

**MINUTES
PUBLIC SAFETY COMMISSION
August 13, 2007
Austin, Texas**

The Public Safety Commission met in Austin, Texas on August 13, 2007. Attending the meeting were Chairman Ernest Angelo, Jr., and Commissioner Allan Polunsky. Commissioner Louis Sturns was unable to attend.

DPS Staff members present:

Tommy Davis, Director
David McEathron, Assistant Director
Oscar Ybarra & Tom Haas, Accounting & Budget Control
Randy Elliston, Lamar Beckworth, Stan Clark, Robert Strickland & Kevin Huggins, Texas Highway Patrol
Kent Mawyer & Gary Stone, Criminal Law Enforcement
Burt Christian, David Gavin & Paula Logan, Administration
Judy Brown, Bob Burroughs & Greg Gloria, Driver License
Jim Miller & Skylor Hearn, Texas Rangers
Farrell Walker, Office of Audit & Inspection
Jack Colley, Emergency Management Division
Mary Ann Courter, General Counsel
James Brubaker, Bryan Lane & Tully Brown, Information Management Service
Jack Reichert, Aircraft
Michael Kelley, Legislative Liaison Office
David Outon, Internal Affairs
Tela Mange, Public Information Office
Dorothy Wright, Secretary

Guests present:

Donald Dickson, attorney
Jerry Tucker, Governor's Budget Office

The meeting was called to order by Chairman Angelo. Proper notice had been posted.

- I. **Public comment.** There was no public comment.
- II. **Minutes.** Upon motion by Commissioner Polunsky and seconded by Commissioner Angelo, the minutes of the June 12, 2007 meeting were approved.
- III. **Discharge appeal hearing of DPS employee Milton Phillips.** Milton Phillips appeared before the Commission to request a continuance of his discharge appeal hearing since his attorney had withdrawn from the case and he was unable to obtain other counsel. A motion was made by Commissioner Polunsky and seconded by Commissioner Angelo granting the continuance to a later date.
- IV. **Budget matters**
 - A. **FY 2008 operating budget.** Oscar Ybarra briefed the Commission on the proposed FY 2008 DPS operating budget. There was some discussion on current vacancies.

Commissioner Polunsky expressed appreciation for the work done by the DPS staff during the last legislative session to achieve the increased budget. Upon motion by Commissioner Polunsky and seconded by Commissioner Angelo, the proposed FY 2008 operating budget was approved.

- B. Request to Legislative Budget Board for additional FTE's.** Oscar Ybarra briefed the Commission on the need to request an additional 88 FTE's to meet the requirements of legislative bills relating to criminal history records. Upon motion by Commissioner Polunsky and seconded by Commissioner Angelo, the Commission approved the request of the additional FTE's.

V. Audit & Inspection report

- A. FY 2008 Internal Audit Plan.** Farrell Walker briefed the Commission on the proposed FY 2008 Internal Audit Plan. There was some discussion on the proposal. Upon motion by Commissioner Polunsky and seconded by Commissioner Angelo, the attached FY 2008 Internal Audit Plan was approved.

There was some discussion on the General Ledger Reconciliation follow-up audit and the Region 2 Texas Highway Patrol and Motor Carrier Bureau inspection reports.

- VI. Division reports.** Burt Christian gave the Administration Division report, including an update on livescan arrest reporting, elimination of the backlog in expunction and CHL application processing, recruit schools, the building program, ongoing efforts to ensure accuracy of sex offender registry data and the recruit intern program. The Texas Highway Patrol Division report was given by Randy Elliston. There was some discussion on Roadcheck 2007 results and ongoing THP drug interdiction efforts. Judy Brown gave the Driver License Division report, including an update on the DL reengineering project. The Driver Responsibility Program update was given by Judy Brown. Jack Colley gave the Emergency Management Division report. There was some discussion on the recent flooding events, presidential disaster declarations, a recent pandemic flu exercise, receipt of homeland security funding for 2007 and hurricane probabilities. The Criminal Law Enforcement Division report was given by Kent Mawyer. There was some discussion on "cold hits" obtained by the North Texas Health Science Center DNA Lab and the increase of precious metal thefts. Jim Miller gave the Ranger Division report which included an update on Texas Youth Commission complaints/investigations. James Brubaker gave the Information Management Service report, including the TLETS reengineering project and the possibility of using consultant services from the University of Texas to do a broad review of DPS IT functions.

VII. For publication for public comment

- A. Proposed amendments to Rules 7.1-7.3, 37 TAC Secs. 7.1-7.3, relating to the role of emergency management coordinators and notification requirements of emergency management programs and officials**
- B. Proposed amendments to Rules 7.11-7.13, 37 TAC Secs. 7.11-7.13, relating to state approval requirements for local/interjurisdictional emergency management plans and city/county eligibility requirements for certain federal assistance programs**

- C. **Repeal of existing Rules 7.23, 7.28 and 7.29, 37 TAC Secs. 7.23, 7.28 and 7.29, relating to a local government's responsibility to use its own resources, responsibility for evacuees, and its emergency powers**
- D. **Proposed amendments to Rules 7.21, 7.24, 7.26 and 7.27, 37 TAC Secs. 7.21, 7.24, 7.26 and 7.27; proposed new Rule 7.23, 37 TAC Sec. 7.23, relating to the effect of a local disaster declaration, the point of contact for state assistance, responsibilities during multi-agency response, and local government authority for mandatory evacuations in a disaster. Adds new rule relating to local government's responsibility to use its own and/or mutual aid resources first and to request assistance from the county before the state**
- E. **Repeal of existing Rules 7.43 and 7.44, 37 TAC Secs. 7.43 and 7.44, relating to information needed for a disaster declaration and a description of the magnitude of the disaster**
- F. **Proposed amendments to Rules 7.41 and 7.42, 37 TAC Secs. 7.41 and 7.42; proposed new Rules 7.43-7.45, 37 TAC Secs. 7.43-7.45, relating to a local disaster declaration before a request for disaster recovery assistance and procedures for requesting recovery assistance. Adds new rules relating to materials to accompany a request for assistance and/or state disaster declaration, the process after a request has been submitted to the state, and what happens after a local government requests assistance from the state**
Jack Colley briefed the Commission on the proposed amendments, repeals and new rules. A motion was made by Commissioner Polunsky and seconded by Commissioner Angelo approving the attached items for publication for public comment.

VIII. For final adoption

- A. **Proposed amendments to Rules 34.22 and 34.24, 37 TAC Secs. 34.22 and 34.24, relating to Negotiation of Contract Disputes, as published in 32 TexReg 2981, June 1, 2007.** Mary Ann Courter briefed the Commission on the proposed amendments. A motion was made by Commissioner Polunsky and seconded by Commissioner Angelo approving the attached amendments for final adoption.
- IX. **New procedures for handling of complaints by individuals entitled to a veteran's employment preference pursuant to HB 1275.** Paula Logan briefed the Commission on the proposed DPS procedure. A motion was made by Commissioner Polunsky and seconded by Commissioner Angelo approving the attached procedures for handling complaints by individuals entitled to a veteran's employment preference pursuant to HB 1275.
- X. **Appointment of members to an advisory committee relating to the operation of the vehicle inspection program.** There was some discussion on this matter. It will be taken up in more detail at a future meeting.
- XI. **Allocation of personnel and division structure.** Colonel Davis briefed the Commission on stationing of additional highway patrol, criminal law enforcement and aircraft personnel in the border area and formation of a new Ranger Company G. There was some

discussion on hardship stations, the commissioned officer transfer policy and possible revision of the Aircraft Section structure.

XII. TDEX update. A TDEX update was given by Jack Colley and Colonel Davis.

XIII. Personnel matters, pending and contemplated litigation, ongoing criminal investigations, status of purchase of real property. The Commission went into Executive Session pursuant to Tex. Gov. Code Secs. 551.071, 551.074, 551.072 & 411.0041 to discuss personnel matters, including the Director's action of discharging employee Howard Jennings and probationary employee Patricia Dobson; the Director's salary; pending and contemplated litigation; status of purchase of real property; and ongoing criminal investigations. Upon reconvening Regular Session, a motion was made by Commissioner Polunsky and seconded by Commissioner Angelo upholding the Director's action of discharging Howard Jennings. Upon motion by Commissioner Polunsky and seconded by Commissioner Angelo, the Director's action of discharging probationary employee Patricia Dobson was affirmed. A motion was made by Commissioner Polunsky and seconded by Commissioner Angelo increasing the Director's salary to \$157,500 yearly effective September 1, 2007. Commissioner Polunsky noted that the Director had asked for a smaller increase but the Commission feels the larger amount is justified. Upon motion by Commissioner Polunsky and seconded by Commissioner Angelo, Special Ranger and Special Texas Ranger commissions were approved as shown on the attached list.

There being no further business, the meeting was adjourned.

Read and approved this 13th day of September, 2007.



Chairman



Member



Member

TEXAS DEPARTMENT OF PUBLIC SAFETY
ORDER ADOPTING A RULE

On August 13, 2007, the Public Safety Commission (Commission) by majority vote approved rules concerning:

Negotiation And Mediation Of Certain Contract Disputes
Title 37 T.A.C. Part I, Chapter 34
Section Numbers 34.22, 34.24

The Texas Department of Public Safety adopts amendments to Section 34.22 and Section 34.24, concerning Negotiation of Certain Contract Disputes, without changes to the proposed text as published in the June 1, 2007, issue of the Texas Register (32 TexReg 2981).

Adoption of amendments to Section 34.22 and Section 34.24 are necessary in order to make the department's administrative rules consistent with the amendments to Chapter 2260 of the Texas Government Code pursuant to HB 1940 from the 79th Regular Session.

No comments were received regarding adoption of the amendments.

The amendments are adopted pursuant to Texas Government Code, Section 411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and Texas Government Code, Section 2260.052(c).

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

The effective date of the rules is 20 days after the rules are filed with the Texas Register Division, Office of the Secretary of State.

This order constitutes the order of the Commission required by the Administrative Procedures Act, Government Code, Section 2001.033.



Ernest Angelo, Jr., Chairman
Public Safety Commission

IN THE MATTER OF
THE APPEAL OF DISCHARGE OF
HOWARD JENNINGS

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BEFORE THE
PUBLIC SAFETY COMMISSION
IN AUSTIN, TRAVIS COUNTY, TX

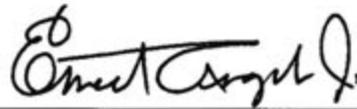
ORDER

BE IT REMEMBERED that the Public Safety Commission convened to hear the appeal of discharge of Howard Jennings, on the 12th day of June, 2007. Mr. Jennings received adequate notice of the hearing on this matter and did appear in person and through counsel. Pursuant to §411.007, Government Code, the Commission proceeded to hear evidence in the above-captioned matter.

After reviewing all of the evidence presented at the hearing, the Commission finds that there is just cause to discharge Howard Jennings and affirms the Director's decision in this matter.

On motion of Comm. Polunsky, seconded by Comm. Angelo, the discharge was affirmed.

ENTERED AND SIGNED on the 13th day of August, 2007.



Ernest Angelo, Jr., Chairman
Public Safety Commission

Retiree Special Rangers:

Alexander, Richard L.
Castro, Jose R.
Cortinas, Jose A.
Davis, Billy D.
Gunn, Max E.
Hartman, Thomas B
Hellen, Charlie W.
High, Charles S. Jr.
Hollis, Patricia C.
Lee, Robert T.
Madison, Kenneth P.
McClain, Michael W.
Payne, Larry W.
Rhoten, James C.
Small, Gifford
Stading, David S.
Stegint, Joseph
Stephens, Kenneth D.
Tillinghast, Jimmy L.
Valdez, Dionicio
Warren, James C.

Retiree Special Texas Rangers:

Christian, Jerry D.
Odiorne, Victor T.

Special Texas Ranger:

Vanover, James W. III - Texas & Southwestern Cattle Raisers Assoc.