
Michigan Commission on Law Enforcement Standards
Commission Meeting Minutes
December 2, 2020
TEAMS CONFERENCE CALL

COMMISSION MEMBERS PRESENT/LOCATION FOR MEETING

Chief David Molloy, representing the Michigan Association of Chiefs of Police (Novi)
Major Beth Clark, representing the Michigan State Police (Grand Blanc)
Mr. Duane Smith, representing the Police Officers Labor Council (Washtenaw Co)
Mr. Arthur Weiss, representing the Criminal Defense Attorneys of Michigan (Farmington Hills)
Mr. Thomas Adams, representing the Public (Detroit)
Sheriff Gregory Zyburt, representing the Michigan Sheriffs' Association (Marquette)
Mr. Michael Kunath, representing the Michigan Association of Police (Sterling Heights)
Trooper Nate Johnson, representing the Michigan State Police Troopers Assoc (Vermontville)
Mr. Ken Grabowski, representing the Police Officers Association of Michigan (Charlotte Co, FL)
Commander Mark Bliss, representing the Detroit Police Department (Harrison Twp)
Mr. Michael Sauger, representing the Fraternal Order of Police (Warren)
Mr. Anthony Lewis, representing the Michigan Department of Civil Rights (St. Clair Shores)
Dr. Lisa Jackson, representing residents of the state (Ann Arbor)
Mr. David Tanay, representing the Office of the Attorney General (Meridian Twp)
Sheriff Matthew Saxton, representing the Michigan Sheriffs' Association (Lansing)
Chief Eric Payne, representing the Michigan Association of Chiefs of Police (Grand Rapids)
Mr. Michael Wendling, representing the Prosecuting Attorneys Assoc of Michigan (Port Huron)
Ms. Linda Broden, representing the Detroit Police Officers Association (Detroit)
Pastor Tellis Chapman, representing residents of the state (Detroit)
Pastor Jeffery Hawkins, representing residents of the state (Flint)

COMMISSION MEMBERS EXCUSED

Deputy Matthew Hartig, representing Deputy Sheriff's Association of Michigan

STAFF PRESENT

Mr. Timothy Bourgeois, MCOLES Executive Director
Ms. Hermina Kramp, MCOLES Deputy Executive Director
Ms. Jacquelyn Beeson, MCOLES Staff
Ms. Lauryl Scott, Commission Counsel
Mr. David Lee, MCOLES Staff
Mr. Danny Rosa, MCOLES Staff
Mr. Ben Zyber, MCOLES Staff

Mr. Pat Hutting, MCOLES Staff
Ms. Kayla Hanselman, MCOLES Staff
Ms. Rhonda Hooson, MCOLES Staff
Ms. Gretchen Galloway, MCOLES Staff
Mr. Joe Kempa, MCOLES Staff

GUESTS ATTENDING

Ms. Beeson asked if there were any members of the public on the call who wished to identify themselves for the minutes? They were advised they were not required to identify themselves. No one stated they were participating.

CALL TO ORDER

The Commission meeting was called to order by Chair David Molloy on December 2, 2020 at 10:30 AM. This was a virtual meeting held via the TEAMS platform.

Chair Molloy provided some guidelines for the meeting. They included the following:

- Reminded members to mute their microphones unless speaking.
- Advised everyone if the Teams application crashed, each person was to disconnect and then reconnect. If video connectivity could not be re-established, everyone was instructed to dial back in using only the phone number and access code provided. The meeting would continue like a traditional audio conference call.
- Before speaking, everyone was asked to state their name and wait to be recognized by the chair, so everyone knew who was talking.
- All votes would be taken by roll call. The chair will call on Ms. Jacque Beeson to call the roll and report the results for each vote.
- Finally, he advised if a member of the public wants to make a comment, they will be given the opportunity at the end of the meeting.

INTRODUCTIONS

Chair Molloy reminded the Commissioners there had been a change to the Open Meetings Act for virtual meetings. It is now required that the Commissioners identify the geographic unit (Village, Township, City or County) they are physically in during this meeting when Ms. Beeson takes the attendance. This applies only to the Commissioners. (The Commissioners' locations are listed following their names and whom they are appointed to represent above.)

Chair Molloy introduced himself. He then asked Ms. Beeson to take attendance. All Commissioners and staff members noted above participated in the meeting. The Commissioners also stated where they were located as listed above.

ACCEPTANCE OF THE November 4, 2020 COMMISSION MEETING MINUTES

A **MOTION** was made by Commissioner Adams and supported by Commissioner Hawkins to approve the November 4, 2020 Commission Meeting Minutes as written.

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

Approval of the November 4, 2020 Meeting Minutes	
Adams, Tom	YES
Zyburt, Gregory	YES
Kunath, Michael	YES
Clark, Beth	YES
Kunath, Michael	YES
Weiss, Arthur	YES
Johnson, Nate	YES
Bliss, Mark	YES
Molloy, David	YES
Hawkins, Jeffery	YES
Smith, Duane	YES
Tanay, David	YES
Grabowski, Ken	YES
Sauger, Michael	YES
Lewis, Anthony	YES
Jackson, Lisa	YES
Wendling, Michael	YES
Payne, Eric	YES
Chapman, Tellis	YES

ADDITIONS TO THE AGENDA - None

CHAIR'S REPORT

LEO Population Report – Chair Molloy reported that the Law Enforcement Officer Population Report for the month of October was made available to the commissioners. The number of officers and positions decreased slightly.

Proposed 2021 Meeting Dates – Chair Molloy stated that the Commissioners were provided a list of the proposed meeting dates for 2021. The change approved at the November meeting to combine the November and December meetings into one has been added to the list.

A **MOTION** was made by Commissioner Adams and supported by Commissioner Sauger to approve the meeting dates for 2021.

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

Approval of the 2021 Meeting Dates	
Adams, Tom	YES
Zyburt, Gregory	YES
Kunath, Michael	YES
Clark, Beth	YES
Kunath, Michael	YES
Weiss, Arthur	YES
Johnson, Nate	YES
Bliss, Mark	YES
Molloy, David	YES
Hawkins, Jeffery	YES
Smith, Duane	YES
Tanay, David	YES

Grabowski, Ken	YES
Sauger, Michael	YES
Lewis, Anthony	YES
Jackson, Lisa	YES
Wendling, Michael	YES
Payne, Eric	YES
Chapman, Tellis	YES
*Broden, Linda	YES

*Linda Broden’s audio function was not working. She sent a text to Ms. Beeson with her vote. A copy of that text has been added to the commission meeting documents.

Executive Director’s Compensation

Major Clark stated she wanted to discuss the Executive Director’s compensation. Providing some background, she advised Executive Director Bourgeois was hired in January 2018 as an unclassified employee that was equal to a Level 17 MSP Division Commander. This was based on the fact that his responsibilities were similar to a Division Commander. This entitled him to a certain pay level. When Colonel Gasper took office in 2019, he reclassified the Level 17 Commanders to a Senior Policy Executive 18 because it more accurately described their duties. With this reclassification came a pay raise. They also received a 2% increase in 2019 and 2020. Executive Director Bourgeois was also reclassified but he did not receive the compensation. Major Clark is recommending that the Director’s compensation be increased to the level of the Senior Policy Executive 18 and that they make it retroactive. Currently his salary is \$120,972.00 and the increase would make it \$134,481.00. The 2% pay raises would calculate to \$137,171.00 and the back pay would equal \$23,045.

A **MOTION** was made by Commissioner Grabowski and supported by Commissioner Saxton to approve compensation for the Executive Director at a Senior Policy Executive 18 rate until otherwise directed and provide him the back pay.

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

Approval to Compensate the Executive Director at a Senior Policy Executive 18 Rate Until Otherwise Directed and Provide him the Back Pay	
Adams, Tom	YES
Zyburt, Gregory	YES
Kunath, Michael	YES
Clark, Beth	YES
Kunath, Michael	YES
Weiss, Arthur	YES
Johnson, Nate	YES
Bliss, Mark	YES
Molloy, David	YES
Hawkins, Jeffery	YES
Smith, Duane	YES
Tanay, David	YES
Grabowski, Ken	YES
Sauger, Michael	YES
Lewis, Anthony	YES
Jackson, Lisa	YES
Wendling, Michael	YES
Payne, Eric	YES
Chapman, Tellis	YES
*Broden, Linda	YES

*Linda Broden’s audio function was not working. She sent a text to Ms. Beeson with her vote. A copy of that text has been added to the commission meeting documents.

DIRECTOR'S REPORT

Staffing – Executive Director Bourgeois advised they were starting to get some movement with regard to MCOLES open positions. He said this is a very slow process. Each position requires six levels of signatures before it can be posted. He added that the state currently has a hiring freeze, but they requested an exemption from the freeze for some of the positions. He said the staff continues to do a great job to make up for the lack of employees.

PA 128 – Executive Director Bourgeois said he is providing the Commissioners information on various topics of interest in small chunks to make it easier to understand and remember. At this meeting he wanted to discuss Public Act (PA) 128 of 2017. In January 2018, PA 128 took effect. This Act states a law enforcement agency must create and maintain a record regarding the reason for, and circumstances surrounding, a separation of service. The PA 128 Separation of Service Record is in addition to the separation information reporting mandated by Michigan Commission on Law Enforcement Standards Act, 1965 PA 203 (MCOLES Act).

Under the MCOLES Act, when a licensed officer separates employment for any reason, the law enforcement agency must report the separation to the Michigan Commission on Law Enforcement Standards. This Act and the administrative rules promulgated thereunder require this information be submitted within 3 days of the separation and must provide the reason for the separation.

The requirement to create and maintain the Separation of Service Record under PA 128 is a separate and distinct obligation from the agency's obligation to submit the separation information which becomes part of the employment history record by MCOLES. PA 128 specifically states the Separation of Service Record is in addition to the employment history record required to be maintained by the Michigan Commission on Law Enforcement Standards Act.

When a licensed officer separates employment with an agency for any reason, PA 128 requires the agency to create a Separation of Service Record which is a record stating the reason for and circumstances surrounding a separation of service. An agency must allow the separated officer to review the Separation of Service Record. If the officer disagrees, he/she can request a correction or removal of the part he deems incorrect. If the agency and the officer agree, the change can be made. If they cannot agree, the separated officer may submit a written statement explaining the separating officer's position and the basis for disagreement. If submitted, the officer's written statement must be kept by the agency as part of the Separation of Service Record and provided to any prospective law enforcement agencies who request the Separation of Service Record.

Under PA 128, the separating agency and the hiring agency have obligations. Compliance with the Act requires the applicant to provide the prospective employing agency a signed waiver that allows this agency to contact the officer's former agency to seek a copy of the Separation of Service Record. When the former agency receives the waiver, they must provide the Separation of Service Record to the prospective employing agency. The prospective employing agency must review this report before hiring the candidate and they must attest to MCOLES as part of the hiring affidavit they received and reviewed any and all Separation of Service Records from prior law

enforcement employers. Once again, this is above and beyond the obligation of an agency to conduct a comprehensive background investigation to determine compliance with the character fitness standard in the MCOLES Act.

The Director stated that has been confusing and in some cases is not being done by all agencies. MCOLES has created a document which explains the distinctions and inter-workings of PA 128 and PA 203. This document will be available on the MCOLES website. The Director noted there has been some discussion from several groups and entities, including members of the legislature, about adding penalties to PA 128 for non-compliance.

Some of the Commissioners had questions and asked the Director for clarification on the two documents. A discussion ensued until all questions were answered.

COMMITTEE REPORTS

Executive Committee – Chair Molloy advised the Executive Committee met that morning prior to the Commission meeting. He said the committee members discussed the following issues:

- 2021 Commission Meeting Dates
- PA 128 of 2017
- Executive Director’s Compensation

Armed Reserve Committee – Director Bourgeois advised there were no updates since the last Commission meeting.

CONSENT AGENDA - None

NEW BUSINESS

Commission Resolution 2020-08 – Chair Molloy read into the record Commission Resolution 2020-08 honoring Commissioner Donald Mawer.

A **MOTION** was made by Commissioner Wendling and supported by Commissioner Adams to approve Commission Resolution 2020-08 honoring Chief Donald Mawer for his time on the Commission.

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

OLD BUSINESS - None

MISCELLANEOUS

Chair Molloy inquired if any of the Commissioners had questions or items they wished to discuss.

Commissioner Lewis wanted to acknowledge and thank Commissioner Molloy for his participation in the Civil Rights Youth Student Forum. He added that the students were very appreciative of his time.

PUBLIC COMMENT – None

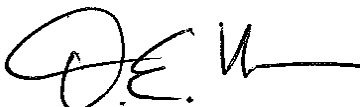
NEXT MEETING

Date: February 17, 2020 at 10:30 AM
Virtual Meeting

ADJOURNMENT:

A **MOTION** was made by Commissioner Hawkins and supported by Commissioner Adams to adjourn the meeting.

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

Approved: 

Date: February 17, 2021

Witness: 

Date: February 17, 2021