

**Minutes of Public Meeting of the
Constable Ethics, Standards and Training Board
August 17, 2016**

A public meeting of the Constables Ethics, Standards and Training Board (CESTB) was convened on August 17, 2016 at 10:02 a.m. at the offices of Capitol Consulting 818 North First Street Phoenix, AZ 85004. Present at the meeting were the following members of the CESTB - Constable Mike Cobb and Constable David Lester. Present via teleconference were the following members of the CESTB - Constable Brandon Schmoll, Constable Scott Tipton, Sheriff Adam Shepherd, Judge Barbara Brown, and Christine Shipley. The following staff was present – Tracy Unmacht. Members of the public included Gilbert Zermeno CBS 5 News, Constable Doug Clark and Constable John Acton. Absent were the following members of the CESTB – Dan Field and Stuart Goodman.

A quorum was reached and the following matters were discussed and decided at the meeting:

Minutes of Previous Meetings: Constable Lester made a motion to approve the minutes from the July 20, 2016 CESTB meeting. Sheriff Shepherd seconded the motion. The motion carried unanimously without discussion.

Call to the Public: No public comments were made.

Constable Complaints:

CNA167-2015 – Acton: Chairman Cobb reviewed the complaint and reported the Rural Subcommittee recommends issuing a warning. Constable Schmoll stated the event took place a long time ago, the Constable has been compliant with the court order and he has already been punished by the court. Constable Tipton pointed out that Constable Acton's behavior in the incident was disturbing and far exceeded his authority of a Constable. Tipton suggested a harsher judgment of reprimand be issued. The CESTB asked Constable Acton if he would like to make a statement. Constable Acton stated the event took place 17 months ago. He paid an attorney to help "right the wrong". He now understands Constables are held to a higher standard of conduct and he has learned from the incident. Constable Tipton stated for the record he didn't feel that Constable Acton's statements exhibited repentance. Constable Schmoll made a motion to issue a warning to Constable Acton and Constable Lester seconded. Motion carried with 1 opposed.

CNA145-2015, CNA146-2015, CNA155-2015, CNA157-2015 and CNA184-2016 – Clark: Constable Cobb reviewed the history of the complaints and the report from the new investigation. Cobb reported the Urban Subcommittee recommends dismissal of all complaints in this case. Christine Shipley stated no new evidence was presented in the report to support any of the complaints included in the investigation.

Constable Schmoll made a motion to dismiss CNA145-2015, CNA146-2015, CNA155-2015, CNA157-2015 and CNA184-2016 and close the cases. Constable Tipton seconded the motion. The Board asked if Constable Clark had any comments, and he expressed his opinion that the whole issue was politically motivated and not related to his job performance. His reputation has been unfairly damaged and he requests the CESTB issue a press release letting the public know he has been cleared of these allegations. Constable Cobb informed Constable Clark the CESTB does not issue press releases. The motion carried unanimously with no further discussion.

CNA186-2016 - Malles: Chairman Cobb reviewed the complaint and reported the Rural Subcommittee recommends issuing a letter of reprimand, requiring Constable Malles to attend ethics training, and suggesting the Constable seek counseling.

Constable Schmoll disagreed with the recommendation, stating that the letter Constable Malles sent was on his personal time and outside the scope of his duties as constable. Constable Tipton argued that Constable Malles violated public trust by using contact information he obtained while campaigning for his personal use. He also pointed out a pattern of behavior due to a similar previous incident that resulted in the Constable being removed from the AZ Constables Association. In that case he used his position to attempt to make contact with a high school student, again using information he obtained through his position as Constable for personal use. Constable Schmoll argued the contact information Constable Malles obtained in the current case is public information. Christine Shipley rebuked stating it was the manner in which he used the information that was wrong.

Constable Lester made a motion to accept the subcommittee recommendation and Christine Shipley seconded the motion. The motion carried 6 to 1.

Grant Application for Organizational Training: One application was received for Organizational Training from the AZ Constables Association requesting funding in the amount of \$85,953.30. Board members submitted their scores for the record. Constable Schmoll made a motion to approve full funding of the grant application from the AZ Constables Association and Sheriff Shepherd seconded. The motion carried without discussion.

Financial Report: Staff reported we received the June/Yr End and July reports from the Department of Administration Central Services Bureau. The July report contained errors and staff is pursuing that and will submit the July report to the board when resolved. Constable Schmoll made a motion to approve the June/Yr End financial report and Sheriff Shepherd seconded. The motion carried without discussion.

New Constable Rules: Constable Cobb has been discussing requirements with our representative at the Attorney General's office. With regards to constable logs, the AG rep stated that for the short term, constable logs don't necessarily have to take the same form statewide, as long as the logs all contain all of the required information. He stated that formally adopted forms should be in place by November. With regards to sanctions for constable complaints, the AG rep stated that any incidences which took place prior to August 6th that result in complaints will use the old rules to issue any sanctions. Incidences occurring after August 6th will use new sanctions. Finally, we need to begin working on formalizing rules to address the new legislation. Staff was directed to pursue the process that will be required and report back to the board.

Administration Report: Staff will continue efforts to receive timely, accurate financial reporting from the CSB of the Department of Administration. Staff will look into what is involved in the process of rule writing.

Adjournment: Constable Tipton made a motion to adjourn the meeting and Constable Lester seconded the motion. The motion carried unanimously. Meeting was adjourned at 10:50 a.m.

Dated this 21st day of September, 2016

Constable Ethics, Standards and Training Board

By



Chairman Mike Cobb