

**NORTH CAROLINA CRIMINAL JUSTICE
EDUCATION AND TRAINING STANDARDS COMMISSION**

MINUTES

DATE: February 18, 2011

TIME: 9:00 A. M.

LOCATION: N. C. Department of Correction
Apex, North Carolina

SUBMITTED BY: Wayne Woodard
Director

The Education and Training Committee, the Planning and Standards Committee, the Probable Cause Committee and the Executive Committee met on February 17, 2011 for their regular quarterly meetings. The Probable Cause Committee also met on February 16, 2011.

MEMBERS PRESENT

Mr. John Glenn
Chief Ira Jones
Dr. Robert Ruth
Mr. Eddie Caldwell
Captain Lee Farnsworth
Captain Terry Jones
Chief Wrenn Johnson
Mr. Terry Waterfield
Mr. Ray Davis
Mr. Frank Rogers
Ms. Linda Hayes
Chief Scott Cunningham
Ms. Stephanie Freeman
Sergeant Lorrie Hersey
Mr. Kevin Wallace
Ms. Tracy McPherson
Mr. Steve Johnson
Ms. Annie Harvey
Mr. Ricky Anderson
Mr. Brent Herron
Ms. Robin Pendergraft
Chief Tim Hayworth

MEMBERS ABSENT

Mr. James Festerman
Chief Patricia Bazemore
Mr. Thomas Thornburg
Mr. Richard Armstrong
Mr. Johnson Britt
Chief Tim Ledford

Chief Tim Ledford
Mayor Bobby Kilgore
Chief John Manley
Ms. Gwen Norville
Ms. Angela Williams

VISITORS

Toby Gordon Hall	N. C. Division of Parks and Recreation
Angela Allcox	N. C. Division of Parks and Recreation
Gerald Smith	Charlotte-Mecklenburg Police Department
William Farrell	Charlotte-Mecklenburg Police Department
Andrew Kraeger	Charlotte-Mecklenburg Police Department
Sheila Zerehi-Carter	N. C. Department of Correction
Captain John Habada	N. C. Department of Correction
Marcus Andrew Fleming	
Chad Axford	Attorney representing Marcus Fleming
Mark Strickland	N. C. Justice Academy
Norman Young	N. C. Department of Justice
Peggy Schaefer	
Rick Tucker	N. C. State Capitol Police Department
Jeff Manley	N. C. Department of Correction
James Tuck	N. C. Department of Correction
Charles R. Thornburg	North Wilkesboro Police Department
Chief Joe Rankin	North Wilkesboro Police Department
Dennis Mecum	N. C. Department of Correction
Tommy Edwards	Wake Technical Community College
Chet Jernigan	N. C. Justice Academy
Joyce Ruth	
Chad Webster	
Richard Hattendorf	Attorney representing Chad Webster
Shawn Houston	
Mike McGuinness	Attorney representing Shawn Houston
James Carpenter	
Kenneth Free, Jr.	Attorney representing James Carpenter
Anthony Israel Florence	N. C. Department of Correction
Robert Benjamin	N. C. Department of Correction

STAFF

Wayne Woodard	Richard Squires	Jane Gilchrist	Mike Heavner
Pam Pope	Ed Zapolsky	Teresa Marrella	Mark Dearry

Tim Pressley
Donna Byrd

Dawn Suffel

Brandy Miree

Sharon Witherspoon

I. CALL TO ORDER

Commission Chairman John Glenn brought the meeting to order. He read the Ethics Statement into the minutes. Following the roll call, Chairman Glenn declared that a quorum was present. He extended a warm welcome to the visitors.

II. AWARDING OF ADVANCED CERTIFICATES

[Agenda Memorandum No. 01-11]

Vice-Chairman Caldwell reported that staff had evaluated the applications of all one hundred and nine (109) candidates. There were eighty-three (83) candidates for the Advanced Law Enforcement Certificate and twenty-six (26) candidates for the Advanced Criminal Justice Certificate. He noted that each of these applicants had met the requirements to receive the Advanced Certificate and the Advanced Certificate pin.

MOTION was made by Commissioner Linda Hayes that the Commission award the Advanced Law Enforcement Certificate or Advanced Criminal Justice Certificate to each named individual. The MOTION was seconded by Commissioner Gwen Norville and carried unanimously.

The following individuals were present to personally receive their Advanced Law Enforcement and Advanced Criminal Justice Certificates:

Toby Gordon Hall

N. C. Division of Parks and Recreation
Presented by Superintendent Angela Allcox

Charles Robert Thornburg

North Wilkesboro Police Department
Presented by Chief Joe Rankin

Sheila Zerehi-Carter

N. C. Department of Correction
Presented by Captain John Habuda and Commissioner Annie Harvey

Jeffrey M. Manley

N. C. Department of Correction
Presented by Assistant Superintendent James Tuck

Anthony Israel Florence

N. C. Department of Correction
Presented by Commissioner Glenn

Robert Benjamin

N. C. Department of Correction
Presented by Commissioner Glenn

Chairman Glenn presented an appreciation plaque for Peggy Schaefer, who had served as Director of the North Carolina Justice Academy and is now retired. He stated that she has been a valuable asset to the Commission as well as law enforcement.

Chairman Glenn reported that Jane Gilchrist, legal counsel, has accepted a position with the North Carolina Department of Labor. He stated that she had served on the Commission for several years as a valuable member and would be missed. Chairman Glenn presented her with an appreciation plaque.

Ms. Gilchrist stated that she had enjoyed working with the Criminal Justice Commission. She stated with the new job her husband had taken as Colonel of the North Carolina State Highway Patrol, has changed their lives and she felt that she needed to change her job to benefit both her children and husband.

III. MINUTES OF NOVEMBER 10, 2010 MEETING

Chairman Glenn entertained a motion to approve the minutes of the previous Commission meeting.

MOTION was made by Commissioner Ira Jones that the Commission approve the minutes of the November 10, 2010 meeting as mailed. The MOTION was seconded by Commissioner Terry Jones and carried unanimously.

IV. STANDING COMMITTEE REPORTS

A. Executive Committee - Chairman Eddie Caldwell

Chairman Caldwell reported that the Executive Committee met on Thursday, February 17, 2011, to discuss a number of issues. He noted that the Executive Committee had discussed situations where the Commission is investigating an officer, or the officer is involved in an administrative hearing, and the officer wants to move from one law enforcement agency to another. The Executive Committee asked legal counsel to research and provide the Commission with legal advice as to whether or not in such a situation staff could notify the head of the hiring agency that the officer is currently under investigation or currently involved in a pending administrative hearing. Chairman Caldwell noted that Ms. Gilchrist researched and reported that staff could lawfully notify the hiring agency head in such a situation as long as the information provided by Commission staff is accurate and factual.

Chairman Caldwell stated on behalf of the Commission, the Executive Committee expressed their appreciation to Ms. Gilchrist for her many years of distinguished service to the Commission and extended best wishes as she transitions to her new role as General Counsel to the North Carolina Department of Labor.

Chairman Caldwell reported that on behalf of the Executive Committee, they expressed their appreciation to the Department of Correction for hosting the Commission meeting. He stated that the Commission had been working with their staff and the staff of the State Capitol Police on security issues.

Chairman Caldwell next discussed the applicability of the Reading Comprehension requirement and partial enrollees in the BLET course. He stated that Director Woodard will discuss this in his report.

Chairman Caldwell next asked Director Wayne Woodard to give an update on the Criminal Justice Standards Division.

Mr. Woodard stated that he wanted to congratulate Peggy Schaefer on her retirement. He said that he appreciated all that she has done for the Commission as well as staff. Also, Mr. Woodard said that it had been a pleasure working with Jane Gilchrist for the past five years. He stated that he appreciated her hard work and support.

Mr. Woodard introduced a new staff member, Sharon Witherspoon, program assistant for the Speed Measuring Instrument Program and the Professional Certificate Program. She was formerly employed with Private Protective Services. Mr. Woodard stated Bob Yow is now with the Criminal Justice Standards Division and is primarily assisting with administering the Commission exams.

Mr. Woodard reported that the new office building is scheduled for completion in mid- April. He stated that both Julia Lohman, Sheriffs' Standards Director, and he had coordinating numerous activities associated with the move as well as selecting and purchasing of office furnishings and the new filing system. He reported that after this meeting, his emphasis would be focused primarily on the move in addition to his normal duties. He reported that staff will be informing the agencies as well as the Commission of any anticipated down time when the move begins.

Mr. Woodard related that Statement of Economic Interest Forms are due April 15th with the Ethics Commission. He stated that Commissioners can download this form and send it to the Ethics Commission. He reported that a chart was sent to each Commission member concerning the Ethics training that is due for the year 2011. Upon completion of this training, members should send Ms. Byrd a copy of their certificate of completion, if possible.

Mr. Woodard briefed the Commission regarding issues with the Reading Comprehension exam and partial enrollees in BLET. He stated that a memorandum addressing the issues was sent to each Commission member for review. He reminded members of a discussion at the November meeting concerning the situation where an experienced, certified officer had failed to complete the in-service firearms training/qualification and, as per current Commission rules, was required to enroll in BLET and complete the 48 hours of firearms training. The officer failed to score at the tenth grade level on the reading comprehension test as required. As a result, the officer could not be admitted into the class to complete the firearms training to return to duty.

MOTION was made by Commissioner Caldwell on behalf of the Executive Committee to ask the Planning and Standards Committee to conduct a rule-making hearing for adoption of changes to the administrative code so that officers who fail to complete in-service training due to a medical disability or due to a military waiver or who fail to successfully complete mandatory in-service firearms training would be exempt from the reading comprehension requirement if they currently hold general certification or have held general certification within 12 months prior to the date of their partial enrollment in BLET; and the Commission hereby directs staff, until these rule changes are implemented, to exempt from the reading comprehension requirement those officers who fail or have failed to complete in-service training due to a medical disability or due to a military waiver or who fail or have failed to successfully complete mandatory in-serve firearms training, if they currently hold general certification or have held general certification within 12 months prior to the date of their partial enrollment in BLET; seconded by Commissioner Glenn. The MOTION carried unanimously.

Mr. Caldwell asked Director Mark Strickland to give an update on the Justice Academy.

Mr. Strickland stated that Wayne Ayers, Deputy Director at the Edneyville campus, and Facility Operations Manager, Dana Phillips, have confirmed that the new indoor firearms range will be completed by the end of May.

Mr. Strickland reported that the new welcome center in Salemburg will open later this summer. He stated that staff had moved to another location on campus while renovations are being completed.

Mr. Strickland next reported that Ms. Kristi Jernigan would be managing the North Carolina Justice Academy website since Ms. Vicki Pope had resigned. Ms. Jennifer Fisher's new duties are: Chairperson of the BLET Revision Committee as well as coordinator for the In-service Training Program. Mr. Strickland noted that during the past few months, several long-term staff members have retired and a wealth of knowledge has left the Justice Academy.

Mr. Strickland next reported that the academy was in the process of achieving reaccreditation through the Commission on Accreditation for Law Enforcement Agencies (CALEA). The on-site visit is scheduled for February 26-March 1, 2011.

Mr. Strickland noted that over the past few months, the Justice Academy has worked with the SBI and the Law Enforcement Liaison Section in assisting the Training of personnel in the criminal justice system to comply with the new DNA arrestee process. These train-the-trainer workshops were designed for agency trainers to take the information back to their agencies to orient officers on the new law as well as orient them to the cheek swab process and data collection. He stated that currently there have been 15 workshops across the state with 667 attendees. In order to meet the demands for this training, additional training sessions have been scheduled. They will be held on March 15 & 17, 2011 at the SBI Headquarters in Garner, North Carolina.

B. Education and Training Committee - Chairperson Wrenn Johnson

Chairperson Johnson reported that the Education and Training Committee met on Thursday, February 17, 2011 at the Department of Correction Office of Staff Development and Training, Apex, North Carolina.

Chairperson Johnson reported that on behalf of the North Carolina Police Executives Association, Chief Chris Blue requested pilot authority for five hours of agency choice in-service credit for the associate-sponsored course entitled, "Leading on the Tough Days." She explained that the class will be taught by Retired Colonel Danny McKnight of the United States Army. The Committee approved the training for March 10, 2011.

Chairperson Johnson reported that on behalf of the North Carolina Department of Correction, Jesse Swartz offered a proposal to revise the Expandable Baton Training outline. She stated that they wanted to add a written test at the end of the outline that was recommended by the baton manufacturer. The Committee approved this request.

Chairperson Johnson next reported that Mark Dearry appeared before the Committee requesting continuing authority to offer the three-day HazMat Instructor update course for affected instructors. The Committee approved this request. Chairperson Johnson explained that continuing authority for

the three-day course was granted until the proposed special instructor course has been adopted into the Administrative Code. The Committee approved this also.

Chairperson Johnson reported that Ms. Jennifer Fisher appeared before the Committee to provide an overview of the proposed 2012 in-service training objectives. The Committee approved those objectives and it was recommended that a subcommittee be appointed to discuss options for online training issues vs. classroom training issues such as quality of instruction and in-service online and in the classroom. The Committee approved this request.

Also, Ms. Fisher reported that the BLET Revision Committee made minor revisions to the BLET curriculum. They approved a video provided by the North Carolina Justice Academy on "Human Trafficking."

Chairperson Johnson stated that the Chiefs' Association reported that they had sixty-two individuals attend the in-service training course in January in Asheville, North Carolina.

Chairperson Johnson concluded her report by stating that Commissioner Steve Johnson requested that the Justice Academy study the issue of prequalification for Specialized Instructor Courses. This would help fill Specialized Instructor Courses with qualified applicants. The Academy will report back to the Committee in May.

C. Planning and Standards Committee - Chairperson Stephanie Freeman

Chairperson Stephanie Freeman reported that the Planning and Standards Committee met on Thursday, February 17, 2011 and approved the minutes of the November meeting.

Chairperson Freeman reported that the Planning and Standards Committee began discussion for a proposed amendment to Rule 12 NCAC 09G .0206 - Moral Character. This rule was amended in 2009 to bring it into compliance with the North Carolina Felony Firearms Law, which states that convicted felons cannot possess firearms or ammunition, and with the Lautenberg Amendment that prohibits possession of a firearm by persons convicted of certain domestic violence related crimes. She stated that an error was made during the rule amendment process that resulted in the inadvertent omission of one item of text in the rule which stated that convicted felons could not be certified with the Department of Correction. This rule came before the Commission in May 2010 to add the text. A question was raised at that time as to whether commission of a felony should also be included in the rule. After much consultation with Department of Correction, the decision was made not to include the commission of a felony as a prohibiter to certification as a criminal justice officer with Department of Correction. The amended rule is as follows: "Every person employed as a correctional officer, probation/parole officer, or probation/parole officer-intermediate by the North Carolina Department of Correction shall demonstrate good moral character as evidenced by, but not limited to: Not having been convicted of a felony." In addition, Commission legal staff requested that the paragraph notation after the reference to Federal Code 18 USC 922 be removed, as it incorrectly restricts portions of the code that applies to Domestic Violence Convictions, which is subsection (3) of Rule 09B .0206.

MOTION was made by Commissioner Freeman that the Commission approve the Proposed Amendment to 12 NCAC 09G .0206 and grant rule-making authority to the Planning and Standards Committee; seconded by Commissioner Wallace. The MOTION carried unanimously.

Chairperson Freeman made a motion to add amendments to 12 NCAC 09D .0102, 09D .0202 and 09G .0602. These rules address requirements for eligibility to receive criminal justice and law

enforcement professional certificates. These include certificates that are issued to juvenile justice officers, law enforcement officers and correctional officers for basic and intermediate awards. She stated that at the request of the Executive Committee, the Planning and Standards Committee reviewed the following addition to these rules: "An officer subject to suspension or revocation proceedings or under investigation for possible decertification action by the Commission, the Company and Campus Police Program, or the North Carolina Sheriffs' Education and Training Standards Commission shall not be eligible for professional awards for the pendency of the proceeding."

MOTION was made by Commissioner Freeman that the Commission approve the Proposed Amendments to 12 NCAC 09D .0102, 09D .0202 and 12 NCAC 09G.0602 and grant rule-making authority to the Planning and Standards Committee; seconded by Commissioner Steve Johnson. The MOTION carried unanimously.

Chairperson Freeman stated that she wanted to thank the Planning and Standards Committee for their hard work in preparing the new Seventh Edition System Plan. The proposed system plan has five goals which were ranked in priority order by members of the Commission. The goals are as follows: (1) Review the professional standards requirements for criminal justice officers to ensure that high quality officers are being hired and retained; (2) Continue examination of professional development, retention, and recruitment of criminal justice officers, with the goal of improving the profession; (3) Continue to develop a program of activities designed to assist all criminal justice officers in addressing the ever-changing societal issues within the state; (4) Review and evaluate the Specialized Instructor Training Program to determine its effectiveness in meeting the needs of the criminal justice profession; and (5) Evaluate the need for standards in particular areas of criminal justice specialization, including crime scene investigation, Spanish interpretation, K-9 handlers, field training, TASER, OC spray, PR-24 Baton, and ASP Baton.

MOTION was made by Commissioner Freeman that the Commission adopt the Seventh Edition System Plan as written with the modification to Goal 2, Objective G; seconded by Commissioner Wallace. The MOTION carried unanimously.

Chairperson Freeman concluded her report by stating that Ms. Teresa Marrella presented preliminary research to the Committee on the issue of tactical physicians. The Planning and Standards Committee will be reviewing this issue further.

D. Probable Cause Committee - Chairman Ray Davis

Chairman Davis reported that the Probable Cause Committee met on Wednesday, February 16th and Thursday, February 17th.

He reported that the Committee reviewed a total of twenty-one cases. Nine cases were on the agenda for Wednesday to be heard. One case was pulled awaiting action by the Sheriffs' Commission, one case was pulled due to lack of evidence and one case was continued. The remaining six cases were considered by the Committee. On Thursday, February 17, 2011 there were seventeen cases heard. One case was continued, the remaining sixteen cases were heard. The Committee heard a total of twenty-one cases totaling thirty-six alleged violations of the

7. James William Carpenter, Jr. To Be Heard at the February 2011 Commission meeting.
8. Chad Aaron Webster To Be Heard at the February 2011 Commission meeting.
9. Timothy Scott Phillips Hearing to be scheduled for March 21st and March 22nd.
10. Ahmed Joseph Blake Motion to Continue filed February 2nd; Interrogatories resent January 28th; 15 days: Hearing: February 22, 2011, 9:30AM; Raleigh. Hearing: Continued.
11. Bryson Lawrence Cornett Hearing: February 15, 2011, 9:00 A.M.; Greenville.
12. Petre Earl Franks Final Decision Order of Dismissal filed January 26th; 30 days.
13. Ricardo Carroasco Gomez Respondent filed Prehearing Statement December 22nd; Petitioner Prehearing Statement due January 27th; Motion to Dismiss (No PHS) filed January 12th; Response to Motion Due January 24th; Interrogatories - Discovery Due March 7th. Hearing Week of March 21, 2011; New Bern.
14. Thomas Lee Midgette Interrogatories - Discovery Due March 14th Hearing: Week of March 28, 2011; Raleigh.
15. Darryl DeCotis Interrogatories - Discovery Due: March 14th Hearing: Week of March 28, 2011; Raleigh.
16. Ikeisha Simone Jacobs

C. Final Agency Decisions

Ms. Gilchrist noted that Mr. Norman Young, an Assistant Attorney General, would serve as the Commission's Legal Counsel for the Final Agency Decisions.

Vice-Chairman Caldwell read the Recusal Statement to the Commission members and reminded everyone that both the Petitioner and the Respondent would be limited to 30 minutes of oral argument.

1. Chad Webster

Ms. Gilchrist stated that Mr. Webster is before the Commission to determine whether Mr. Webster's criminal justice officer certification should be suspended because he tested positive on a random drug screen test for a prescription medication that was not prescribed to him. She stated that on August 13, 2009, Mr. Webster provided a urine sample which tested positive on a random drug screen for Propoxyphene. This prescription is used for treating mild to moderate pain. He admitted during interviews with the Internal Affairs Division of the Charlotte-Mecklenburg Police Department that he had taken multiple Darvocet pills which had been prescribed to his wife. Mr. Webster claimed that he took these medications for relief of knee pain and trouble sleeping. Ms. Gilchrist stated that during Mr. Webster's interview, he admitted that this was in violation of Charlotte-Mecklenburg Rule of Conduct 18A, which prohibits the possession and use of prescription medications not prescribed to him. She stated that Mr. Webster stated that he did not know the use of prescription medication not prescribed to him constituted a crime.

Richard Hattendorf, attorney representing Mr. Webster, explained that this is one of those cases where there is not a disagreement about the facts as they occurred. As soon as Mr. Webster was told by the examiner that he had tested positive for Propoxyphene, he explained that the first thing he did was run to the medicine cabinet in the house and get the medicine and run to the telephone to tell the examiner. Mr. Webster told the examiner that he was taking his wife's prescription, Darvocet, which was Propoxyphene. Mr. Hattendorf stated that Mr. Webster had taken the pills

over a five-month period. He stated that Mr. Webster is a good law enforcement officer and his employer thinks highly of him. He stated that the Deputy Chief and coworkers were present on Mr. Webster's behalf and support. Mr. Hattendorf stated that Mr. Webster has been on probation with CMPD for eighteen months and he would be on probation for the rest of his career.

MOTION was made by Commissioner Ray Davis that the Commission go into Closed Session; seconded by Commissioner Ira Jones. The MOTION carried unanimously.

MOTION was made by Commissioner Caldwell that the Commission return to Open Session; seconded by Commissioner Steve Johnson. The MOTION carried unanimously.

MOTION was made by Commissioner Davis that the Commission adopt the Proposed Final Agency Decision to suspend Chad Aaron Webster's law enforcement officer certification for a period of three years. This suspension shall be suspended for a period of three years on condition that Chad Aaron Webster not violate any law (other than infractions and minor traffic offenses) of this State or any other state, any federal laws, any ordinances, any rules of this Commission, the Company and Campus Police Program or the North Carolina Sheriffs' Education and Training Standards Commission. This period of suspension begins on the date this ORDER is signed. The MOTION was seconded by Commissioner Bobby Kilgore and carried unanimously. See Attachment I for the Commission's Final Agency Decision and Attachment II for the roll call vote.

4. Shawn Carson Houston

Mr. Mike Heavner stated that this case is whether the Petitioner committed or was convicted of a Class B misdemeanor of cruelty of animals. The facts are indisputable, that the petitioner trapped the neighbor's cat in a live trap on his property and subsequently shot the cat. Mr. Heavner stated that Mr. Houston set a live trap on his property on October 2, 2009 to catch the animal that had been injuring or killing his domesticated animals. He explained that Mr. Houston had baited the trap with ham. Mr. Heavner stated that Mr. Houston had testified that he had noticed muddy paw prints and minor scratches on his car. Mr. Houston sent his children inside the house as he retrieved his rifle. Mr. Houston found a cat in the trap. Mr. Heavner stated that Mr. Houston knew that his neighbors owned a cat, but he had not previously seen the cat and did not know if the cat in the trap belonged to his neighbor. The cat did not have a collar or identification on it. Mr. Heavner stated that Mr. Houston shot and killed the cat while it was confined in the trap. He stated that Mr. Houston admitted that he could have put his work gloves on or gotten a towel or blanket to cover the trap. Mr. Heavner stated that Mr. Houston had testified that he thought he had the right to shoot an animal for killing his chickens. He stated that Ms. Evans the cat's owner, found the cat in a sack under a utility sink next to a storage building at Mr. Houston's house. Ms. Evans took out charges of cruelty to animals on Mr. Houston. Mr. Heavner stated that Sergeant Mark Little and Sergeant Harris of the North Carolina State Highway Patrol came to Mr. Houston's house and retrieved his weapon and vehicle and informed him that a criminal summons had been issued against him. Mr. Heavner stated that Mr. Houston appeared in District Court and pled not guilty to the charge. The presiding judge found Mr. Houston guilty of the offense cruelty to animals charge.

Mike McGuinness, attorney representing Shawn Houston stated that he is married with three sons. He stated that Mr. Houston has one child who has cerebral palsy. He stated that Mr. Houston has a large number of animals (dogs, cats, chickens and goats) on his property. He stated that Mr. Houston completed BLET in 1994 and stated that Mr. Houston's employment with the State Highway Patrol had been terminated due to this incident. Mr. McGuinness stated that Mr. Houston was never disciplined for this incident. He stated that this pet did not have any collar or identification on it. Mr. McGuinness stated that he wanted to thank the Commission for their consideration.

Mr. Houston stated that he regretted what had happened and that he was only trying to protect his children. He stated that he respected his neighbors.

MOTION was made by Commissioner Caldwell that the Commission go into Closed Session; seconded by Commissioner Ruth. The MOTION carried unanimously.

MOTION was made by Commissioner Caldwell that the Commission return to Open Session; seconded by Commissioner Hayes. The MOTION carried unanimously.

MOTION was made by Commissioner Steve Johnson that the Commission suspend Shawn Carson Houston's law enforcement officer certification for a period of one year; based upon Mr. Houston's commission of an conviction of the Class B Misdemeanor cruelty to animals in violation of N.C.G.S. §14-360. This suspension shall be stayed for a period of one year and Mr. Houston shall be placed on probation for one year on condition that Mr. Houston not violate any law (other than infractions and minor traffic offences) of this State or any other state, any federal laws, any ordinances, any rules of this Commission, the Company and Campus Police Program or the North Carolina Sheriffs' Education and Training Standards Commission; seconded by Commissioner Hayes. The MOTION carried unanimously. See Attachment III for the Commission's Final Agency Decision and Attachment IV for the roll call vote.

3. Marcus Andrew Fleming

Mr. Heavner stated that Mr. Fleming had gone to a Kenny Chesney concert to meet some of his friends. He stated that Mr. Fleming had packed a cooler with beer and there was no water or soda in the cooler. While at the concert, ALE agents approached the group saw that they had beer. The ALE agents asked for identification, and one of the agents saw a police badge. Ms. Stephanie Alsop and Jennifer Elshoff had beer when the ALE agents approached them and they were underage at that time. Mr. Heavner stated that Mr. Fleming said that he never saw them previously drink alcohol nor had they ever told him that they drank alcohol. Mr. Heavner stated that Mr. Fleming received a citation for aiding and abetting a person under the age of 21 to possess a malt beverage.

Chad Axford, attorney representing Marcus Fleming stated that Mr. Fleming was dating an eighteen-year-old girl by the name of Jennifer Elshoff. He stated that they were tailgating at a Kenny Chesney concert. He reported that while Mr. Fleming was at the concert, two ALE agents saw two underage females drinking. Mr. Axford stated that Mr. Fleming did not know that they were drinking until the ALE officers approached the woman. Mr. Axford stated that Mr. Fleming is of good character and has an excellent work record. He asked that the Commission adopt the recommendation of the administrative law judge.

MOTION was made by Commissioner Caldwell that the Commission go into Closed Session; seconded by Commissioner Jones. The MOTION carried unanimously.

MOTION was made by Commissioner Angela Williams that the Commission return to Open Session; seconded by Commissioner Bobby Kilgore. The MOTION carried unanimously.

MOTION was made by Commissioner Steve Johnson that the Commission adopt the Proposed Final Agency Decision to suspend Marcus Andrew Fleming's law enforcement officer certification for a period of one year based upon Mr. Fleming's commission of the Class B Misdemeanor of aiding and abetting a person less than 21 years old to possess a malt beverage, as prohibited by N.C. G. S. §18B-302(c)(2). This suspension shall be stayed for a period of one year and Mr. Fleming shall be placed on probation for one year on condition that he not violate any law (other than infractions and minor traffic offenses) of this State or any other state, any federal laws, any ordinances, any rules of this Commission, the Company and Campus Police Program or the North Carolina Sheriffs' Education and Training Standards Commission. This period of suspension begins on the date this ORDER is signed; seconded by Commissioner Lee Farnsworth. The MOTION carried unanimously. See Attachment V for the Commission's Final Agency Decision and Attachment VI for the roll call vote.

2. James William Carpenter, Jr.

Chairman John Glenn recused himself from this case. Vice-Chairman Caldwell chaired the Commission.

Ms. Gilchrist reported that Mr. Carpenter applied for certification as a full-time law enforcement officer with the Burlington Police Department. The Burlington Police Department submitted a Report of Appointment/Application for Certification, Form F-5A, which was signed by Mr. Carpenter on June 16, 2009. She reported that on the Form F-5A, Mr. Carpenter indicated for the education requirement that he had a high school diploma. He further indicated that the name of the institution was James Madison-Ashworth High School, where he graduated. Ms. Gilchrist stated that he attended GTCC in 2009 for BLET and in 1998 for paramedic training. She stated that Mr. Carpenter did not disclose that he had attended Dudley High School and James Madison High School. Mr. Carpenter indicated that he graduated from Ashworth High School in 1998. However, the high school diploma awarded by Ashworth High School was dated December 12, 2008. Ms. Gilchrist stated that he did not disclose that in 2002 he attended and graduated from the Basic Law Enforcement Training (BLET) Course at Rockingham Community College. She stated that Mr. Carpenter's high school diploma was awarded through correspondence and does not meet the requirement of 12 NCAC 09B .0106.

Kenneth Free, attorney representing Mr. Carpenter stated that Mr. Carpenter is of good moral character and would be a benefit to an agency if allowed to receive his certification. Mr. Free stated that Mr. Carpenter went before the Probable Cause Committee the first time and this was when the diploma became an issue. He stated that Mr. Carpenter had a year to come into compliance. He stated that Mr. Carpenter was instructed to fill out the forms; however, he was not aware of Commission rules.

MOTION was made by Commissioner Farnsworth that the Commission go into Closed Session; seconded by Commissioner Hayworth. The MOTION carried unanimously.

MOTION was made by Commissioner Steve Johnson that the Commission return to Open Session; seconded by Commissioner Farnsworth. The MOTION carried unanimously.

MOTION was made by Commissioner Robin Pendergraft that the Commission adopt the Proposed Final Agency to deny James William Carpenter, Jr.'s law enforcement officer certification for a period of not less than five years based upon Mr. Carpenter's material misrepresentation of information required for certification and based upon Mr. Carpenter's knowingly and willfully, by means of false pretense, deception, defraudation, and misrepresentation obtaining credit, training or certification from the Commission. It is further ORDERED that Commission deny James William Carpenter's law enforcement officer certification for failing to meet or maintain the minimum employment standards that every criminal justice officer employed by an agency in North Carolina shall be of good moral character. The denial of certification shall be for an indefinite period but continuing so long as Mr. Carpenter continues to lack good moral character; seconded by Commissioner Lorie Hersey. The MOTION carried unanimously. See Attachment VII for the Commission's Final Agency Decision and Attachment VIII for the roll call vote.

VIII. DATE OF NEXT MEETING

Vice-Chairman Caldwell advised that the next Commission meeting is scheduled for May 19-20, 2011 in Apex.

IX. MOTION TO ADJOURN

MOTION was made by Commissioner Farnsworth that the Commission adjourn; seconded by Commissioner Gwen Norville. The MOTION was unanimous.