

MINUTES OF ARKANSAS STATE POLICE COMMISSION MEETING
January 12, 2017

The Arkansas State Police Commission met on Thursday, January 12, 2017 at the Arkansas State Police Headquarters, Little Rock, Arkansas.

Commission Chairman Guinn called the meeting to order at 10:04 a.m.

MEMBERS PRESENT:

Commissioner Frank Guinn, Chairman
Commissioner Dr. Lewis Shepherd, Vice-Chairman
Commissioner John Allison, Secretary
Commissioner Jane Christenson
Commissioner Bob Burns
Commissioner Neff Basore
Commissioner Bill Benton

STATE POLICE PERSONNEL ATTENDING:

Colonel Bill Bryant	Lt. Colonel Tim K'Nuckles
Major Mike Foster	Major Ron Stayton
Captain Mark Hollingsworth	Major Lindsey Williams
Sherry Woods	Jenna Castleberry
Emma French	Captain Jeff Drew
Bill Sadler	Captain Charles Hubbard
Harmony Daniels	Jackie Baker
Elizabeth Johnson	Loretta Williams
Lieutenant Michael Exum	Lieutenant David Cooper
Robin Gifford	Captain Jason Aaron
Corporal Chuck Wilson	TFC Terry Sawyer
Sergeant Kim Fontaine	Lieutenant Randall Dias
Sergeant Jeff Whitlock	Corporal Tiffany Dycus
Gary Glisson	Caitlin Teague
Bridget White	Sergeant Wanda James
Greg Downs	Mary Claire McLaurin
Captain Mike Kennedy	Richard Davis
Sergeant Mike Moyer	Captain Wesley Smithee

OTHERS PRESENT:

Ret. Janet Chappelle, ASP Foundation	Olan Reeves, Asst. Attorney General
Ret. Stan Witt, ASP Foundation	Kari Sawyer
K. Tyler Webb, AGFC	Brooks Jackson, ASP Foundation
Ret. Lance Huey	Butch Heath, ASP Foundation
Steve Cook, AGFC Commissioner	

PLEDGE OF ALLEGIANCE:

Commissioner Basore led the pledge of allegiance.

NOTIFICATION OF MEDIA:

The media was notified of this meeting on January 03, 2017.

Commissioner Guinn stated as I prepare to turn the Chairmanship and gavel over to my successor, I want to take just a few minutes to thank all of you for the support I have received both during my term as Chairman and during all of my time on the Commission. I am grateful to the Governor for letting me serve and to each of you for all that you have done for me and for the State Police. You commission members have always been ready to help me in any way you could and I have needed plenty of help. The Colonel and his staff have done the same as have all the members of this great organization. Thanks to each and every one of you and May God continue to bless every one of you.

ELECTION OF ASPC OFFICERS FOR 2017:

Commissioner Basore made a motion that Commissioner Lewis Shepherd be elected Chairman for 2017. This motion was seconded by Commissioner Christenson and passed.

Commissioner Christenson made a motion that Commissioner John Allison be elected Vice-Chairman for 2017. This motion was seconded by Commissioner Benton and passed.

Commissioner Christenson made a motion that Commissioner Bob Burns be elected Secretary for 2017. This motion was seconded by Commissioner Basore and passed.

PASSING OF THE GAVEL:

Commissioner Guinn passed the gavel to the new Commission Chairman Lewis Shepherd.

Commissioner John Allison stated I would like to thank Frank Guinn from the bottom of my heart for his efforts, his dedication and his love for this agency. His leadership of the Foundation is the best that has ever happened in the Foundation history. His commitment to our driving track is amazing and I hope that he will remain and follow the driving track through on behalf of the Foundation. It has been a pleasure working with Frank and again his dedication is absolutely amazing to this agency and to the Foundation. Thank you very much for your commitment. All the other ASP Commissioners agreed with what Commissioner Allison said. Commissioner Benton stated outstanding service and outstanding member. Commissioner Burns stated all are in agreement, Frank you have done a great job and we appreciate it very much. Colonel Bryant stated Frank ever since I became Director, you have been Vice Chairman and Chairman; you took over when we did not have a Chairman. I have never seen someone with so much love for the men and women of the Arkansas State Police. Your leadership has been outstanding; the door is always open to you. I don't know if everyone knows it but Frank started the ASP Foundation so everything we have from the Foundation is because of this man and we thank you. You will always be in our hearts and you are always welcome here at the state police. We urge you to continue with the Foundation, we need your leadership.

Commission Chairman Shepherd stated everyone has stolen my notes. Mr. Guinn we want to thank you for your years of service covering the time span of two appointments to the Arkansas State Police Commission. Your leadership is evident, it's visible and certainly most appreciated. The ability to lead is one of the most cherished and sought after qualities in American society and yet in the 21st Century it is rare to find individuals who possess the characteristics of servant leadership. Senator Sam J. Ervin, Jr. said a person who is worthy of being a leader wants power not for himself but in order to be of service. Your labor of love for this agency bears out the fact that you are truly a servant leader. The ASP Foundation was born during your first tenure on the ASP Commission as a brain child within your forward thinking and you absolutely deserve the title "Father of the Foundation." Thank you for sharing your vision with all of us during your second tenure, making the Foundation stronger more visible and viable than ever before, this you did to the appreciation of the men and women of the Arkansas State Police. Thank you for coming this way, there are scores of people who will never be the same because of the fact that your heart has been in the right place. Flavia Weedn said some people come into our lives and go quickly, some stay for awhile, leave footprints on our hearts and we are never ever the same. Mr. Guinn thank you for coming into our lives and leaving the footprints on our hearts.

MINUTES:

Commissioner Christenson made a motion to approve the minutes of the December 06, 2016 monthly Commission Meeting. Commissioner Basore seconded and the motion passed.

PROMOTION CERTIFICATES:

Colonel Bill Bryant presented a promotion certificate to Lieutenant Michael Exum promoting him to Lieutenant in the Highway Patrol Division, Troop C, Jonesboro.

WEAPON RESOLUTION:

Major Mike Foster presented the following resolutions for consideration by the ASP Commission.

R E S O L U T I O N

WHEREAS: Corporal Ronald Robinson efficiently and effectively served the Arkansas State Police for a period of twenty-four years, nine months, and four days;

WHEREAS: Corporal Ronald Robinson retired from this department November 30, 2016;

WHEREAS: His departure creates a vacancy that will be most difficult to fill, which is recognized by each and every member of the Arkansas State Police Commission;

WHEREAS: Corporal Ronald Robinson has made formal request that his service weapon be retired with him and remain in his possession;

BE IT THEREFORE RESOLVED: The Arkansas State Police Commission, in its regular meeting at Arkansas State Police Headquarters in Little Rock, Arkansas on Thursday, January 12, 2017, in accordance with Act 547 of 2003, awards him his Glock Model 21, Serial Number PKS069, as a token of their esteem and appreciation for service devoted to the Arkansas State Police.

Commissioner Allison made a motion to approve the above weapon resolution presented to the Commission. Commissioners Christenson/Basore seconded and the motion passed.

R E S O L U T I O N

WHEREAS: Corporal Ronald Robinson efficiently and effectively served the Arkansas State Police for a period of twenty-four years, nine months, and four days;

WHEREAS: Corporal Ronald Robinson retired from this department November 30, 2016;

WHEREAS: His departure creates a vacancy that will be most difficult to fill, which is recognized by each and every member of the Arkansas State Police Commission;

WHEREAS: Corporal Ronald Robinson has made formal request that his shotgun be retired with him and remain in his possession;

BE IT THEREFORE RESOLVED: The Arkansas State Police Commission, in its regular meeting at Arkansas State Police Headquarters in Little Rock, Arkansas on Thursday, January 12, 2017 in accordance with Act 547 of 2003, determines the fair market value of the Remington shotgun, serial number D605969M, that Corporal Ronald Robinson has carried be affixed at \$100.00, and that Corporal Ronald Robinson be permitted to purchase the shotgun for his personal use.

Commissioner Allison made a motion to approve the above weapon resolution presented to the Commission. Commissioner Christenson seconded and the motion passed.

R E S O L U T I O N

WHEREAS: Trooper Nicholas Holley efficiently and effectively served the Arkansas State Police for a period of three years, ten months, and ten days;

WHEREAS: Trooper Nicholas Holley retired from this department November 30, 2016;

WHEREAS: His departure creates a vacancy that will be most difficult to fill, which is recognized by each and every member of the Arkansas State Police Commission;

WHEREAS: Trooper Nicholas Holley has made formal request that his service weapon be retired with him and remain in his possession;

BE IT THEREFORE RESOLVED: The Arkansas State Police Commission, in its regular meeting at Arkansas State Police Headquarters in Little Rock, Arkansas on Thursday, January 12, 2017, in accordance with Act 547 of 2003, awards him his Glock Model 21, Serial Number THV968, as a token of their esteem and appreciation for service devoted to the Arkansas State Police.

Commissioner Allison made a motion to approve the above weapon resolution presented to the Commission. Commissioner Benton seconded and the motion passed.

R E S O L U T I O N

WHEREAS: Trooper Nicholas Holley efficiently and effectively served the Arkansas State Police for a period of three years, ten months, and ten days;

WHEREAS: Trooper Nicholas Holley retired from this department November 30, 2016;

WHEREAS: His departure creates a vacancy that will be most difficult to fill, which is recognized by each and every member of the Arkansas State Police Commission;

WHEREAS: Trooper Nicholas Holley has made formal request that his shotgun be retired with him and remain in his possession;

BE IT THEREFORE RESOLVED: The Arkansas State Police Commission, in its regular meeting at Arkansas State Police Headquarters in Little Rock, Arkansas on Thursday, January 12, 2017 in accordance with Act 547 of 2003, determines the fair market value of the Remington shotgun, serial number RS10065K, that Trooper Nicholas Holley has carried be affixed at \$100.00, and that Trooper Nicholas Holley be permitted to purchase the shotgun for his personal use.

Commissioner Allison made a motion to approve the above weapon resolution presented to the Commission. Commissioners Christenson/Basore seconded and the motion passed.

DIVISION REPORTS:

Fiscal Section – Emma French

Ms. French gave an overview of the reports which were distributed to the Commission. She explained we are about half way through the year so we should be around 50% and I think we are in a good position. The auditors have arrived and will audit FY16. The only other thing is that we are on Special Language next Tuesday morning at 7:30 a.m. This is a subcommittee of the session where they will be looking at any language that we have that allows us to do something another agency cannot do. It is just specific for our agency. Ms. French explained an example would be that one person cannot spend money on another state employee, but we have a piece of special language that allows Colonel Bryant if we had an instance where a lot of people were called out for something, he could buy food for them. Every session you have to go before this committee and get your special language approved for the next two years. We have about 7 or 8 pieces of special language that have to be approved every two years.

Administrative Services – Captain Mike Kennedy

Captain Mike Kennedy presented an oral summary of the written report distributed to the Commission. He began by reporting the Human Resources/Personnel transactions for the month; the civilian transactions include six new hires, one promotion, three lateral transfers, one voluntary resignation, one extra help hire, and one retirement. The commissioned transactions included one voluntary resignation, seven lateral transfers, and one retirement. We currently have eight department members on military orders.

Regarding the ASP Health Plan, the December paid claims were \$1,060,000 and that is a decrease of \$370,000 from last month so our claims are down. The fund balance is \$126,000 higher than last month so our fund balance is up. Our total fund balance is \$6.2 million. The average discount savings for the month is 70%. Our total net losses for 2016 were \$926,000 and that is the bad news. If there is any good news in 2015 we were down \$1.4 million so we are still losing money, but we are not losing as much money as we were and that is directly related to the changes that the Commission has already voted on. Total paid claims for 2016 were a little over \$13 million and that is a 6.1% increase in our medical claims, that tracks with the trend and we can pretty well guarantee that next year they will be about that same amount higher again, anywhere from 5 to 7%. It is a national average. We will continue to monitor those claims and if we have any new suggestions or changes we will bring them to the Commission.

PRESENTATION BY ARKANSAS GAME AND FISH COMMISSION:

AGFC Commissioner Steve Cook extended his congratulations and heartfelt thanks to Frank Guinn for his service to the ASP Commission for several years and to the ASP Foundation.

AGFC Commissioner Steve Cook explained he is here today to recognize a partnership between our two agencies and mainly our enforcement officers the Arkansas State Police Troopers and the Arkansas Wildlife Officers. An incident took place on Veteran's Day 2016 and with me today is Wildlife Officer Tyler Webb who was also part of the incident along with an ASP Trooper from Troop K. The Arkansas Game and Fish Commission dispatch got in touch with Officer Webb on 11/11/2016 in Hot Spring County on Highway 270. He was contacted by ASP Trooper Terry Sawyer at a scene and requested some help and assistance with a Bald Eagle. Seemed a complainant had come across a Bald Eagle that had been hit or injured on the highway, Trooper Sawyer came in contact with the complainant and then contacted the Arkansas Game and Fish Commission. This shows to us as a wildlife agency, our natural resources, that this is particularly important when they could have said just let nature take its course and move on. So with that we had the opportunity to recover this injured Eagle and through a couple of surgeries and a little bit of rehabilitation work, I have found out just this morning that the Bald Eagle will make a full recovery. Once the Eagle is healthy and healed, Wildlife Officer Webb and Trooper Sawyer will be invited and honored to release this bird back into its natural habitat in Hot Spring County. So, we would like to come forth in a Partnership of Conservation from the Arkansas Game and Fish Commission to the Arkansas State Police and especially Trooper Terry Sawyer for his partnership and making contacts, securing the area and waiting on the Wildlife Officers. I would like to invite Trooper Sawyer, Colonel Bryant and Chairman Shepherd to the front for a special presentation from the Arkansas Game and Fish Commission.

Trooper Sawyer on behalf of the Arkansas Game and Fish Commission, Director Jeff Crow and Chairman Fred Brown, I would like to present you with this Partnership in Conservation Award from Arkansas Game and Fish Commission to the Arkansas State Police, Trooper First Class Terry Sawyer for his commitment of conservation, continued partnership between the Game and Fish Commission and Arkansas State Police for helping recover and rehabilitate a Bald Eagle found on Arkansas Highway 270 in Hot Spring County on November 11, 2016 honoring the Veteran's of the State of Arkansas and with that when the Eagle is fully recovered, we will invite you back to help release it into the wild. Thank you very much Trooper Sawyer.

NEW BUSINESS:

ROLE OF A COMMISSIONER UPDATE:

I am Olen Reeves, Deputy of the State Agencies Division of the Attorney General Office and we represent over 200 boards and commissions of state agencies with 8 lawyers.

Olen Reeves stated it is important for the boards and commissions we represent to understand what the law is that applies to them so that they do not have an ethics complaint filed against them or a lawsuit or the Governor wanting to remove them. So we do this routinely just so you can be aware. I have given you an outline of my comments.

Let's start with the Commissioner's Role, what the law says about the role of a commissioner or board member once you are appointed. You are part of the Executive Branch because the agency you will represent is a part of the Executive Branch, but you have quasi-Judicial powers as you decide demotions, firing, hiring and discipline. You can only do what the Statute that set up this Commission says you can do. You do have some implied powers based on what the Statute says you get to do. When you come on the Commission you put on a different hat, you are not just a citizen anymore, you are actually a public official and the laws that apply for all state employees and public officials elected as well, apply to you.

If we look at the statute that actually gives you what your authority is A.C.A. § 12-8-102-103, you approve and disapprove promotions and demotions, you review applications presented by the Director, you hear appeals of disciplinary actions, you get to decide removals, suspension, discharge, demotions or whatever other disciplinary action comes up. You cannot exercise police powers because even though you are on the State Police Commission you are not a law enforcement officer. While you are on the Commission you cannot run for a state or county elected office.

What is required once you are appointed and begin to serve? Attendance, it is implied once you sign the oath that you will attend the meetings. If for some reason you cannot be at the meeting you can ask for the Chairman and board to vote to excuse you if something comes up that you cannot possibly be here and you need to do that, because the Statute says if you miss three consecutive meetings without approval by the board, you can be removed by the Governor.

Your statute says a majority of the board members is a vote, once you determine you have a quorum. A quorum is a majority of the members of the board and once you have that you can vote. If for some reason there are two people absent, you still have a quorum with five, but you need to be really careful because if one of those five steps out of the room to make a phone call you cannot conduct any business, because you only have four members present. It is very important for the Chairman to pay attention to that.

If you have a conflict of interest and it is present, you have to abstain, you can stay in the room and stay in your seat you just cannot vote or be involved in the discussion. As an abstaining member, you still count for the quorum so if there is five people in the room and one abstains the board cannot vote. The Chair is allowed to engage in discussion, can make motions and vote on all the matters. Conflicts of interest as defined by the Arkansas Law, you are prohibited from participating in, voting on, influencing or attempting to influence an official decision if you have a pecuniary interest in the matter under consideration. Pecuniary interest means some benefit to you and you as a member have to abstain. It prohibits you from voting on a rule or regulation that is passed by this commission that would exclusively benefit you. You cannot use your position as a commissioner to secure unwarranted privileges or exemptions for you or your family members. You cannot disclose any confidential information you learned at these commission meetings or in the executive sessions. It is against the law to disclose that to anybody and the penalty for these three things is removal from office by the Governor.

I also wanted to talk about meetings under the FOIA and it is pretty important that you know what the law requires and what the ramifications are. A public meeting like we have you have to give 3 days in advance notice to the media, if it is an emergency meeting, you just have to give 2 hours notice. You have to give those notices or whatever happens at the meeting is invalid.

Any notes you take during the public part of the Commission Meeting are subject to FOIA, so anything you write down on those reports someone could ask for that, your note on that document even if you take it and go home, it is subject to FOIA. You cannot communicate prior to the meeting about any commission business by email, phone, text or in person. Just the logistics of the meeting is fine, but discussing actual business would be a violation of FOIA. Even if there are just two of you, it does not have to be a quorum. If you see someone at the coffee shop downtown you can talk about everything else but State Police business because if someone overhears that, that is a violation of the law and you can either be fined or potentially be removed from the Commission for violating FOIA. Because the emails and texts, as if you were communicating, before the meeting constitutes a meeting

and the public has a right to see that before the meeting occurs. Even the Supreme Court says if you are sending emails and saying if you vote on this motion, I will second your motion that is a meeting, do not do that.

You can communicate outside coffee shops, church, or around town about non commission stuff and there are two of you, that is fine. Just be careful and do not talk about commission business.

When the commission goes into executive session, you have to announce that it is about personnel issues. No one is allowed in the room except Commissioners, Colonel Bryant, and perhaps the employee that might be disciplined and/or their supervisor, but the supervisor has to be invited by the commission. The attorney for the person being disciplined and the Assistant Attorney General cannot go in the room with you at all. Nobody else is allowed in the room and if you have someone in there that is not allowed it is an invalid executive session and is subject to rules of ethics.

Commission Allison asked what if a commissioner comes out and asks a question of the Assistant Attorney General, can we do that. Mr. Reeves stated that is okay.

If you take notes in the executive session, do not bring them out, they need to be taken up and secured. If they are brought out of the room they become public records and someone can FOI them. When you are in the room you are only suppose to discuss the personnel issues that are before you. You cannot discuss other commission business that is supposed to be in the public meeting, it is a violation of FOIA. When you come back in after executive session and start the public meeting back again, if no decision is going to be made based on what happened in there you need to say that and if there is a decision to be made you have to vote on it in the public meeting or it is illegal or invalid.

Commissioner Basore asked when we do not make a decision does that require a motion not to do anything. Mr. Reeves stated no, you just have to come back in and say there will be no action taken.

Mr. Reeves stated if you have any questions please call me. I have to tell you though as a States Attorney, if you call me and ask me something confidentially we do not have attorney client privilege with you, because we are state employees. You can ask me something but if it is something confidential I may tell you I cannot answer that because then if I am asked I would have to tell.

STIPEND AND MILEAGE REIMBURSEMENT:

Commission Chairman Shepherd asked for a motion to approve the stipend of \$60.00 per meeting. Commissioner Allison made the motion to approve the stipend payment and it was seconded by Commissioner Christenson. The motion passed.

Commission Chairman Shepherd asked for a motion to approve the mileage reimbursement. Commissioner Burns made the motion to approve the mileage reimbursement and it was seconded by Commissioner Benton. The motion passed.

APPOINTMENT OF COMMITTEES FOR 2017:

Commission Chairman Shepherd stated on the Health Insurance Committee, Commissioner Allison, Commissioner Burns, Commissioner Basore, and Commissioner Benton would serve.

Commission Chairman Shepherd stated on the Arkansas State Police Foundation, all commissioners would serve on the Foundation as nonvoting members, they will be advisors.

EXECUTIVE SESSION:

Commission Chairman Shepherd asked Colonel Bryant if there was a need to go into Executive Session and Colonel Bryant stated we have 2 personnel matters to discuss.

Commission Chairman Shepherd asked if there was a motion. Commissioner Basore made a motion to go into Executive Session for the purpose of considering employment, appointment, promotion, demotion, disciplining, or resignation of an employee, Commissioner Christenson seconded and the motion passed. The Commission went into Executive Session at 10:43 a.m.

The open meeting resumed at 11:15 a.m. and Commissioner Chairman Shepherd asked Colonel Bryant if he had any recommendations. Colonel Bryant stated first he wanted to announce that he is going to laterally transfer Lieutenant David Lafferty into the vacant Lieutenant position in the Criminal Investigation Division, Administration.

Colonel Bryant stated there is another vacant Lieutenant position in Administrative Services Division, Administration and after review of the candidates, my recommendation to the Commission would be Sergeant Roby Rhoads for the position of Lieutenant in Administrative Services. Commissioner Allison made a motion that Sergeant Rhoads be promoted to Lieutenant, Commissioner Benton seconded and the motion passed.

NEXT MEETING:

Commissioner Basore asked Commission Chairman Shepherd if the February meeting could be moved to a day earlier than what is scheduled. Everyone agreed and Commission Chairman Shepherd stated next month's Commission Meeting will be held on Wednesday, February 08, 2017 at 10:00 a.m.

With no more business, Commission Chairman Shepherd asked for motion to adjourn. Commissioner Burns made a motion to adjourn the meeting, Commissioner Basore seconded and the motion passed. Commission Chairman Shepherd adjourned the meeting at 11:18 a.m.

Commission Chairman

Commission Secretary