



VILLAGE OF MOUNT HOREB

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POLICE COMMISSION AGENDA

Thursday, November 2, 2023 at 5:30 PM

Mount Horeb Police Department

400 S Blue Mounds St

Mt Horeb, WI

- 1) Call to order
 - a. Consideration of April 10, 2023 Meeting Minutes
- 2) Agenda
 - a. Introduce new members
 - b. Discuss roles and responsibilities of the Police Commission
 - c. Designate officers of the commission - Chair and Secretary
- 3) Future agenda items
 - a. Police Officer Candidate Interviews - November 16 at 5:30pm
- 4) Meeting adjournment.

UPON REASONABLE NOTICE, EFFORTS WILL BE MADE TO ACCOMMODATE THE NEEDS OF DISABLED INDIVIDUALS THROUGH APPROPRIATE AIDS AND SERVICES. FOR INFORMATION OR TO REQUEST THIS SERVICE, CONTACT ALYSSA GAFFNEY, CLERK, AT 138 E MAIN STREET, MOUNT HOREB, WI (608) 437-9404.

Village of Mount Horeb
POLICE COMMISSION MEETING
04-1-2023

The Police Commission of the Village of Mount Horeb met at 5:30pm on the above date. The meeting took place at the Mount Horeb Police Department. Agenda notes as follows:

1. Call to order - at 5:31pm

In attendance were **David Hoffman, Mike McNall, Bill Thousand, Chief Doug Vierck, Brenda Fritz and Andrea Murleau, HR Director for the Village of Mt Horeb.**

- a. Motion to approve meeting minutes of March 3, 2023 made by Mike McNall and second by Bill Thousand.

2. Motion made by Mike McNall and second by Brenda Fritz to go into close session at 5:32pm.

Adjourn to closed session as allowed by WI State Statute 19.85(1)(c) to consider employment, promotion, compensation, or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility. The Police Commission will interview police officer and sergeant Candidates.

3. Motion made at 9:46 pm to come out of closed session by Mike McNall and second by Bill Thousand. No future agendas discussed.

4. Meeting adjourned at 9:48pm motion made by Mike McNall and second by Brenda Fritz.

Respectfully submitted by: Brenda Fritz

BYLAWS AND
RULES OF PROCEDURE
FOR THE
VILLAGE OF MOUNT HOREB POLICE COMMISSION



Dated January 17, 2012
Revised March 17, 2014

**BYLAWS AND RULES OF PROCEDURE
FOR THE VILLAGE OF MOUNT HOREB POLICE COMMISSION**

ARTICLE I: SCOPE OF AUTHORITY/JURISDICTION

- 1.1 DEFINITIONS: For the purposes of these Bylaws and Rules of Procedure, the following terms shall have the following meaning:
- (a) Chief means the Chief of Police for the Mount Horeb Police Department.
 - (b) Commission means the Mount Horeb Police Commission.
 - (c) General Counsel refers to the attorney retained by the Commission to serve as its legal advisor.
 - (d) Rules mean the Bylaws and Rules of Procedure for the Mount Horeb Police Commission.
 - (e) Subordinate includes all the sworn officers in the Mount Horeb Police Department and excludes the Chief, the clerical staff and all members of the Commission.
 - (f) Board means the Board of Trustees of the Village of Mount Horeb.
- 1.2 JURISDICTION: The Commission shall have the authority granted to it by §§61.65, 62.13(2) - (5m), 66.0301 and Chapter 164 Stats. These powers include:
- (a) Exercise the power to suspend the Chief for cause. The Commission also recommends to the Village Board the hiring and termination of the Chief of Police.
 - (b) Review and approve Subordinate appointments by the Chief, and assure that such hiring and appointments are made in accordance with the law, including Wis. Stat. §62.13(4).
 - (c) Adopt rules establishing the physical and educational qualifications and experience required for Subordinate positions. Provide for competitive examination of applicants for the Chief and Subordinate positions and, as needed, certify lists of persons who are eligible for appointment to Subordinate positions.
 - (d) Adopt rules of procedure for the selection of the Chief and Subordinates.
 - (e) Exercise disciplinary authority with respect to the Chief and subordinates as outlined in §62.13(5), Stats.
 - (f) Exercise such other powers as are conferred on the Commission by state law and by the Village Board.

(g) Such other powers and duties as are prescribed by law.

1.3 SCOPE OF AUTHORITY: These Rules shall be applicable to the Commission, Chief and all Subordinates. No provision of these rules shall be applied in a manner contrary to any provision of §62.13, Stats., or otherwise contrary to law.

ARTICLE II: COMMISSION ADMINISTRATION

2.1 GENERAL REQUIREMENTS: The Commission shall follow those procedures and requirements for the conduct of its meetings, for the administration of its affairs, and for the discharge of its duties as provided by law.

2.2 MEETINGS: Meetings shall be held **at least** quarterly at times, dates and places to be set by the Chair and identified in the posted meeting notice.

2.3 SPECIAL MEETINGS: Special meetings of the Commission may be called by the Chair or any two (2) Commissioners upon not less than twenty-four hours advance written notice to each member of the Commission and to the public.

2.4 CONDUCT OF THE MEETINGS:

(a) Meetings shall be noticed and conducted in compliance with Chapter 19, Stats.

(b) The presiding officer of the meeting shall preserve order and decorum, decide all questions of order and conduct the meetings in accordance with the latest version of Robert's Rules of Order unless otherwise provided by Statute or these Rules.

(c) Three members of the Commission shall constitute a quorum to transact business. A simple majority is required to vote in the affirmative of the motion for passage.

2.5 OFFICERS: The Officers of the Commission shall be a Chair and a Secretary. At the first annual meeting, the Commission shall elect one of its members to act as a Chair and one to act as a Secretary, all for a term of one year or until a successor is duly elected. There shall be no limitation on the number of terms any Officer may serve, but each term shall be one year commencing at the first annual meeting. Should an officer's position become vacant, that position shall be filled by the Commission at its next regularly scheduled meeting.

2.6 RECORDS: The Secretary shall record all official actions. In the absence of Secretary, the Chair shall appoint an Acting Secretary. The Secretary shall be custodian of Commission records pursuant to Chapter 19, Stats. The Records of the Commission shall be stored at the Village of Mount Horeb Village Hall.

2.7 ORDER OF BUSINESS:

- (a) The regular order of business for Commission meetings shall be as follows:
 - (i) Call to order
 - (ii) Roll call and confirm compliance with Wisconsin's Open Meetings law.
 - (iii) Public appearances
 - (iv) Approval of Minutes
 - (v) Old Business
 - (vi) New Business
 - (vii) Commissioner, Chief Reports
 - (viii) Items for future agendas
 - (ix) Adjournment
 - (b) The Commission may change the order of business upon proper motion and sufficient vote.
 - (c) Any Commission members may have an issue placed on the agenda by n request which is served upon the Chair or Chief by noon on the Friday prior to the Commission meeting.
- 2.8 WAIVER OF RULES: The Commission may waive any specific provision of these Rules relating to hiring or promotions upon the request of the Chief and upon sufficient Commission vote.
- 2.9 AMENDMENT OF RULES AND REGULATIONS: These Bylaws and Rules may be amended, modified, waived or repealed in whole or in part at any time by Commission vote.
- 2.10 DUTIES OF CHAIR: The duties of the Chair shall be to preserve order and decorum, prepare or approve the agenda, decide all questions of order, preside over all meetings of the Commission, to preside over hearings conducted by the Commission, to receive written charges filed against the Chief or Subordinates, and to issue subpoenas to compel the attendance of witnesses.
- 2.11 DUTIES OF THE SECRETARY:
- (a) The Secretary or designee shall conduct Commission correspondence; receive appeals from action of the Chief; send out notices required by law, ordinance, these Rules, or as requested by the Commission; make such official publications as may be necessary; attend all meetings and hearings of the Commission's proceedings; provide for the taking and recording of testimony and other evidence received at hearings; preserve such evidence in a permanent record; and certify such record to the Circuit Court when required by law.

- (b) The Secretary shall keep minutes of each meeting and hearing. The minutes of each minute and hearing shall be signed by the Secretary and approved by the Commission. A copy of the unapproved minutes shall be provided to each member and the Chief as soon after each meeting as is possible.
- (c) After the minutes are approved by the Commission, one copy shall be filed with the Village Clerk.

ARTICLE III: GENERAL SELECTION CRITERIA

3.1 **MINIMUM QUALIFICATIONS FOR RECRUITMENT:** No person may be appointed as Chief or as a Subordinate, either on a probationary or permanent basis, unless that individual meets the following minimum recruitment qualifications.

- (a) Is a United States citizen.
- (b) Is at least 21 years of age at the time of appointment.
- (c) Is a high school graduate or the equivalent. To hold an “equivalent degree” an applicant shall possess a diploma issued by an out-of-state high school accredited by that State’s appropriate agency or pass the General Education Development test or any other test established by the Wisconsin Department of Public Instruction as establishing high school graduation equivalency.
- (d) Possesses at least sixty (60) semester credits or an associate degree from a regionally accredited college, university, or vocational school.
- (e) Possesses a valid Wisconsin driver’s license or other valid operator’s permit recognized by the Wisconsin Department of Transportation.
- (f) Is certified or certifiable as a Law Enforcement Officer by the State of Wisconsin Training and Standards Board.
- (g) Does not have a felony conviction under the laws of the United States or any state or other jurisdiction thereof, unless the applicant has been granted an absolute and unconditional pardon therefore, or convictions for a misdemeanor crime related to domestic abuse which would limit the person’s ability to obtain, possess, or use a firearm.
- (h) Is in good physical, emotional, and mental health, thereby allowing the applicant to perform those duties and functions essential to the position and not posing a direct threat to the health and safety of the applicant or other individuals in the workplace or at the scene of a response. Each applicant shall complete a personal medical history for purposes of the

recruitment process. Unless the Commission decides otherwise, all appointments shall be conditioned on the completion of a medical examination, psychological examination, and pre-employment drug screening. If these examinations produce evidence of a condition that may impair or prevent the candidate's performance of job-related tasks and responsibilities, the appointment offer may be withdrawn. The Commission shall comply with state and federal disability laws. The Chief may waive the medical examination requirement if the applicant submits a report of such examination(s) that has been completed within the prior two (2) years.

- (i) Is of good character. All background investigations and checks performed to assess an applicant's fitness to perform the duties of the position shall be kept in strict confidence. This background investigation shall include a search with respect to the applicant's fingerprint records, police and credit checks, investigations involving the applicant's educators, neighbors, and employers.
- (j) Satisfactorily completes an oral interview. "Satisfactory completion" shall be determined from the contents of a written rating by the interviewers expressing an opinion concerning the applicant's qualifications, appearance, personality, and ability to communicate as observed and assessed during the interview.

3.2 WAIVER: To the extent allowed by the law, the Commission may forego or modify any of the qualifications set forth in Section 3.1 of the Rules whenever provided the Commission determines such waiver is in the best interest of the Mount Horeb Police Department.

ARTICLE IV: RECRUITMENT APPLICATION PROCESS

4.1 SCOPE: This Article applies to the recruitment by the Commission of (i) all candidates for the chief position when vacant, (ii) all candidates for entry level Subordinate positions, and (iii) both external and internal candidates for any non-entry level Subordinate position if the commission elects not to fill any such vacancy by internal promotion only.

4.2 APPLICATION: The the Chair or designee shall authorize the issuance of forms for making application for appointments. Notice of the time and place of the availability of such application forms shall follow the Village hiring policy (policy 200-1).

4.3 MISREPRESENTATION: Misrepresentation of any material fact contained in the application shall be sufficient cause for excluding the applicant from the examination, for removing the applicant's name from the eligibility list, or for the applicant's discharge, at any time, from the service.

- 4.4 INCOMPLETE APPLICATION: An incomplete application may be cause for rejection or may be returned to the applicant for correction.
- 4.5 INSUFFICIENT QUALIFICATIONS: Whenever an application reveals the applicant cannot meet the eligibility requirements or qualifications of the position for which the applicant has applied, such application shall be rejected by the Commission or its designee, without further explanation.
- 4.6 CHANGES IN MEDICAL INFORMATION: An applicant previously rejected on the basis of health reasons shall not be allowed to apply for the same or equivalent position until a certificate from a medical examiner shows that the cause for the previous rejection has been corrected or that some reasonable accommodation of the condition has become available.
- 4.7 TERMINATED SUBORDINATES: Any person dismissed from a position with the Mount Horeb Police Department for just cause or for a reason other than for budgetary purposes shall thereafter be ineligible to make application for appointment to any position with the Mount Horeb Police Department.
- 4.8 REENTRY APPLICATIONS: Any former subordinate of the Mount Horeb Police Department who desires to reenter and again serve as a Subordinate shall undergo such examination as determined by the Commission, subject to the provisions of Section 4.7 of the Rules.

ARTICLE V: EXAMINATION PROCESS

- 5.1 EXAMINATION REQUIRED: No person shall be eligible for appointment as the Chief or as a Subordinate unless that person has been examined in accordance with the requirements of this Article. The Commission shall hold or authorize the holding of examinations for appointments, and shall fix the date, place, and conditions whenever necessary to meet the staffing needs of the Village.
- 5.2 SUPERVISION OF EXAMINATIONS: All examinations shall be conducted under the Commission's supervision. The Commission may designate any governmental entity, person, or persons to conduct or assist in conducting the examinations.
- 5.3 POSITION DESCRIPTION:
 - (a) The Chief shall establish the duties for every Subordinate position with the Mount Horeb Police Department and shall reduce the same to a position description prepared in a form generally accepted within the State of Wisconsin. The description shall state the position title; the supervisor of the position; the position's principal duties; the skills, knowledge, and essential abilities necessary to hold the position; and the qualifications for the position. All position descriptions shall be reviewed regularly and shall

be revised as needed to reflect changes in the position's duties and qualifications.

- (b) Every Subordinate position description shall be approved by the Commission.
- (c) The Commission, or its designee, shall establish the duties for the position of the Chief and shall reduce the same to a position description prepared in a format in conformity with generally accepted practices within the police community, subject to review and approved by the Village Board. The description shall state the position's principal duties; the skills, knowledge, and essential abilities necessary to hold the position; and the qualifications for the position. This position description shall be reviewed regularly and shall be revised as needed to reflect changes in the position's duties and qualifications, subject to approval by the Village Board.

5.4 ELIGIBILITY FOR EXAMINATION: Examinations shall be open to only those persons who are eligible for appointment and who possess the requisite qualifications in conformity with the provisions of these Rules.

5.5 SUBSTANCE OF EXAMINATION:

- (a) GENERAL: Subject to the provisions of Section 5.5(c) of the Rules, the examination shall be a multi-stage assessment process that fairly tests the capacity of the applicants to successfully perform the position that they seek. Each original entrance examination shall consist of the following stages to be administered in the order as listed in Section 5.5(b). Any applicant who fails to pass any examination shall be removed from the process at that point and denied the opportunity to participate in further examinations.

(b) ORDER OF EXAMINATION:

- (i) JOB APPLICATION REVIEW: The applicant's job application will be thoroughly reviewed by the Chief of Police to ensure all minimum qualifications are met. Additionally, the Chief of Police shall select only the most qualified candidates to proceed with the selection process.

- (ii) ORAL EXAMINATION: The oral examination shall be used to evaluate the applicant's demeanor, personality, and ability and skills insofar as they relate to the duties and responsibilities of the position. All oral questions asked of each applicant shall be the same for all applicants for that position. The oral examination shall consist of two parts: 1) An interview with the Chief of Police and for those who pass that interview 2) An interview with the Commission. The oral examination shall be conducted by a quorum of members

of the Commission. The oral examination shall be used to evaluate the applicant's demeanor, personality, qualifications, and skills insofar as they relate to the duties and responsibilities of the position. All oral questions asked of each applicant for a particular position shall be the same for all applicants for that position. The Commission is responsible for creating a list of questions to ask each applicant. Questions must not violate state or federal laws and at least some questions are encouraged to be "situational" scenario questions that deal with the applicant's ethics.

- (iii) CONDITIONAL JOB OFFER TO THE SELECTED APPLICANT(S).

- (iv) CHARACTER INVESTIGATION: The character investigation shall be used to determine whether the applicant possesses any disqualifying criminal record or specific disqualifying personal history, all of which shall relate specifically to the qualifications of the position involved. The character investigation shall not be assigned a score to be used in rating the applicant. Evidence of unsatisfactorily character or activities shall be grounds for disqualification.

- (v)

- (vi) MEDICAL/PSYHCOLOGICAL EXAMINATION: Every person to whom a conditional offer of appointment has been made under the provisions of either Section 6.1 or Section 6.2 of the Rules shall be examined by a licensed physician chosen by the Commission. The examination shall be solely for the purpose of verifying that the candidate is capable of meeting the essential job functions, and to address those mental, physical, and health requirements which relate to the occupational qualifications for the position involved, or the nature of any reasonable accommodation required to enable the applicant to meet these requirements.

- (vii) PRE-EMPLOYMENT DRUG SCREEN: Prior to employment with the police department all applicants must successfully pass a pre-employment drug screen. The test shall be administered per Village policy 300-1 Drug Free Workplace.

- (viii) OTHER EXAMINATIONS: The Commission may require other examinations as deemed necessary provided the Commission determines which other examinations are to be required prior to the commencement of recruitment and thereafter applies them equally to all applicants for the position.

5.6 EXAMINATION PROTOCOL: All examinations shall comply with the following protocol.

- (a) Each applicant taking an examination shall follow the instructions given to him or her by the person conducting the examination.
- (b) Information relative to an applicant's scores shall be strictly confidential and shall not be divulged, except insofar as such scores are necessary to determine the applicant's eligibility for additional testing or are necessary as deemed by the Commission for a purpose related to the administration of the selection process.
- (c) No applicant, Commission member, or any member of the Mount Horeb Police Department, shall give assistance to any applicant in any manner during the examination. A violation of this provision shall subject the applicant involved to exclusion from the examination. Any Commission member or member of the Mount Horeb Police Department who violates this provision shall be subject to appropriate sanctions.
- (d) No applicant shall be given a second or special competitive test in connection with any examination 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 designees are responsible. The nature of the error or mistake shall be set forth in the minutes. The Commission may, in the interests of fairness, void the examination and retest all the applicants.
- (e) Examination papers shall be retained by the Commission or its designated representative for seven (7) years after the expiration of the eligibility list for which the examination was held.
- (f) If requested, reasonable accommodation shall be made for an applicant during the selection process.

ARTICLE VI: APPOINTMENTS

6.1 CHIEF:

- (a) For the purpose of selecting a Chief, the Commission shall establish an eligibility list after the completion of the examination process. The applicant judged best qualified by the Commission for the appointment shall be ranked first on the list and the others shall be listed in the order of merit based on the results of the selection process. The eligibility list shall remain valid for a period of one year after initially created unless otherwise extended or sooner discontinued by the Commission.

- (b) The Village Board shall hire the Chief of Police and the Commission shall make its recommendation to the Board based on the order of the candidates as they appear on the eligibility list.
- (c) The Commission's recommendation to the Board shall be conditional, subject to a medical examination conducted by a medical provider chosen by the Commission. If the medical examination produces evidence of a condition that may impair or prevent the candidate's performance of job-related tasks and responsibilities, the Commission may withdraw its offer, unless reasonable accommodations can be made to enable the applicant to meet the occupational qualifications of the Chief position. If the candidate to whom the offer was made is medically disqualified or otherwise withdraws or becomes unavailable, the Commission shall select the next best qualified candidate appearing on the eligibility list.
- (d) The Board shall appoint the Chief, who shall hold the office during good behavior, subject to suspension or removal by the Board upon recommendation of the Commission.

6.2 SUBORDINATES:

- (a) This Section governs the filling of a vacancy in any Subordinate position subject to the provisions of Section 6.3 of the Rules.
- (b) Whenever a Subordinate position needs to be filled, the Commission shall certify to the Chief the names of the applicants remaining on the existing eligibility list for that particular position.
- (c) Any applicant certified to the Chief shall be deemed approved by the Commission for appointment, provided the applicant is able to satisfy the medical examination, pre-employment drug screen, and psychological exam.
- (d) An eligibility list shall be valid for a period of one year unless by an affirmative vote of a majority of the members of the Commission it is determined the eligibility list should remain in effect for a period either longer or shorter than the one-year period. The eligibility list shall be kept with the Chair, and Secretary of the Commission, and the Chief.
- (e) The Chief may appoint Subordinates only from the eligibility list certified by the Commission.

6.3 PROMOTIONS WITHIN DEPARTMENT:

- (a) **POLICY:** It is the policy of the Commission to fill the vacancies in subordinate positions by internal promotion whenever the Commission and the Chief determine it is in the best interest of the Mount Horeb Police Department.

- (b) **CANDIDATE POOL:** Prior to the commencement of the selection process, the Commission shall determine whether the vacant position shall be advertised to qualified internal candidates only or whether it will be advertised to qualified internal and external candidates. If an internal promotion process is undertaken and at any point there are not at least two candidates from within the Department who can be certified to the Chief for promotion, the Commission may open the process to candidates from outside the Department and include the remaining certifiable internal candidate.
- (c) **PROCESS OF PROMOTIONAL OPPORTUNITIES**
 - (i) Consistent with the established position description for a vacant position, the Commission shall establish specific promotional requirements prior to the commencement of the selection process.
 - (ii) The Commission shall authorize notice of the promotional opportunity and the scheduling of promotional examinations. A notice to police personnel of the promotional opportunity shall be posted by the Chief on a bulletin Board located in the police station. The notice of the promotional opportunity shall include the position involved, a description of the selection process, a copy of the job description, and an application for promotion form if available. The posting shall be at least ten (10) days prior to the beginning of the selection process.
 - (iii) All qualified candidates desiring to compete for a promotional position shall submit their application for promotion directly to the Chief. After the time for submission of applications has elapsed, the Chief shall provide a copy of all applications received by him or her to the Commission.
 - (iv) Sections 4.3, 4.4, 4.5, and 4.6 shall apply to the application process for internal promotions under this Section unless otherwise determined by a majority vote of the Commission to be inappropriate.
- (d) **MINIMUM REQUIREMENTS:** The minimum requirements that an internal candidate must meet to be considered for promotion shall include:
 - (i) Non-probationary in current rank, unless such requirement is otherwise waived by the Commission.
 - (ii) Satisfactory departmental evaluations at current rank.
- (e) **EXAMINATION PROCEDURE:** The examination procedure shall include:
 - (i) Oral interview with the Chief of Police.

- (ii) Oral interview with the Police Commission. The Commission will certify a list of all applicants eligible for promotion.
- (iii) Thorough background investigation.
- (iv) Conditional offer of employment (for the new position).
- (v) Pre-promotion drug screen.
- (vi) The Chief of Police selects the person to be promoted from the Commission's certified list.
- (vii) OTHER EXAMINATIONS: The Commission may require other examinations as deemed necessary provided the Commission determines which other examinations are to be required prior to the commencement of recruitment and thereafter applies them equally to all applicants for the position

(f) PROCESS TO EVALUATE PROMOTIONAL POTENTIAL:

The Chief shall evaluate the promotional potential of each candidate using the following criteria.

- (i) A review of the candidate's work record in the candidate's current position, including the candidate's efficiency, experience, training, attendance, commendations, and disciplinary actions, and
- (ii) An evaluation of the candidate's ability to perform the duties of the new position, including any limitations or special skills that would be applicable to the new position.

(g) ORAL EXAMINATION BY THE COMMISSION:

- (i) The oral examination shall be conducted by a quorum of members of the Commission. The oral examination shall be used to evaluate the applicant's demeanor, personality, qualifications, and skills insofar as they relate to the duties and responsibilities of the position. All oral questions asked of each applicant for a particular position shall be the same for all applicants for that position. The Commission is responsible for creating a list of questions to ask each applicant. Questions must not violate state or federal laws and at least some questions are encouraged to be "situational" scenario questions that deal with the applicant's ethics.

(h) PROMOTIONAL ELIGIBILITY LIST:

- (i) Based on the results of the examination process set forth in this Section, the Commission shall create a list of internal candidates who are eligible for promotion.
- (ii) The Chief shall appoint only candidates certified to him or her by

the Commission to fill existing vacant promotional positions. Any applicant certified to the Chief shall be deemed approved by the Commission for appointment.

6.4 PROBATIONARY APPOINTMENTS:

- (a) All original appointments of Subordinates shall be made on a probationary basis for twelve (12) months from the date of appointment, unless otherwise extended as permitted under this Section or unless prohibited under any applicable collective bargaining agreement. Probationary employees:
 - (i) Have no expectation of continued employment, nor any contractual or other vested property right in employment;
 - (ii) May be terminated at any time for any reason in the sole discretion of the Chief who shall report such action to the Commission Chair;
 - (iii) Are not entitled to any showing of cause for termination.
 - (iv) Are not accorded any formal hearing rights of any kind other than required to meet constitutional requirements or as required by Chapter 164 of the Wisconsin Statutes.
- (b) The Commission in its discretion may extend the probationary period for a period up to an additional six (6) months if requested by the Chief. The Commission shall state in writing its reasons for such extension.

ARTICLE VII: DISCIPLINE AND COMPLAINTS

7.1 DISCIPLINE OF CHIEF:

- (a) **GENERALLY:** The Commission may discipline the Chief including suspension, reduction-in-rank, or discharge pursuant to §62.13(5), Stats.
- (b) **SUSPENSION PENDING CHARGES:** The Commission may suspend the Chief upon its own initiative or pending the investigation of written charges under §562.13(5), Stats. 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.

7.2 DISCIPLINE OF SUBORDINATES:

- (a) A Subordinate may be discharged, reduced-in-rank, or suspended only as provided by §62.13(5), Stats. A Subordinate may otherwise be disciplined consistent with the terms of any applicable labor agreement. Such other

discipline may be imposed by the Chief.

- (b) Complaints: The Commission or the Chief may suspend the Subordinate with pay pending disposition of charges.

7.3 COMPLAINT PROCESS:

- (a) It is the Mount Horeb Police Department's ("the Department") policy to accept, investigate, and resolve complaints by any person regarding the conduct of Department law enforcement officers and civilian employees related to their status as Department employees.
- (b) The investigation of a complaint will generally be resolved within thirty (30) days of receipt of the complaint. An extension of this time may be granted by the Chief of Police.
- (c) The purpose of this policy is to provide a specific procedure for processing complaint by any person regarding the conduct of a Department law enforcement officer or civilian employee as required by §62.13(5) and §66.0511(3), Stats. This policy's goal is to maintain a high quality of police services, to foster a positive relationship between the Department and citizens, to provide citizens with a fair and effective avenue for resolving legitimate grievances against law enforcement officers and Department employees, and to provide Department law enforcement officers and employees due process when a complaint is filed.
- (d) Nothing in this policy shall be construed to limit prerogatives of the Chief of Police or any other supervisory officer to take corrective action against employees whenever appropriate, nor to prevent the Chief of Police, or designee, from taking disciplinary action against an employee, either internally or pursuant to §62.13(5), Stats., whether or not a citizen complaint is filed.
- (e) This policy is subject to any rights retained by Department law enforcement officers and employees, subject to the Wisconsin Open Records and Meetings laws.
- (f) PROCEDURES:
 - (i) Citizen complaints may be filed in the following manner:
 - a. Verbally in person or by telephone; or
 - b. In writing, preferably on the Department's Complaint form.
 - (ii) Receipt of Complaint:
 - a. All employees of the department are charged with the responsibility of courteously and willingly receiving any complaint regarding the conduct of an employee employed

by the police department, to include complaints received by telephone or in person.

- b. A complainant should be encouraged to file his/her complaint in person. All written complaints must be documented on the Citizen Complaint Form.
- c. The complainant shall be advised pursuant to §66.0511(3) and §946.66, Stats., that “Whoever knowingly makes a false complaint regarding the conduct of a law enforcement officer is subject to a Class A forfeiture.”
- d. All citizen complaints shall be referred to the Chief for initial review and assessment. Complaints against the Chief shall be directed to the Commission Chair for appropriate handling consistent with this policy.
- e. Upon review of the complaint, the Chief will conduct an investigation.

(iii) Investigation:

- a. The investigating officer shall conduct a fair and impartial investigation, respecting the rights and dignity of the parties involved.
- b. The investigating officer shall comply with the requirements of §164.02, Stats., which provides:
 - (1) If a law enforcement officer is under investigation and is subjected to interrogation for any reason, which could lead to disciplinary action, demotion, dismissal or criminal charges, the interrogation shall comply with the following requirements:
 - (a) The law enforcement officer under investigation shall be informed of the nature of the investigation prior to any interrogation.
 - (b) At the request of any law enforcement officer under interrogation, he or she may be represented by a representative of his or her choice that, at the discretion of the officer, may be present at all times during the interrogation.
 - (2) Evidence obtained during the course of any interrogation not conducted in accordance with sub.

(l) may not be utilized in any subsequent disciplinary proceeding against the law enforcement officer.

- c. The investigating officer shall inform all Department witnesses that all questions must be fully and truthfully answered as a condition of continued employment and that failure to do so may result in disciplinary action, up to and including termination.
- d. Miranda warnings are not required if the investigation is for internal disciplinary purposes, but a Garrity warning may be required depending on the nature of the allegations.
- e. Upon concluding the investigation, the investigating officer will complete a written report which will document the officer's investigative actions, set forth written findings of fact, and provide the disposition of the complaint. All documents generated during the investigation will be submitted to the Chief.

(iv) Disposition of the Complaint:

- a. The Chief shall review the investigating officer's report and decide upon a final disposition of the complaint. No disposition will be made without affording the employee the opportunity to respond to the complaint. The Chief will inform the employee and the complaining citizen in writing of the Chief's disposition and basis for that decision.
- b. Disposition of the complaint shall fall within the following categories:
 - (1) Sustained – There is substantial evidence to prove the allegation.
 - (2) Not Sustained – There is insufficient evidence to prove or disprove the allegation.
 - (3) Unfounded – The allegation is false.
 - (4) Exonerated – The incident occurred but was lawful and proper.
 - (5) Policy Failure – The allegation is true but the employee followed policy. The policy will be examined and, if necessary, modified.

- c. If the Chief sustains the allegations, the Chief shall take such action against the employee as is appropriate, which may include disciplinary action pursuant to §62.13(5), Stats.
- d. Any disciplinary action taken by the Chief shall be reported to the Commission Chair.
- e. The Chief, as part of the written notification of the disposition of the complaint, shall inform the complainant that, if not satisfied with the results of the investigation, the complainant may, within 30 days of the date of such notification, file a written request with the Commission Chair for a formal hearing on the complaint before the Commission. The request for a hearing before the Commission shall include the formal written complaint initially filed by the Complainant.
- f. If the Complainant files a formal written request for a hearing before the Commission, the Commission shall handle the complaint as set forth in §62.13(5), Stats. The formal written request shall include the specific State Statute or Departmental Rule the Complainant alleges the Officer(s) to have violated.
- g. A sworn law enforcement officer shall have the right to request a hearing before the Commission pursuant to §62.13(5), Stats., regarding disciplinary action imposed by the Chief which results in the officer's suspension, reduction-in-rank, or termination from employment with the Department. For discipline less than this level, the officer may seek review pursuant to the terms of any applicable collective bargaining agreement.

7.4 COMPLAINT FORM: The Commission shall make a form available for the filing of formal complaints under §62.13(5). Complaints, however, need not be filed on the Commission-prepared form. If a complaint is not filed on the Commission-prepared form, the receiving employee shall complete the form and ensure the original complaint documents are attached. All complaints should be signed by the charging party.

**ARTICLE VIII: DISPOSITION OF §62.13(5)
DISCIPLINARY ACTIONS**

8.1 PROCEDURE

(a) FILING CHARGES:

- (i) Charges may be filed against the Chief or Subordinate by the Chief, any Commission member, or by an aggrieved person.

(b) REPRESENTATION:

- (i) The accused, at his or her own expense, may be represented by counsel at any meeting, conference, or hearing conducted by or on behalf of the Commission.
- (ii) The Village general counsel may act as legal advisor for the Commission.
- (iii) Complainant citizens shall prosecute their complaints before the Commission either by themselves or by counsel they retain at their own expense.

(c) HEARING:

- (i) If charges against the Chief or a Subordinate are filed with the Chair more than ten (10) days prior to the next regular meeting of the Commission, the Chair shall call a special meeting of the Commission. If the charges are filed within ten (10) days of the regular meeting, the Chair need not call a special meeting provided the subject of the charges is made a part of the agenda for that upcoming meeting. The hearing shall be noticed and held in closed session unless the accused requests that the hearing be held in open session.
- (ii) Notice of the hearing shall be given, by certified mail, return receipt requested, to the person charged and to the complainant if the complainant is neither the Chief or the Commission or a member thereof. A copy of the charges shall be furnished with the notice to the person charged.
- (iii) At the hearing, the Commission shall read and examine the charges to assure that the charges are sufficiently specific, related to the duties of the person charged, and sufficient to warrant imposition of discipline within the scope of §62.13(5).
- (iv) Each side shall be allowed to give testimony and present evidence to the Commission. The following process will be followed:

- a. Reading of the charges by the Commission Secretary.
- b. Opening statements by the complainant and the accused.
- c. Testimony and introduction of evidence by the complainant to substantiate the charges with the right of cross-examination by the accused.
- d. Testimony and introduction of evidence by the accused with the right to cross-examination by the complainant.
- e. Complainant's closing arguments.
- f. Accused's closing arguments.

**** FAILURE TO APPEAR:** If the complainant or his or her counsel does not appear, the Commission shall dismiss the charges unless a satisfactory reason for the nonappearance is provided. Such dismissal shall be documented in writing to each of the parties and/or counsel within two (2) days of such dismissal. If the accused or his or her counsel does not appear the hearing will be held in abstentia.

8.2 DECISION:

- a. The Commission shall, within five (5) business days after the close of the record, (i.e., the conclusion of closing arguments), by a majority vote of its members in open or closed session, determine whether by the preponderance of the evidence the charges are sustained. Its written decision and findings shall thereafter be filed with the Secretary of the Commission. In determining whether there is just cause for discipline, the Commission shall apply the standards set forth in Wis. §Stats. 62.13(5), as the same may be amended from time to time.
- b. If the Commission determines that the charges are sustained, it shall at once determine whether the good of the service requires disciplinary action by permanent discharge of the accused, by suspension without pay for a period not exceeding sixty (60) days, by reduction in rank, or by any other disciplinary action whatsoever (e.g., reprimand or counseling letter).
- c. If the Commission determines that the charges were not sustained, the accused, if suspended pending disposition of the charges, shall be immediately reinstated in the accused's former position.

8.3 APPEAL: Any person suspended, reduced in rank, suspended and reduced in rank, or terminated after hearing may appeal from the order to the Circuit Court by serving written notice of appeal, stating the grounds on which the appeal is

based, on the Commission's Secretary within ten (10) days after the decision is filed. Within five (5) days thereafter, the Secretary shall certify to the Clerk of Circuit Court the records of the proceedings, including all documents, testimony, and minutes. After the taking of such appeal, the proceedings thereafter shall be governed by the provisions of Wis. Stats. §62.13(5Xi).

8.4 **ADMINISTRATION MATTERS:** The Commission shall consider the following administrative matters in proceeding toward disposition of charges filed with it.

- (a) Set hearing date within the time frame provided by state law i.e. not less than ten (10) days nor more than thirty (30) days following the date of service of charges on the person charged. The Commission shall have the authority to extend such time period(s) if circumstances so dictate.
- (b) Resolve any representational issues and the need, if any, for the employment of special counsel. An attorney isn't necessarily required to represent the Commission as there may be qualified staff to handle this task; however, the Commission should decide whether or not they want an attorney to "prosecute" the disciplinary case against the accused employee.
- (c) Make provision for the preparation of a record of the proceeding (e.g., tape recording, court reporter, etc.).
- (d) Establish the mechanics for issuance of subpoenas by the Chair.
- (e) Direct the giving of any required notice of public hearing.
- (f) All testimony of witnesses at hearing shall be given under oath, administered by the Secretary or any other member of the Commission, in the form and manner provided by Wis. Stats. Ch. 887. The accused and the complainant may compel the attendance of witnesses by subpoenas which shall be used by the Chair on the request and shall be served in the manner provided by Wis. Stats. Ch. 885.
- (g) Nothing contained herein precludes the parties from reaching a mutual agreement as to a recommended disposition of the charges. The parties shall submit any such Agreement to the Commission in writing. Any such Agreement shall be subject to an approval by a majority of the Commission members present.

8.5 **SERVICE OF CHARGES:** The Commission shall cause there to be served on the accused and the complainant, if the complainant is neither the Chief nor the Commission, notice of the date, time and place of the hearing on the charges. A copy of the filed charges shall accompany the served notice. Service of the notice and the charges on the accused shall be by personal service if practical, otherwise by certified mail, return receipt requested. Service of the notice on the complainant shall be by certified mail, return receipt requested.

8.6 SCHEDULING CONFERENCE:

- (a) **SCHEDULING:** at the discretion of the Commission, a scheduling conference may be conducted. The scheduling conference shall be held at least five (5) days before the hearing. The charged person and the complainant shall be notified in writing of the date, time, and place of the pre-hearing conference.
- (b) **PURPOSE:** The following matters shall be accomplished at the scheduling conference:
 - (i) Witness lists and any prior written or recorded statements or reports of witnesses shall be exchanged by the parties and/or counsel.
 - (ii) Exhibits, if any, shall be exchanged.
 - (iii) Witness or exhibits not submitted at the scheduling conference may be introduced at the hearing only if the Commission determines that there was a satisfactory or sufficient reason for such exclusion from the scheduling conference.

- 8.7 **RECORD KEEPING:** The Secretary of the Commission 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 the date of filing of 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 determination.

ARTICLE IX: CONSTRUCTION OF RULES

- 9.1 **FEDERAL OR STATE LAW:** If any state law or federal law, regulation, or the decision of any court of competent jurisdiction shall affect any provision of these Rules, the provision or provisions so affected shall be deemed amended so as to conform to the law, regulation, or decision. These Rules shall be construed to be consistent with the requirements of federal and state law.
- 9.2 **SEVERABILITY:** If any portion of these Rules and Regulations is found to be invalid, the remainder of the Rules shall still stand. These Rules have been adopted on the day of by the unanimous vote of the members of the Commission.



AGENDA ITEM REPORT

MEETING DATE

November 2, 2023

PREPARED BY

AGENDA ITEM # 3.a

Police Officer Candidate Interviews - November 16 at 5:30pm

BACKGROUND

RECOMMENDATION

ATTACHMENTS

None