner Hiller	YES
Commissioner Grabowski	YES
Commissioner Adams	YES
Commissioner Mawer	YES
Commissioner Diaz	YES
Commissioner Wright	YES
Commissioner Heins	YES
Commissioner Letica	YES
Commissioner Donnellon	YES
Commissioner Molloy	YES
Commissioner Zulch	YES
Commissioner Etue	YES
Commissioner Earle	YES
Commissioner Clayton	YES
Commissioner Johnson	YES
Commissioner Wendling	YES

Newly elected Vice-Chair Molloy moved to occupy the vice-chair seat for the remainder of the meeting.

DIRECTOR'S REPORT

Employee Recognition – Executive Director Harvey asked staff member Lynn Ried to join him at the podium. Director Harvey stated that he doesn't often get a chance to recognize MCOLES employees at the commission meetings. Today he had the opportunity. Lynn Ried was receiving his 20 year pin for years worked with the State of Michigan. Director Harvey said that this showed the depth and experience of the staff. He stated that Lynn had retired after 25 years with Lansing Police Department and had a total of 45 years in law enforcement. Congratulations to Lynn.

Commission Meeting Dates – Director Harvey stated that he would like the Commission to consider changing the dates of the February and April commission meetings. He stated that the February 8 meeting conflicts with the MACP conference. Director Harvey suggested February 15, 2017 for the new date. He stated he was requesting to change the April meeting due to the Executive Directive. He advised that staff needed to have a draft report done to present to the commission at the April meeting. With this tight time line he would like to give staff an additional week to complete the report. He was recommending April 19, 2017 for the new meeting date.

A **MOTION** was made by Commissioner Earle and supported by Commissioner Grabowski to change the February meeting date to the 15th and the April meeting date to the 19th.

A **VOTE** was taken. The **MOTION** carried.

Medical Marijuana – Director Harvey advised that the legislature approved House Bill 4209'16, enacted as PA 281 of 2016, which provides for taxes, fees, and assessments on medical marihuana facilities. These include a 3% tax on facilities' gross retail receipts. From the excise fund receiving the tax, 5% is allocated to the Michigan Commission on Law Enforcement Standards. Originally the estimate of funds for MCOLES would be around $1 million. However, the most recent State Budget Office estimate dropped to less than $400,000. Director Harvey advised that the State Budget Office had contacted MCOLES and needs to know how we plan to use those funds.

Director Harvey asked MCOLES legal counsel for clarification of the language in the Medical Marijuana Facilities Licensing Act. John Szczubelek provided the following:

The Act does two things. It creates an excise tax, and a regulatory assessment or fee. As to the excise tax, it provides that 5% of the "money in the medical marihuana excise fund shall be allocated, upon appropriation, to "the Michigan commission on law enforcement standards for training local law enforcement officers." The statute does not further define those terms.

As to the regulatory assessment, the Act provides that among the things to be "included in establishing the total amount of the regulatory assessment" is "an amount sufficient to provide for the administrative costs of the Michigan commission on law enforcement standards."

The Michigan Court of Appeals has held that the purpose of a tax is to raise revenue, while fees are in exchange for a service rendered or a benefit conferred. Therefore, given all of the above language, the Act can be reasonably interpreted as legitimizing use of the proceeds from the excise tax for MCOLES administrative purposes.

However, since MCOLES' use of the excise tax could be further defined "upon appropriation," it is possible that boilerplate language in an appropriations bill will settle the matter more definitively.

Executive Director Harvey stated that since it is MCOLES' responsibility to set standards for the development and delivery of training as well as monitoring, auditing and maintaining curricula and training, he is recommending MCOLES use funds collected for a portion of the cost of the staff responsible for these functions. This will result in the MCOLES being able to reduce the administrative burden on the Michigan Justice Training Fund for these purposes resulting in greater funding being available for the MJTF Grant process.

Commissioner Etue stated that since MCOLES already has staff that is responsible for curriculum development she would like to suggest that the funds be restricted to training of officers on the marijuana laws.

A discussion among the commissioners took place regarding the use of the medical marijuana fund. It was agreed that there were still too many variables to make a final decision on the use of the funds and the following occurred.

A **MOTION** was made by Commissioner Etue and supported by Commissioner Molloy to restrict the use of the money to the training of officers on the marijuana laws with no allocation for administrative costs. Once the funds are received a review of what will be needed by MCOLES will be conducted and the use of the funds will be revisited.

A **VOTE** was taken. The **MOTION** carried.

Meeting with Representative Chang – Director Harvey stated that Representative Stephanie Chang requested to meet with him regarding the Racial Profiling and Statistics Act that was introduced in 2005. She is interested in reintroducing it in 2017-18. Director Harvey said that he needed some guidance from the Commission on their stance. Commissioner Hiller from the FOP, Commissioner Donnellon and Commissioner Heins representing the Michigan Sheriffs' Association as well as Commissioner Grabowski representing the Police Officers Association of Michigan all stated they were opposed if the legislation was introduced like it was in 2005. The consensus was that the Commission opposed the legislation as written but if changes were made Director Harvey would bring it back to the Commission for discussion.

Executive Directive 2016-2 Update – The intent of the Executive Directive was to obtain information fostering public trust in law enforcement through public forums. It was also decided to use a survey to elicit information. Director Harvey advised that they had begun setting up some of these forums. The first one is January 18, 2017 from 6PM – 8PM in Benton Harbor. He stated that MCOLES staff and Commissioner Wendling would be in attendance and Velicia Humes would be the facilitator. He added the format would consist of small groups each with their own facilitator. The information would be obtained and then at the end of the meeting all the information from each group would be brought together. There will also be paper surveys available. Director Harvey added that they were also working on public forums in Flint, Detroit, Saginaw, the Upper Peninsula and possibly the Gaylord area.

Director Harvey stated that the web page, the e-mail box and the surveys in English, Spanish and Arabic were also ready but explained that now is the time for the real work to begin. He was asking all of the work groups and committees for help. Since there were qualitative questions added to the survey the workgroups along with staff would be needed to help interpret the responses. The deadline for input is March 20. Wayne Carlson will be analyzing the data along the way and April 19 is the deadline for the draft report to allow for Commission approval.

COMMITTEE REPORTS

Process Committee – Chair Wendling stated that the deadlines were met with regard to completing and approving the survey, creating the e-mail box, and translating the surveys into Spanish and Arabic. He added that he is impressed on how the information has come together and feels that the MCOLES staff and Director Harvey deserve accolades.

Training Work Group – Commissioner Clayton advised that his workgroup has not met yet. He said they are waiting for the survey information to come in. He feels that the development of training will be more research related.

Community Engagement Work Group – Commissioner Etue stated that they have been working with Wayne Carlson and he is doing a wonderful job. She said her group is anxious to see the survey results.

Recruiting Work Group – Commissioner Molloy stated that he has established his workgroup members and feels they have a good cross section of people. He said that a national template will be adopted by the COPS organization this week and they will be using that information in his workgroup.

CONSENT AGENDA - None

NEW BUSINESS

Executive Section Responsibilities – Deputy Executive Director Hermina Kramp stated that at each meeting they were going to choose a few members of staff to describe their roles. This meeting it would be the Executive Direction Section. She added that all staff works for the Commissioners and their positions are tied to statutory functions. She said that a document regarding statutory functions was passed out. In future meetings each staff member will present in greater detail specifics regarding their responsibilities and how it relates to each statute.

Ms. Kramp stated that she has two roles. In the first she works directly for Director Harvey. She said that she oversees the day to day functions of the staff. The other role is to work on behalf of the commission and its initiatives.

Ms. Kramp explained that in the past we have used agenda items to provide information to the Commission. These agenda items may be informational only, may need discussion for direction or may need a motion or a vote. The structure of the agenda item is to provide information, background and usually a recommendation. This is how the commission has done it in the past however the process can be changed.

Deputy Director Kramp also stated that resolutions are used at the meetings. The resolution process is a request to formalize a statement or opinion. The Executive Director or the Commission will use it to take a stance. The resolution is just a draft until the final language is voted on by the Commission.

OLD BUSINESS - None

PUBLIC COMMENT

MCOLES Counsel John Szczubelek addressed the members of the Commission. He stated that he sits on the Michigan Law Enforcement Officers Memorial Monument Committee. He wanted to advise that the Committee has received private funding and there is going to be an announcement regarding this on January 31, 2017 at 10:00 AM. He said the function is being held at the auditorium at the Michigan Historical Museum. He wanted to invite everyone to attend.

NEXT MEETING

Date: February 15, 2017
Location: Lansing

ADJOURNMENT:

A motion was made by Commissioner Molloy to adjourn the meeting at 12:40 PM.

APPROVED BY _____ ON 2/15/17

WITNESSED BY _____ ON 2-15-17