MINUTES North Carolina Criminal Justice Education and Training Standards Commission

Planning and Standards Committee February 23, 2012

The Planning and Standards Committee of the North Carolina Criminal Justice Education and Training Standards Commission met at the Wake Technical Community College Public Safety Center on February 23, 2012 at 1:00 pm.

Members Present

Commissioner Stephanie Freeman, Chair Commissioner Brent Herron Commissioner Mike Gilchrist Commissioner Scott Hunter Commissioner Robert Myrick Commissioner Charles Johnson

Guests Present

Julia Lohman, Sheriffs' Standards Division

Staff Present

Teresa Marrella, Criminal Justice Standards Division Sharon Witherspoon, Criminal Justice Standards Division

I. Call to Order

Chairperson Stephanie Freeman called the meeting to order, welcomed new committee members and declared a quorum.

II. Rule-Making Hearing

Chairperson Freeman called the hearing to order and stated that the purpose of the rule-making hearing was to allow input from those persons interested in commenting on the proposed amendments to the Commission's Administrative Rules.

Chairperson Freeman advised that she would read the proposed new rules and amendments, along with any fiscal notes and, if needed, these amendments would be explained by her or a staff member. She also noted that no written comments were received by the Rule-Making Coordinator. Chairperson Freeman then proceeded to read a summary of the new rules and amendments. She noted there were no visitors present for the hearing.

<u>Motion</u> was made by Commissioner Charles Johnson, that the Planning and Standards Committee approve the filing of these rules as proposed: 12 NCAC 09B .0106; 12 NCAC 09B .0203; 12 NCAC 09B .0305; 12 NCAC 09D .0102; 12 NCAC 09D .0202; 12 NCAC 09E .0102; 12 NCAC 09E .0105; 12 NCAC 09G .0206; 12 NCAC 09G .0309; 12 NCAC 09G .0311; and 12 NCAC 09G .0602; <u>seconded</u> by Commissioner Scott Hunter. <u>Motion carried</u> unanimously.

III. Approval of November 17, 2011 Meeting Minutes

<u>Motion</u> to approve the meeting minutes was made by Commissioner Robert Myrick and <u>seconded</u> by Commissioner Charles Johnson. **Motion carried** unanimously.

IV. Form F-5B (LE) Report of Law Enforcement Separation Forms Subcommittee Report

Chairperson Freeman stated that the Forms Committee voted to adopt a new draft of the F-5B(LE). She said that based on feedback from commissioners about the last draft of the form, that this new draft had been simplified to make it easier to understand. She reiterated the initial concern about the questions on the second page of the original form being subjective in nature and stated that the Forms Committee wanted to eliminate all subjective questions and replace them with questions designed to elicit factual information from agency heads.

There was some discussion about agency heads' legal liability in providing information on the form. Chairperson Freeman stated that there is a general statute in place which protects agency heads from liability as long as the information they provide is factual in nature and not subjective. There was a consensus among committee members that when the new form becomes effective that the Commission needs to educate agency heads about the legal liability issue.

Chairperson Freeman explained that another change to this version of the form was the removal of the requirement that the separating officer's signature be notarized. This change was made in response to feedback received from commissioners who expressed concern that officers who are terminated or who have retired may not be available to sign the form. She said that there is an option to provide the officer with a copy of the form, but it is not required.

In addition, Chairperson Freeman stated that there are other Report of Separation forms for local confinement personnel and juvenile justice personnel that contain the same language as the one for law enforcement. She said that if the Planning and Standards Committee and the full Commission approve the changes to the F-5B(LE), that the other forms will be changed to include the same language. The form for Department of Public Safety, Division of Adult Correction officers is different and will be addressed separately at a later meeting of the Forms Committee.

Chairperson Freeman asked for a motion to approve the new draft of the F-5B(LE).

<u>Motion</u> to approve the F-5B(LE) Affidavit of Separation for Law Enforcement Officers was made by Commissioner Scott Hunter and **seconded** by Commissioner Charles Johnson. **Motion carried** unanimously.

The next form to be reviewed by the Forms Committee will be the Report of Appointment F-5A(DPS-DAC), as requested by the Executive Committee.

V. Proposed Amendments to Retired LEO Firearms Qualifications Rules

Ms. Teresa Marrella made a presentation on proposed amendments to 12 NCAC 09 Subchapter H – Qualified Retired Law Enforcement Officers: Firearms Qualification Certification Program rules. She stated that these rules outline the requirements for retired law enforcement officers to qualify with firearms and to obtain a concealed carry permit as authorized by Section 926C of Title 18 of the United States Code.

In 2010, as part of the federal Law Enforcement Officers Safety Act Improvements Act of 2010, Section 926C, Title 18 was amended to include officers who have separated, but not necessarily retired, from an agency with "an aggregate 10 years or more" of service.

Due to the change in federal law it is necessary to amend all of the rules in 12 NCAC 09 Subchapter H to include the word "separated."

<u>Motion</u> to ask the full Commission for rulemaking authority for 12 NCAC 09H .0101, 12 NCAC 09H .0102, 12 NCAC 09H .0103, 12 NCAC 09H .0104, and 12 NCAC 09H .0105 was made by Commissioner Mike Gilchrist and **seconded** by Commissioner Scott Hunter. **Motion carried** unanimously.

VI. Proposed Repeal of Rules

Ms. Marrella provided a brief explanation of a new annual report she is required to submit to the Office of State Budget Management regarding all of the Commission's rules, along with a list of rules to be repealed.

She stated that she finished the report a week prior to this meeting and did not have time to compile a list of proposed rules to be appealed. She said that she would present the list of rules to be repealed at the May meeting.

VII. Election of Vice-Chair

<u>Motion</u> to elect Commissioner Scott Cunningham as vice-chair of the Planning and Standards Committee made by Commissioner Gilchrist and <u>seconded</u> by Commissioner Charles Johnson. <u>Motion carried</u> unanimously.

VIII. Other Business

None.

IX. Date of Next Meeting

The next scheduled meeting of the Planning & Standards Committee will be on Thursday, May 24, 2012 at 1:00 at the DPS Office of Staff Development Training, in Apex.

X. Motion to Adjourn

<u>Motion</u> to adjourn was made by Commissioner Charles Johnson and <u>seconded</u> by Commissioner Robert Myrick. <u>Motion carried</u> unanimously.