



**Agenda
City of Milton
Police Commission
Wednesday, November 16, 2022
6:00 p.m.
MILTON CITY HALL
Conference Room
710 S. Janesville Street**

- 1. Call To Order**
- 2. Approve Agenda**
- 3. Approval Of Minutes - June 29, 2022**

Documents:

[POLICE COMMISSION MINUTES 06-29-2022.DOCX](#)

- 4. Watch And Review Section 1 Of Police Commission Training**
- 5. Review, Discussion, And Possible Action On Police Commission By-Laws**

Documents:

[FINAL, POLICE COMMISSION BYLAW UPDATE, NOVEMBER 9, 2016.PDF](#)

- 6. Discussion And Possible Action On Recruitment Of Police Chief**
- 7. Chief's Information Report To Commission**
 - a. Updates On Issues Or Incidents As Necessary***
- 8. General Items**
- 9. 2023 Meeting Schedule - February 8, May 10, August 9, And November 8**
- 10. Motion To Adjourn**

**Please note that upon reasonable notice, at least 48 hours in advance, efforts will be made to accommodate the needs to disabled individuals through appropriate aids and services. For additional information to request this service, please contact the City Clerk's Office at 868-6900, 710 S. Janesville Street, Milton, WI 53563.

Notice is hereby given that a majority of the Common Council may be present at this meeting at the above mentioned date and time to gather information about a subject over which they have decision-making responsibility. This constitutes a meeting of the City Council pursuant to State ex rel. Badke v. Greendale Village Bd., 173 Wis. 2d 553, 494 N.W. 2d 408 (1993) and must be noticed as such, although the City Council will not take any formal action at this meeting.

Posted by: Jenny Salvo, November 11, 2022, at Hometown Ace Hardware, Piggly Wiggly, Milton City Hall

**City of Milton
Police Commission
June 29, 2022**

Call To Order

Vice President Marlys Howe called the June 29, 2022 meeting of the Police Commission to order at 6 p.m.

Present: Vice President Marlys Howe, Heather Crabtree, Patty Slatter, and Katie Murphy.

Also Present: Police Chief Scott Marquardt and Administrative Services Director Inga Cushman.

Approve Agenda

Comm. Slatter motioned to approve the agenda. Comm. Crabtree seconded, and the motion carried unanimously.

Consideration Of A Motion To Convene Into Closed Session Pursuant To Wisconsin Statute Section 19.85(1)(C) For The Purpose Of Considering Employment, Promotion, Compensation Or Performance Evaluation Data Of Any Public Employee Over Which The Governmental Body Has Jurisdiction Or Exercises Responsibility. Re: Interviews For The Police Officer Eligibility List

Comm. Crabtree motioned to convene into Closed Session at 6:01 p.m. Comm. Slatter seconded, and the motion carried unanimously.

Reconvene Into Open Session For Possible Action(S) On Items Discussed In Closed Session

Comm. Slatter motioned to reconvene into open session at 7:34 p.m. Comm. Crabtree seconded, and the motion carried.

Comm. Crabtree motioned to certify the Police Officer Eligibility List for one year, in no particular order, Angelica Wolf, Pirarre Miller, and Jazmyne Schoeller. Comm. Slatter seconded, and the motion carried unanimously.

Approval Of Minutes - May 11, 2022

Comm. Murphy motioned to approve the minutes. Comm. Crabtree seconded, and the motion carried unanimously.

Chief's Information Report To Commission

a. Updates On Issues Or Incidents As Necessary

Chief Marquardt provided an update to the commission and no action was taken.

General Items

There were no general items.

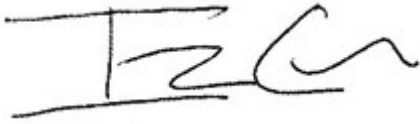
2022 Meeting Schedule - February 9, May 11, August 10, And November 9

The next meeting of the Police Commission will take place on August 10, 2022 at 6 p.m. The meeting will consist of a training component and review of the commission's bylaws.

Motion To Adjourn

Comm. Murphy motioned to adjourn the June 29, 2022 meeting of the Police Commission at 7:50 p.m. Comm. Crabtree seconded, and the motion carried unanimously.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'I. Cushman', written over a horizontal line.

Inga Cushman
Administrative Services Director

**City of Milton
Police Commission
By-Laws**

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ARTICLE 1: MISSION AND JURISDICTION

1.01 Mission The mission of the City of Milton Police Commission is to exercise hiring, firing and disciplinary authority with respect to the Chief of Police and subordinate Police Officers in the City of Milton Police Department, and thus assist the Police Chief and Police Officers in their role of protecting and assisting the people of the City of Milton, consistent with their responsibilities to the public.

1.02 Jurisdiction

a) Preamble: The general purpose of a Police Commission is to remove, as much as possible, the political aspects of hiring, firing and disciplining Police Officers and the Chief of Police. To accomplish this, the Legislature has divested from the City Council the authority to act in these 3 areas, and place them exclusively within the domain of this Police Commission. Accordingly, members of this Commission recognize that actions they take pursuant to these by-laws are ultimately meant to preserve this exclusive authority in these 3 areas and perform the duties of a Police Commissioner without respect to political influence from the body politic of the City of Milton.

b) Authority: The Police Commission has the authority vested in it by Sections 61.65 and 62.13 of the Wisconsin Statutes, subject to Chapter 164 of the Wisconsin Statutes. These powers include:

- a) Appoint the Police Chief and exercise the power to suspend or remove her or him for cause;
- b) Approve the appointments of subordinate Police Officers by the Police Chief;
- c) Provide for the competitive examination of applicants for Police Officer positions and certification of a list of persons eligible for employment;
- d) Adopt rules of procedure for the selection of Police Officers, including that their qualifications do not conflict with minimum qualifications established by state statute or administrative rule;
- e) Review and act on charges concerning the conduct of and discipline imposed on Police Officers;
- f) Supervise reductions in the Department in the event it is necessary to reduce the number of Police Officers; and
- g) Exercise other powers conferred upon the Commission by the Wisconsin Statutes.

- 1.03 Scope of Rules These rules apply to all Department positions requiring the employment of a Police Officer.
- 1.04 Definitions
- a) “By-Laws” means the City of Milton Police Commission By-Laws.
 - b) “Commission” means the City of Milton Police Commission.
 - c) “Department” means the City of Milton Police Department.
 - d) “Police Academy” means the preparatory program of law enforcement training as approved by the Wisconsin Law Enforcement Standards Board.
 - e) “Police Officer” means a Department position requiring the employment of a law enforcement officer as defined in Section 165.85(2)(c) of Wisconsin Statutes.
 - f) “Police Officers” means all Police Officers as defined in subsection (d).
 - g) “Police Chief” means the Chief of Police or temporary acting Chief of Police of the Department.

ARTICLE 2: EMPLOYMENT QUALIFICATIONS AND ELIGIBILITY

- 2.01 Qualifications of the Police Chief For the position of Police Chief, the Commission may, in its discretion, appoint a suitable person, who need not be a member of the Department or a resident of the City. If the applicant is a nonresident, the applicant must establish residency within 15 miles of the jurisdictional boundaries of the City of Milton within twelve (12) months after appointment.
- 2.02 Qualifications for Recruitment Before an individual may commence employment as a Police Officer, that individual must have met the recruitment qualifications required by Wisconsin State Statute LES 2.01 (1) and the Wisconsin Law Enforcement Standards Board. (See Appendix A, Wisconsin State Chapter LES 2).
- 2.03 Qualifications for Temporary or Part-Time Police Officers
- a) The Department may, from time to time, employ individuals as Police Officers on a limited-term, or less than full-time basis.
 - b) As used in this section:
 - 1) The words “limited term” mean employed for a definite period of time, at the end of which the employee is to be separated from employment, which employment shall carry with it no tenure, seniority or other benefits associated with regular, full-time employment as a Police Officer.

- 2) The words “full-time” mean employed in a regular Police Officer position that is scheduled to work 2080 hours per year.
- 3) The words “part-time” mean less than the regular full-time schedule.
- c) The Police Chief may employ limited term or part-time Police Officers, provided that:
 - 1) The limited term or part-time Police Officer positions have been authorized by the City Council, and funds have been appropriated to finance the positions;
 - 2) Applicants meet all of the qualifications to be employed as Police Officers by the City of Milton, as demonstrated by the applicant having passed an application process of another municipal policy agency.
- d) Commission shall maintain a list of persons who are eligible for employment on a limited term or less than full-time basis. No part-time or limited term Police Officer may be employed in a regular full-time position unless they have been selected pursuant to the selection procedures in Article 3 of the By-Laws.

ARTICLE 3: RECRUITMENT, TESTING AND HIRING

- 3.01 Police Chief The Commission shall appoint the Police Chief, who shall hold office during good behavior, subject to suspension or removal by the Commission for cause. The Commission shall, prior to commencement of recruitment, adopt a specific recruitment and assessment procedure designed to assure the most qualified suitable candidate is selected.
- 3.02 Subordinates The Police Chief shall appoint all subordinate Police Officers using the selection and promotion procedures in these By-Laws.
- 3.03 Application The Commission shall authorize the issuance of forms for making application for appointments. The current initial form shall be the Wisconsin Law Enforcement Standard Board’s Application for Employment as Law Enforcement, Jail, or Secure Juvenile Detention Officer (DJ-LE-330). Notice of the time and place for issuing forms shall be given by publication in a newspaper of general circulation in the City of Milton, and by any other means that the Commission may direct, at least ten days prior to issuing forms.
- 3.04 Misrepresentation Misrepresentation of any material fact contained in the application shall be sufficient cause for excluding the applicant from the assessment, or for removing the applicant’s name from the eligibility list, or for the applicant’s discharge, at any time, from the Department.

- 3.05 Insufficient Application In order to avoid the expense of assessing applicants who are barred from appointment, the application shall be rejected by the Commission or its designee, without further assessment, whenever the application reveals the applicant cannot meet the eligibility requirements or the qualifications of the position applied for.
- 3.06 Changes in Medical Information A candidate for employment previously rejected by a medical examiner shall not take the assessments provided for in these rules until a certificate from a medical examiner shows that the cause for rejection has been corrected or that some reasonable accommodation of the condition has become available.
- 3.07 Terminated Employee Any Police Officer dismissed from the Department for just cause or a reason other than a layoff for budgetary purposes shall thereafter be ineligible to make application for appointment to any position in the Department.
- 3.08 Reentry Applications Any former Police Officer who desires reentry to the Department shall undergo any assessment determined necessary by the Commission, except as provided in Section 3.07 of these By-Laws.
- 3.09 Assessment No person shall be eligible for appointment as a Police Officer unless that person has been assessed pursuant to the requirements of this section. The Commission shall hold or authorize the holding of assessments for appointment as Police Officer, and shall fix the date, place and conditions whenever necessary to meet the needs of the Department.
- 3.10 Delegation
- a) The Commission may authorize other municipal or state agencies to conduct the written examination and provide a certified list of those applicants successfully completing the examination.
 - b) The Commission may use the assistance of the Department including the Police Chief, the City Administrator, outside consultants, and citizens, as appropriate in carrying out the Commission duties in this Section; provided that the final selection of a Police Chief, and the creation of a Certified List in Section 3.15 of these By-Laws, is done only by Commission members.
- 3.11 Position Description The Police Chief shall establish duties for every position in the Department and include these duties as part of a written position description. The written position description shall include the position title or classification; a brief description of the position; the basic or minimum qualifications to be considered for employment in the position; the level or type of supervision received by the employee; who the employee is responsible to; the type or level of independent judgment used by the employee when

performing tasks; the essential functions performed by an employee in the position; other duties that may not be essential but are typically undertaken by an employee in the position; basic abilities and knowledge the employee will need to perform adequately in the position; the type of equipment used by the employee; the location and environment in which the job is usually undertaken; any special environmental or physical conditions the employee may encounter. All position descriptions shall be reviewed and, as necessary, revised regularly.

3.12 Eligibility for Assessment Assessments shall be open only to those persons who are eligible for appointment and who possess the requisite qualifications in conformity with the provisions of these By-Laws.

3.13 Substance of Assessment The assessment shall be a multi-stage evaluation process that fairly tests the capacity of the applicants to successfully perform the positions they seek. Each original entrance assessment shall consist of the following stages, to be administered in the order listed below. Any applicant who fails to pass any assessment shall be removed from the process at that point and denied the opportunity to participate in further assessments.

a) Written examination

- 1) Every applicant shall be tested using a suitable written law enforcement recruitment exam recommended by the Wisconsin City and County Testing Service of the Wisconsin Department of Employment Relations, or some similar, validated, instrument. The Commission shall establish a passing score prior to commencement of recruitment.
- 2) The Commission may, at the start of the examination process, include a standard intelligence quotient test, a mechanical comprehension test, a test of practical knowledge and ability, and such other tests as the Commission may deem of assistance in the selection of personnel.
- 3) The written examination shall be conducted first in the assessment process. Only those applicants who attain a passing grade on the written examination may proceed to further examinations in the assessment process.

b) Oral Interview The Commission shall conduct an oral interview to evaluate the applicant's demeanor, character, personality, communication skills and ability insofar as these relate to the position qualifications.

c) Character Investigation A character investigation, also known as a pre-employment background investigation, shall be conducted to determine whether the applicant possesses any

disqualifying criminal record or specific disqualifying personal history, all of which shall relate specifically to qualifications of the position involved. A voluntary waiver will be provided to the applicant giving the background investigator permission to obtain restricted banking, educational, and other records. "Good character" shall be determined from a written report which includes, but is not limited to, the following:

- 1) The applicant's fingerprints and a search of local, state and national fingerprint records;
 - 2) Police and credit checks in all of the applicant's current and previous areas of residence;
 - 3) Investigation at all the applicant's schools attended beyond the age of fourteen;
 - 4) Investigation in the applicant's current neighborhood of residence and in neighborhood of former permanent residence;
 - 5) Investigation in each place of employment. The interview of applicant's current employer should be at or towards the end of the investigation. The applicant's specific permission for this interview must be obtained; and
 - 6) Any other investigation as deemed necessary to provide a basis for judgment on the applicant's fitness to perform the duty of a Police Officer;
- d) The character investigation shall not be assigned a score to be used in rating the applicant. Evidence of unsatisfactory character or activities shall be grounds for disqualification.
- e) Other assessments as deemed necessary by the Commission in the case of individual position selections. The determination of which assessments are to be required will be made prior to commencement of recruitment and will be applied to all applicants for a position.

3.14

Assessment Protocol All assessments shall be carried out under the Commission's supervision. The Commission may designate any suitable municipality or state agency, person or persons to conduct or assist in conducting the assessments. The Commission may fix the compensation to be paid these designated assistants by the City, in conformity with budgetary restraints and other provisions set the by the City Council. All assessments shall comply with the following protocol:

- a) Each applicant taking an assessment shall follow the instructions given to her or him by the person conducting the assessment.
- b) Information relative to applicant's scores shall be strictly confidential, and shall not be divulged, except insofar as it

may be necessary to determine those applicants eligible for additional testing, or if deemed necessary by the Commission, for a purpose related to administration of the selection process. Under provisions of Section 103.13(6) (c) of the Wisconsin Statutes, an applicant may request and be provided with the score attained on any specific section of the assessment or the entire assessment.

- c) Neither applicants, Commission members nor Department employees shall give assistance to any applicant in any manner during the assessment. A violation of this rule shall subject each applicant involved to exclusion from the assessment. Any Commission member or Department employee who violates this rule shall be subject to appropriate sanctions.
- d) No applicant shall be given a second or special competitive test in connection with any assessment held, unless it is shown to the Commission's satisfaction that the applicant's failure to take or complete the test was due to a manifest error or mistake for which the Commission or its designated assistants are responsible. The nature of the error or mistake shall be set forth in the minutes. The Commission may, in the interest of fairness, void the assessment and re-test all applicants.
- e) A passing grade for the entire assessment shall be established by the Commission prior to the examination. The Commission shall apply the appropriate veteran's preferences as provided by Section 62.13(4) (d) of the Wisconsin Statutes.
- f) Assessment papers shall be retained by the Commission or its designated representative for seven years after the expiration of the eligibility list for which the examination was held.
- g) Each applicant shall present to the person conducting the assessment one or more forms of government issued identification that contains the name and a photograph of the applicant.

3.15

Certified List

- a) The Police Chief may appoint Police Officers only from the list certified by the Commission pursuant to these By-Laws.
- b) Upon the conclusion of the assessments, the Commission shall prepare and certify a list that contains the names of applicants who have passed all necessary assessments and are eligible to be appointed if they successfully pass the medical examination contingency. The list shall be ranked in order of the weighted scores on the assessments that were administered by the Commission.

- c) Whenever it becomes necessary to fill a vacancy in the Department, the Commission shall certify to the Police Chief the names of the three highest ranking applicants remaining on the certified list. The Police Chief may conduct a personal interview with these three applicants. Should one or more applicants not pass the Police Chief interview, the Commission may present additional applicant names. The Police Chief shall extend a conditional offer of employment as a Police Officer to one of the applicants certified to the Police Chief by the Commission. The conditions of the appointment shall be the applicant's satisfactory completion of the medical examination. Any applicants certified to the Police Chief shall be deemed approved by the Commission for appointment, provided they satisfy the medical examination
- d) The certified list will expire twelve months from the date of certification unless extended or discontinued by the Commission.
- e) The Commission may, in its discretion, create rules that would modify the provisions of the by-laws to allow for lateral transfers from other departments.
- f)
 - 1) *There needs to be some language that recognized the effect of a collective bargaining unit in the hiring process.*
 - 2) *There should also be given some consideration for the commission to make appointments pursuant to lateral transfers from other departments. This could be something simple as another letter in this article that states the following; the commission may, in its discretion, create rules that would modify the provisions of the by-laws to allow for lateral transfers from other departments.*

3.16

Medical Examination Every person to whom a conditional offer of employment has been made pursuant to Section 3.15 of these By-Laws, shall undergo three additional assessments:

a) Medical Exam:

- 1) Applicant will be examined by a physician licensed to practice medicine in Wisconsin and approved by the Commission. The applicant shall complete a personal medical history, a copy of which is to be submitted to the examining physician. The examination shall be solely for the purpose of verifying that the candidate is capable of meeting the essential

occupational requirements of the position, and to address those physical and health requirements that relate to the occupational qualifications for the position involved, or the nature of reasonable accommodations required to enable the applicant to meet these qualifications.

- 2) The medical exam will include a drug screen completed through urinalysis.
- 3) If a conditional employee challenges their failed medical exam, and if the conditional employee is determined by the Chief of Police and the Commission to have sufficient qualities such that, if appointed, would be in the best interest of the department and the city, then a second medical exam will be arranged. This second medical exam will be conducted at a medical facility specifically addressing the merits of the challenge. The results of this medical exam shall be considered conclusive and final. Should the results be determined by the medical staff to be inconclusive, the conditional offer of employment shall be withdrawn.

b) Psychological Exam:

- 1) The applicant will undergo a comprehensive psychological screening provided by a clinician with experience and knowledge of law enforcement pre-employment psychological screening.
- 2) Should the applicant be determined to be unsatisfactory for employment as a police officer, the conditional offer of employment shall be withdrawn.

ARTICLE 4: PROBATIONARY PERIOD

4.01 Probation

- a) All appointed employees, except the Police Chief, shall be on probation for one year from the date of hire. As used in these By-Laws, the term “probation” means the customary initial provisional employment status, subject to terms that include, but are not limited to, the following:
 - 1) In accordance with the labor contract with the Milton Professional Police Association, the probation period will begin on the first day of full-time employment with the City of Milton. The probation period may be

extended by the Police Chief for no longer than 6 months after discussion with the Union.

- 2) The employee has no expectations of continued employment, nor any contractual or other vested property right in employment;
 - 3) The employee may be terminated at any time for any reason in the sole discretion of the Police Chief;
 - 4) The employee is not entitled to any showing of cause for termination; and
 - 5) The employee is not accorded any formal hearing rights of any kind other than those that are necessary to meet constitutional requirements or those specified in Chapter 164 of the Wisconsin Statutes.
- b) If during the first year of actual service in the new position, the probationary employee proves unsatisfactory or undesirable for the position, the Police Chief may terminate the probationary employee.
 - c) The appointee shall not be entitled to an appeal from a dismissal or demotion.

ARTICLE 5: PROMOTIONS AND TRANSFERS WITHIN THE DEPARTMENT

5.01 Promotions

- a) Subject to provisions pertaining to lateral transfer, it is Commission policy to fill vacancies in non-entry level positions by internal promotion, provided that at least two candidates from within the Department, for each position, can be certified to the Police Chief for promotion.
 - 1) If at any point in the internal process, there is or becomes less than two internal candidates that can be certified to the Police Chief for each position, then the Commission shall open the process to candidates from outside the Department as well as the remaining candidates, if any.
 - 2) The internal promotion policy preference as stated in this subsection does not apply to the position of Police Chief, which shall be open to qualified candidates from both inside and outside the Department.
- b) Consistent with the established position description for a vacant position, specific promotional requirements will be established by the Commission prior to the beginning of the selection process.

- c) Notice of the promotional opportunity and the scheduling of promotional examinations shall be authorized by the Police Commission. Appropriate notice to Police Officers of the promotional opportunity shall be posted on the Department bulletin board by the Police Chief. The notice of the promotional opportunity shall be posted at the time the requirements are posted. That posting will be at least ten days prior to the beginning of the process. All effort will be made to adjust any internal work schedule to accommodate all qualified members who desire the opportunity to compete. If the internal work schedule interferes, the Commission will arrange to schedule assessments so that no internal candidate is disqualified due to the needs of the Department.
- d) All qualified members desiring to compete shall apply to the Commission using a written application for promotions developed by the Commission.
- e) The promotion examination shall consist of an appropriate examination by the Commission in accordance with Section 3.13(a), (b) and (c) of these By-Laws.
- f) After selection, promoted supervisory employees will serve a one year probation subject to the following terms.
 - 1) The probation period will begin on the first day served in the new promotional status.
 - 2) The employee has no expectations of continued promotional status, nor any contractual or other vested property right in the promotional position.
 - 3) If during the first year of actual service in the new position, the person appointed proves unsatisfactory or undesirable for the promotion, the Police Chief may demote the employee to the employee's former rank.
 - 4) The demoted employee is not accorded any formal hearing rights of any kind other than those that are necessary to meet constitutional requirements or those specified in Chapter 164 of the Wisconsin Statutes.

5.02

Transfer

- a) Movement of an individual Police Officer from one position to another, within the same pay scale, shall be deemed a transfer. The Police Chief may direct a transfer without Commission approval, provided the transfer does not violate any collective bargaining agreement.
- b) Transfers may be made without the consent of the personnel involved. If a Police Officer makes a written request for a transfer, the Chief shall give due consideration to the request.
- c) The Police Chief will keep the Commission informed of all transfers made, by notifying the Commission in a report at

the next regular Commission meeting. Transfers are not to be considered appointments.

5.03 Acting Chief or Supervisory Officers

- a) The Commission may appoint a subordinate officer as a temporary acting Chief in the event the Chief retires, resigns, or is temporarily unable to fulfill the Chief's duties.
- b) The Chief may appoint a Lieutenant as Acting Chief if the Chief is on vacation and unreachable by telephone or email.
- c) The Chief, only after receiving Commission approval, may appoint a subordinate officer as a temporary acting Lieutenant, , in the event that one of those supervisory officers retires, or is temporarily unable to fulfill their duties.
- d) Temporary acting appointments under this subsection shall be for a period not to exceed six months, except that the Commission in its discretion may extend the temporary acting appointment if needed..

ARTICLE 6: DISCIPLINE, SUSPENSION, REDUCTION OR DEMOTION

6.01 Suspension or Discharge of the Police Chief

- a) Investigatory Suspension. The Commission may suspend the Police Chief upon its own initiative, or pending the investigation of written charges made by a citizen that have been filed with the Commission. The suspension shall be with pay and benefits and shall be for the shortest reasonable duration within which the charges may be investigated and resolved. Suspension of the Police Chief requires a majority vote of the Commission.
- b) In the event that the Commission deems it appropriate and necessary, the Commission may discipline the Police Chief, including discipline in the form of an unpaid suspension. The Commission, in its sole discretion, shall determine the appropriate discipline to be administered.
- c) The Commission may, upon a finding of just cause, terminate the Police Chief.
- d) The Police Chief shall be notified in writing of the charges filed against her or him and shall have the hearing rights provided in Article 7 of these By-Laws, except that Section 7.04 of these By-Laws apply to the Police Chief only to the extent required by Wisconsin law.
- e) Section 62.13(5)(j) of the Wisconsin Statutes, applies Section 62.13(5) of the Wisconsin Statutes to disciplinary actions against the Police Chief when applicable and allows the Commission to suspend the Police Chief pending disposition of charges filed with the Commission.

- 6.02 Discipline, Demotion, Suspension and Termination of Subordinate Police Officers
- a) Discipline. The Police Chief may, for just cause, impose discipline on a subordinate Police Officer. The Commission may, on its own motion, impose discipline if the Commission believes discipline is warranted after a hearing on charges pursuant to Article 7.
 - b) The Commission or the Police Chief may suspend a subordinate for just cause. The Commission has the sole authority to demote or terminate a subordinate for just cause. If the Police Chief suspends a subordinate, he or she shall immediately report it in writing, with the cause, to the Commission.
 - c) The Commission shall review any disciplinary action taken or approved by the Police Chief only if the individual affected appeals the decision, or if the Commission, on its own motion, initiates review.

6.03 Who May File Charges As provided by Section 62.13(5)(b) of the Wisconsin Statutes, charges may be filed against a subordinate by the Police Chief, by a member of the Commission, by the Commission as body, or by an aggrieved person. Such charges shall be in writing and shall be filed with the Commission President. Pending disposition of charges the Commission or Police Chief may suspend the subordinate. As required by Wisconsin Statute 62.13(5)(h), suspensions pending final disposition must be suspensions with pay.

ARTICLE 7: HEARING PROCEDURE FOR COMMISSION DELIBERATIONS ON DISCIPLINE, SUSPENSION, DEMOTION OR CHARGES

7.01 Filing Charges Any person may file charges against the Police Chief or a subordinate officer. Charges shall be in writing. The Commission shall make a form available for filing charges, but charges need not be filed on the form.

- 7.02 Procedure
- a) Pursuant to Section 62.13(5) (d) of the Wisconsin Statutes, after the filing of charges in any case, a copy of the charges shall be served on the Police Officer charged.
 - b) Notice of hearing. The Commission shall set a date for hearing not less than ten days nor more than thirty days following the date of service of charges.
 - c) Preliminary Meeting. When charges against a Police Officer or Police Chief are filed with the Commission, if the date of filing is more than ten days prior to the next regular meeting, the Commission President shall call a special meeting of the Commission. That meeting may, in the President's discretion, be conducted as an open meeting or a closed session,

provided that closed sessions are conducted in accord with Section 19.85 of the Wisconsin Statutes. Should the filing be within ten days of the next regular meeting, it shall not be necessary to call a special meeting, but the charges shall be considered a part of the next regular meeting agenda.

- 1) Notice of regular or special meetings shall be given in the normal and customary manner, but not less than twenty-four hours prior to the meeting. In addition, notice shall be given to the complainant and the accused. A copy of the charges shall be furnished to the accused along with the notice as well as an explanation that delivery does not constitute service. If the meeting is set for closed session, the notice shall advise the accused that he or she has the right to demand that the meeting be conducted in open session.
 - 2) At the preliminary meeting, the Commission, to avoid defamation of the accused, shall read and examine the charges to assure that they are sufficiently specific, and related to police duties, and that if proven they are sufficient to warrant imposition of discipline.
 - 3) The Commission shall also determine whether the accused should be suspended with pay pending the hearing on the charges.
 - 4) The accused and the complainant and/or their attorneys may be heard. However, the preliminary meeting shall not hear or evaluate evidence. The Commission's legal counsel shall, upon request of the Commission President, attend such meeting and advise the Commission as to the proceedings.
- d) The hearing on the charges shall be public. Both the accused and the complainant may be represented by legal counsel. Any party may compel the attendance of witnesses by subpoenas that shall be issued by the Commission President at the request of a party. The subpoenas shall be served under Chapter 885 of the Wisconsin Statutes.
- e) Selection and Appointment of Legal Counsel: In the event of a pending officer discipline case, the Police Commission shall appoint counsel representing both the Commission and the Chief of Police (in cases where the Chief is filing charges). In the event it is not the Chief of Police filing charges with the Police Commission, the Commission shall consult with the City Council prior to appointment(s) of Counsel to determine whether or not City financial support of legal counsel for the party requesting charges is justified. The City shall be responsible for the costs associated with the

appointment(s) of said counsel appointment by the Police Commission.

- f) *In accordance with Wisconsin Supreme Court rulings, the Commission may, pursuant to section 62.13(5)(g), appoint a hearing examiner to conduct initial evidentiary hearings, and to make reports and recommendations to the Commission, provided that the ultimate decision making authority remains with the commission.*

”

7.03

Action

- a) If the charges are found to be sufficient, as to form and nature, the Commission shall so find and proceed to disposing of the charges pursuant to Section 7.04 of these By-Laws.
- b) Should the charges be found at the preliminary meeting to be insufficient as to form and nature, the charges shall be dismissed. The decision dismissing charges must be made in open session if the preliminary meeting was closed. If it appears that the defects in the charges may be cured by providing additional detail or facts, the Commission may grant the complainant up to thirty days to supplement the complaint.

7.04

Standard

- a) No subordinate officer may be suspended, reduced in rank, or removed by the Commission, based on charges filed by the Commission, a member of the Commission, the Police Chief or an aggrieved person unless the Commission determines that there is just cause to sustain the charges, as described in this subsection.
- b) In making its determination, the Commission shall apply the following standards, to the extent applicable, as required by Section 62.13(5)(em) of the Wisconsin Statutes:
- 1) Whether the subordinate could reasonably be expected to have had knowledge of the probable consequences of the alleged conduct.
 - 2) Whether the rule or order that the subordinate allegedly violated is reasonable.
 - 3) Whether the Police Chief, before filing the charge against the subordinate, made a reasonable effort to discover whether the subordinate did in fact violate a rule or order.
 - 4) Whether the effort described under subsection (c) was fair and objective.
 - 5) Whether the Police Chief discovered substantial evidence that the subordinate violated the rule or order as described in the charges filed against the subordinate.

- 6) Whether the Police Chief is applying the rule or order fairly and without discrimination against the subordinate.
- 7) Whether the proposed discipline reasonably relates to the seriousness of the alleged violation and to the subordinate's record of service with the Department.
- c) _____ Provisions for suspension, demotion or removal of the Police Chief by the commission are identical to those listed in section 7.04(a), where applicable to Police Chiefs.

7.05

Decision of the Commission

- b) The Commission shall, within three days after hearing, by a majority vote of its members in open or closed meeting, determine whether the charges are sustained by a preponderance of the evidence. The Commission shall issue its decision in conformity with Section 62.13(5) (e) of the Wisconsin Statutes, which provides that if the Commission finds the charges are not sustained, the accused, if suspended pending the hearing, shall be immediately reinstated and all lost pay restored. If charges against an officer or Chief are not sustained, the employment record of said officer or Chief shall be cleared of all references to those charges.
- c) Should the Commission determine that the charges are sustained it shall at once determine whether the good of the Department requires disciplinary action by permanent discharge of the accused, by suspension without pay for a period not exceeding sixty days, by a reduction in rank, or no disciplinary action whatsoever.
- d) All Commission findings and determinations made after a hearing on charges, and all disciplinary orders based on the findings and determinations shall be filed with the Commission Secretary within three days of the Commission's action under subsection 7.05(c) of these By-Laws.
- e) The Secretary shall keep a record of each hearing, name and address of the accused and complainant, if there be one, a brief description of the charges involved, and the final disposition of the case. The Secretary shall also show on the docket for each case all other important data and dates concerning the case, such as date of filing notice of appeal, date of sending out notices and to whom sent, date of posting of notice of hearing, and dates of hearings, continuances and final determinations and all exhibits, documents involved in hearing, including a transcript of the proceedings. All documents shall be filed with the Secretary. The Secretary may use the assistance of the Commission Legal Counsel or professional court reporters performing these duties.

- f)
- 7.06 Appeal
- 7.07 a) Any person suspended or terminated after hearing may appeal from the order to the Circuit Court by serving written notice with the Commission Secretary within ten days after the order is filed, stating the grounds upon which the appeal is based. Within five days thereafter the Commission Secretary shall certify to the Clerk of Circuit Court the records of the proceedings, including all documents, testimony and minutes. After the taking of the appeal, the proceedings shall be governed by the provisions of Section 62.13 (5) (i) of the Wisconsin Statutes.
- 7.08 b) Should a collective bargaining agreement include provisions for mediation and arbitration pursuant to state law, then members of the collective bargaining unit may choose either the provisions in section 7.06(a) or the mediation and arbitration provisions as a route for appeal.

ARTICLE 8: LAYOFFS AND REEMPLOYMENT

- 8.01 Layoffs When it becomes necessary, because of need for economy, lack of work or funds, or for other reason to reduce the number of subordinate Police Officers, the emergency, special temporary, part-time, or provisional subordinate Police Officers, if any, shall be laid off first. Thereafter subordinate Police Officers shall be laid off in order of the shortest length of service in the Department. Those with identical seniority shall be laid off in the order of least ability to serve as determined by the Commission's review and consideration of available evaluations or other body of work.
- a) If evaluations or other body of work are determined by a majority vote of the commission to be insufficient in quantity and/or quality, the commission may, by majority vote, choose other such means to consider for purposes of this section.
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- 8.02 Reemployment The name of a subordinate Police Officer laid off for any cause set forth in Section 8.01 of these By-Laws shall be retained on an eligible reemployment list for a period of two years after the date of the layoff. If any vacancies occur, or if the number of subordinate Police Officers is increased in the Department, the vacancies or new positions shall be filled by persons on the reemployment list in the inverse order of layoff.
- a) Upon reemployment, the Commission reserves the right to require any or all of the following, if the period of layoff is more than 6 months; personality profile; physical fitness assessment; medical

assessment; drug testing; and background check for the period of the layoff.

ARTICLE 9: COMMISSION ADMINISTRATION

- 9.01 Meetings The Commission shall hold regular quarterly meetings appropriately noticed to the public in the City Hall or any other designated place at a regular time and day selected by the Commission. Generally, meetings will be held in February, May, August and November.
- 9.02 Officers Annually, at the May meeting, the Commission shall elect from among its members a President, Vice-President, and Secretary. Should a Commission officer resign from the Commission and/or the elected officer role, that vacancy shall be filled, by election, at the next regularly scheduled meeting.
- 9.03 Special Meetings All special meetings of the Commission shall be held at the place where the regular meetings are held, if possible. Special meetings may be called at any time by the President, or by any two members, by causing a written or oral notice of the special meeting to be personally delivered to each Commissioner. If a Commissioner cannot be found, notice may be delivered by leaving a written copy of the notice at the Commissioner's usual place of abode in the presence of a member of their family of suitable age and discretion.
- 9.04 Quorum Three Commission members constitute a quorum in order to transact business. All Commission decisions shall be made by a majority vote of members present.
- 9.05 Order of Business The Commission's regular order of business shall be:
- a) Roll Call.
 - b) Consideration of the preceding meeting minutes.
 - c) Consideration of communications from the Police Chief.
 - d) Unfinished and miscellaneous business.
 - e) New business.
 - f) Citizen appearances.
- 9.06 Commission President: Duties The commission President shall preside over all Commission meetings and hearings. She or he shall receive written charges filed against the Police Chief or subordinate Police Officers, and when necessary, the Commission President may issue subpoenas to compel the attendance of witnesses in accordance with Chapter 885 of the Wisconsin Statutes. In the event of the Commission President's absence or disability, the Vice President shall assume the duties of the President.
- 9.07 Commission Secretary: Duties

- a) The Secretary shall receive appeals from action of the Police Chief, send out notices required by law, ordinance, these By-Laws, or as requested by the Commission, make official publications as may be necessary, attend all Commission meetings and hearings, provide for the taking and recording of testimony and other evidence received at hearings, preserve the evidence in a permanent record, and certify the record to the Circuit Court when required by law.
- b) The Secretary shall keep a minute book, showing all important facts pertaining to each meeting and hearing. The minutes of each meeting and hearing shall be signed by the Secretary and approved by the Commission. A copy of the unapproved minutes shall be provided each Commission member and the Police Chief as soon after each meeting as is possible.
- c) After the minutes are approved by the Commission, one copy shall also be filled with the City Administrator.
- d) The Secretary at the direction of the Commission President may conduct correspondence on behalf of the Commission. Any Commission member designated by the Commission President may also conduct correspondence on the Commission's behalf.

9.08

Administrative Details The Commission shall adopt procedures further defining the following administrative details in proceeding toward disposition of charges filed with the Commission:

- a) Set a hearing date within the time frame provided by the statute, i.e., not less than ten days nor more than thirty days after service of the charges on the accused;
- b) Establish procedures for causing service of charges (by way of the Commission Attorney or otherwise) and notice of hearing to be served in the same manner that a summons is served;
- c) Direct the obtaining of court reporter for the hearing;
- d) Establish procedures for issuance of subpoenas by the President and policy as to payment of witness fees;
- e) Direct the development of the format of the public hearing and direct the furnishing of relevant information to the parties and their attorneys, if any;
- f) Direct the giving of any required notice of public hearing;
- g) In the event the parties reach agreement prior to scheduled hearing and have expressed an interest in canceling the hearing, the cancellation requires the concurrence of the Commission President or her or his designee.

9.09

Public Hearing A public hearing may be held at regular or special meetings of the Commission at such times shall be determined by the Commission. All hearings shall be open to the public, except that

the Commission may take final action in closed session. Hearing procedures are as follows:

- a) The accused and the complainant may be represented by counsel;
- b) All testimony of witnesses shall be under oath in the form and manner provided by Chapter 887 of the Wisconsin Statutes;
- c) The hearing order shall be as follows:
 - 1) Reading of the charges by the Secretary.
 - 2) Opening statements by the parties, at the Commission's discretion.
 - 3) Testimony and introduction of evidence by the complainant to substantiate the charges with right of cross examination by the accused.
 - 4) Testimony and introduction of evidence by the accused with right of cross examination by the complainant.
 - 5) Complainant's arguments.
 - 6) Accused's arguments.

9.10

Legal Counsel

- a) The City Attorney shall serve as prosecuting counsel for all charges filed by the Police Chief, the Commission, the City Council, City President or City Administrator. In cases of charges filed by citizens, the City Attorney shall represent the interests of the Police Chief. The City Council may authorize the use of an appropriately licensed attorney other than the duly appointed City Attorney as prosecutor for the charges presented.
- b) The Commission shall retain independent legal counsel to advise the Commission on its hearing procedures, the merits of alleged violations of Department rules and its determinations, subject to the approval of the City Council and the availability of funds from the City.
- c) Complainant citizens shall prosecute their charges before the Commission either by themselves or by counsel they retain at their own expense.

ARTICLE 10:

CONSTRUCTION OF BY-LAWS

10.01

Federal or State Law Should any Federal or State law or regulations, or the final decision of any court of competent jurisdiction affect any provision of these By-Laws, the provision or provisions affected shall be deemed to be amended to conform to the law, regulation or decision. These By-Laws shall be construed to be consistent with the requirements of Federal and State law.

- 10.02 Repeal of Rules These rules shall not be repealed, amended or modified except by majority action of the Commission at a Commission meeting.
- 10.03 Severability In the event any portion of these By-Laws is found to be invalid, the remaining portion shall stand.