

# Kansas Commission *on* Peace Officers' Standards *and* Training (KS•CPOST)

**Commission Meeting Minutes  
Held at KBI Headquarters – 1620 SW Tyler  
Topeka KS  
January 26, 2012 9:00 am**

**Attendees:**

<b>KS•CPOST Members Present</b>	<b>KS•CPOST Staff</b>
Commissioner John Carmichael, Chairman	Steve Culp, Director
Commissioner Richard Barta	Eric Williams, Counsel
Commissioner Kirk Thompson	Vicki Mork, Administrative Assistant
Commissioner Ellen Hanson	John Gaunt, Investigator
Commissioner Dean Bush	Jackie Stuart, Investigator
Commissioner Mike Keller	Gary Steed, Investigator
Commissioner James Jarboe	<b>KLETC Staff</b>
Commissioner Ernest Garcia	Ed Pavey, Director
Commissioner David Miller	Darin Beck, Deputy Director
Commissioner Mark Pierce – by phone	<b>Attorney General's Staff</b>
	Janet Arndt, Assistant Attorney General
<b>Kansas Highway Patrol</b>	Lisa Mendoza, Assistant Attorney General
Lt. Col. Alan Stoecklein	

Chairman Carmichael called the open session of the Commission to order on January 26, 2012 at 9:05 am at the KBI Headquarters 1620 SW Tyler in Topeka Kansas. After leading the flag salute Chairman Carmichael called role. All Commissioners were in attendance with Commissioner Pierce participating by telephone conference.

Commissioner Thompson welcomed everyone and provided housekeeping information including the security policy for the KBI Building and location of the break room where KS-CPOST staff may wait if/when the Commission goes into Executive Session. Chairman Carmichael noted that Darin Beck, Ed Pavey, Counsel Eric Williams, Director Steven Culp, Investigators John Gaunt, Jackie Stuart, and Gary Steed and Vicki Mork were all in attendance.

Chairman Carmichael said there were a number of important items on the agenda and they would be discussed in the order determined by the Commission. He noted that Agenda item XVIII related to the date of the next commission meeting did not get changed. He recommended it be held at the end of

May so the current Commission could review and discuss the outcome of matters pending in the legislature that may affect KS-CPOST. He asked the Commissioners to look at their calendars for a date in May.

Chairman Carmichael moved to the next matter of business, approval of the minutes from December 19, 2011; August 26, 2011; and January 4, 2012 sessions. Chairman Carmichael asked the Commission how they wished to proceed, hearing no discussion he asked for a motion to collectively approve all three sets of minutes. Commissioner Hanson so moved and Commissioner Barta seconded the motion. The motion carried unanimously.

The next agenda item was a report on the KS-CPOST Audit conducted January 9<sup>th</sup> and 10<sup>th</sup> by Chairman Carmichael, Commissioner Thompson and Lt. Col. Alan Stoecklein, as a proxy for Commissioner Garcia. Chairman Carmichael said the final report of the audit was not completed. He asked the Commission if a discussion was preferred, hearing no request he recommended the report be deferred until the next meeting. His decision was adopted by consensus.

Chairman Carmichael moved to the next agenda item, continuation of Executive Session. At 9:12 am he asked for a motion to recess into executive session to discuss personnel matters of non-elected personnel in order to protect the privacy of the parties involved and that Jan Arndt, Lisa Mendoza and Alan Stoeckline be admitted to the executive session to aid the Commission in their discussions. The open meeting would be reconvened in the same location at 10:00 am. It was so moved by Commissioner Hanson, seconded by Commissioner Thompson and it carried unanimously.

The Commission returned to open session at 10:00 am. Chairman Carmichael asked for a motion to return to executive session and to reconvene at the same location in 30 minutes at 10:31. It was so moved by Commissioner Keller, seconded by Commissioner Garcia and the motion carried unanimously.

The Commission returned to open session at 10:31. Chairman Carmichael noted there was a quorum present and asked for a motion to recess into executive session to discuss personnel matters of non-elected personnel in order to protect the privacy of the parties involved and that Steven Culp, Jan Arndt and Lisa Mendoza be admitted to the executive session to aid the Commission in their discussions. The open meeting will reconvene in this same location at 11:05 am. It was so moved by Commissioner Barta, seconded by Commissioner Hanson and the motion carried unanimously.

Upon the return to open session at 11:05 am Chairman Carmichael observed all the Commissioners were present and he made sure Commissioner Pierce's phone connection continued. Chairman Carmichael announced that Executive Director Culp tendered his resignation. This was confirmed by Executive Director Culp.

Chairman Carmichael asked for a motion that Executive Director Steve Culp's resignation be accepted effective February 3, 2012, that Director Culp be placed on paid administrative leave until that time, that the Chairman be delegated the authority to resolve any end of employment matters to include the return of state property, computer access and the like and the Commission thank Director Culp for his

services to the State of Kansas. It was so moved by Commissioner Barta, seconded by Commissioner Garcia and without discussion the motion carried unanimously.

Chairman Carmichael asked for a motion that the Commission recess into executive session to discuss personnel matters of non-elected personnel in order to protect the privacy of the parties involved and that Gary Steed, Eric Williams, Jan Arndt, and Lisa Mendoza be admitted to the executive session to aid the Commission in their discussions. The open meeting will reconvene in this same location at 11:30 am. It was so moved by Commissioner Bush, seconded by Commissioner Garcia and the motion carried unanimously.

The meeting returned to open session and Chairman Carmichael asked for a motion that Gary Steed be appointed Acting Executive Director of KS-CPOST effective January 26 through February 3, 2012, that he work full time, that he be paid at his current hourly rate of pay and benefits as provided to state employees and as elected by the employee, subject to state personnel rules for acting appointments. It was so moved by Commissioner Keller and seconded by Commissioner Bush. During the discussion Chairman Carmichael explained that if Steed is still in the position of Executive Director as of February 3<sup>rd</sup> that the Commission needs to make him full time Interim Executive Director at full pay and benefits through a motion. No further discussion took place, the question was called and the motion carried unanimously.

Chairman Carmichael asked for a motion that Gary Steed be appointed Interim Executive Director effective February 4, 2012, that he work full time, that he be paid the same salary as the current Executive Director, and receive any and all benefits as provided state employees and as elected by the employee subject to State Personnel rules for such an appointment. It was so moved by Commissioner Garcia, seconded by Commissioner Jarboe and the motion carried unanimously. Chairman Carmichael offered his congratulations to Acting Director Steed. He thanked the chairman and said he appreciated the confidence of the Commission.

Chairman Carmichael moved to the next agenda item discussion of the proposed budget for KS-CPOST and the future of the agency. He turned the meeting over to Commissioners Keller, Bush and Garcia for an update on their meeting with Governor Brownback on January 25. Commissioner Garcia arranged for the meeting. All three Commissioners attended as representatives for law enforcement organizations rather than the Commission, Commissioner Garcia represented the Kansas Highway Patrol, Commissioner Keller also president of the Kansas Chiefs Association represented that organization and Commissioner Bush, president of the Kansas Sheriffs Association represented that organization.

The Commissioners provided information to the governor about the significance of KS-CPOST, historical information about the agency, and explained the dedicated funding and the functions of KS-CPOST. Governor Brownback called the State's Budget director and asked him to prepare information about the budget action and to provide it to Commissioner Garcia. He is to relay the report to the Commission

upon receipt. Commissioner Garcia said he thought the budget action would be corrected as the Governor was willing to listen to the facts of the situation.

All three Commissioners said the meeting was positive and they felt like CPOST budget would be restored and agency would be made whole again. Thanks were given to Commissioner Garcia for arranging the appointment with the Governor. Chairman Carmichael approved of the low key cooperative efforts to restore funding to KS-CPOST. He informed all that as the budget issue unfolds it may be necessary to hold a commission meeting by telephone conference on short notice so that budget information could be shared publicly.

Chairman Carmichael informed the Commission that Mark Stafford, outside legal counsel, for KS-CPOST would join the meeting at about 2:30 pm. He wanted to discuss his work relative to the statute and concerns about the Good Moral Character Standard. Invitations were also extended to various lobbyists to appear at the same time if possible.

Chairman Carmichael asked for a motion to recess for lunch until 12:45 pm and return to the same location. It was so moved by Commissioner Hansen and seconded by Commissioner Jarboe. The motion carried unanimously.

The open meeting reconvened at 12:45 pm at the same location. Chairman Carmichael outlined the remaining business matters for the afternoon, a Juvenile Justice Authority Act presentation on proposed legislative changes and a progress report from outside legal counsel on the changes discussed at the last Commission meeting. Acting Director Steed agreed to defer presentation of the Executive Director's Report until the next meeting and the Hearing Sub-Committee report, the Investigative Sub-Committee report and the Financial Report were also postponed. The next Commission meeting was set for 10 am on May 8, 2012 at the Kansas Law Enforcement Training Center.

While the Commission waited for the Juvenile Justice representatives to arrive Chairman Carmichael asked if there was any old business to be considered. Hearing none he asked if there was any new business off agenda items to be discussed. Hearing none Chairman Carmichael asked if there was any one from the attending public to address the Commission but no response. KLETC Director Ed Pavey invited everyone to the Robert J Senecal Emergency Vehicle Operations Driver Training Facility dedication to be held on Friday, April 20<sup>th</sup> at 10:30 am. The ceremony will feature brief remarks by the Attorney General, the Speaker of the House and the Provost of KU. He encouraged all of the Commissioners to attend.

Director Pavey also reported that KU permitted him to approach the issue of double dipping retirement which affects most of KLETC staff. Senator Keaton said he would work to protect law enforcement in any legislation. A similar pledge was received from the House side. Director Pavey asked the Commission for any input or concerns but no comments. Chairman Carmichael asked about progress in

the matter of driving and vehicle safety continuing education classes on the EVOC Course. Director Pavey said the possibility remained under consideration.

Chairman Carmichael welcomed Brad Burke, Counsel for Juvenile Justice Authority and Matt Willis, their Investigator. Because of changes in regulations directing investigations for crimes that occur in a Juvenile Justice facility Mr. Burke reviewed proposed legislation that requested Law Enforcement Training and Certification for their agency investigator, Matt Willis. This would allow in house investigations and evidence collection by the investigator rather than involving a law enforcement agency.

It was suggested that Mr. Burke incorporate the qualifying standards of Law Enforcement Officers in their bill. Commissioner Thompson asked Counselor Burke to contact him concerning the difficulties of establishing a "new agency" with one employee. No further comments were made by Commissioners and no formal action was taken.

Chairman Carmichael moved on to the next agenda item concerned possible changes to the Kansas Law Enforcement Training Act. Counselor Williams began the discussion and explained Mark Stafford; Outside Counsel for KS-CPOST reviewed the act and proposed the changes based on deficiencies he found. Jan Arndt and Lisa Mendoza, representatives from the AG's office, as well as Director Pavey and Deputy Director Beck participated in the discussion along with the Commissioners and Ed Klumpp, lobbyist for law enforcement organization.

The areas of proposed revision in the Kansas Law Enforcement Training Act that were discussed consisted of the following sections: Section 5605; Section 5607; Section 5607a; Section 5616; and Section 5622. Chairman Carmichael said the most important issue is whether KS-CPOST can proceed under the current good moral character standard for another year and be effective because there are pending moral character cases and others to be filed that depend upon the training act for support in court. The process requires changes to be made within the deadlines of the legislature which for this year are not far off. Counselor Williams designated vital issues on pages 5 and 6, the matters of racial profiling and bias-based policing. He said currently CPOST's only way to resolve these cases is through moral character issue to which changes are proposed.

Commissioner Bush made a motion that Counsel be instructed to prepare a limited amendment to the Law Enforcement Training Act to reflect the concept as set forth in Sections 5 & 6 at the top of page 5 of the handout and to direct Counsel to commence the preparation of appropriate regulations for consideration at hopefully our next meeting. Commissioner Hansen seconded the motion.

Discussion ensued and Outside Counsel Stafford suggested a way the entire group of proposed changes to the Training Act could be accomplished. Chairman Carmichael called a 10 minute recess and asked the counsels to work out their issues. The meeting reconvened. Discussion continued and Outside

Counsel Stafford proposed a conceptual way of revising the training act. Other suggestions were made for additional changes.

Commissioner Bush withdrew Motion 10 and Commissioner Hansen consented to the withdrawal of Motion 10. Chairman Carmichael asked for a motion to authorize General Counsel Williams to consult with Attorney General's Office, KLETC, Outside Counsel Mark Stafford, Ed Klumpp, and any other interested party who wants to participate to recommend to the Legislature legislative changes that are conceptually the same as those contained within the handout, with the understanding that the training act be revised to a two tier approach with a "bright line" test for felonies and a discretionary test for other kinds of conduct. And further authorizing the Interim Executive Director or Agency General Counsel or both to provide such testimony and information before the Kansas Legislature as might be necessary. It was so moved by Commissioner Bush and seconded by Commissioner Hansen. The motion carried unanimously.

Chairman Carmichael thanked everyone involved for their hard work on the revision project. He also verified with Outside Counsel the \$10,000 authorized for his services would be sufficient for the project. Attorney General Arndt asked for a draft by May 2012 in order to meet later deadlines with a July 1, 2012 meeting. Chairman Carmichael asked if there were any additional topics for discussion. Hearing none Commissioner Thompson moved the meeting be adjourned, it was seconded by Commissioner Keller and the motion carried unanimously.

*Minutes amended as directed per 4-17-2012 Commission Meeting \_\_\_\_\_*