

**POLICE & FIRE
COMMISSION**

Tuesday, February 18, 2020

3:00 PM

McFarland Municipal Center
Conference Room C

AGENDA

1. CALL TO ORDER, ROLL CALL.
2. PUBLIC APPEARANCES.
3. APPROVAL OF MINUTES.
 - a. Discussion and action regarding minutes of the meeting held November 4, 2019.
4. BUSINESS.
 - a. Discussion and action to accept the appointment of von Briesen & Roper to serve as legal counsel for the Police and Fire Commission.
 - b. In re Charges Against Lieutenant Brian Redman by Mr. Cory McDonnell. Discussion and action to (1) receive charges pursuant to Section 11.03 of the Rules and Regulations for the Police and Fire Commission; (2) docket Charges in accordance with Section 12.02 of the Rules and Regulations for the Police and Fire Commission; (3) determine jurisdiction over the Charges filed pursuant to Section 12.03, subject to further argument by the parties during the pre-hearing process; (4) authorize President Stransky and Attorneys for the Commission to administer pre-hearing process and to “set date for hearing” as required by Section 12.04 and Wis. Stat. § 62.13(5); and (5) address the pre-hearing and hearing processes regarding the Charges. Neither party to these Charges is required or expected to attend this meeting of the Police and Fire Commission.
5. CLOSED SESSION.
 - a. Discussion and action in order to convene into Closed Session in accordance with Wis. Stats. 19.85(1)(c), (g) for considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility; and to confer with legal counsel for the government body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved, specifically regarding Charges filed against Lieutenant Brian Redman by Mr. Cory McDonnell.
 - b. Discussion and action to reconvene into Open Session.
6. SCHEDULE NEXT MEETING DATE.
 - a. To be determined.
7. ADJOURNMENT.

This meeting notice constitutes an official meeting of the above referenced group and was posted in accordance with all applicable laws related to Open Meetings Law. It is possible that members of and possibly a quorum of members of other governmental bodies of the municipality may be in attendance at the above stated meeting to gather information. No action will be taken by any governmental body at the above stated meeting other than the governmental body specifically referred to above in this notice. Upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals. For additional information or to request this service, contact the McFarland Municipal Center at (608) 838-3153 or cassandra.suettinger@mcfarland.wi.us.



www.mcfarland.wi.us | 5915 Milwaukee St, McFarland, WI 53558 | 608.838.3153

VILLAGE OF MCFARLAND

POLICE AND FIRE COMMISSION

MEETING MINUTES

November 4, 2019

5:30 p.m.

McFarland Municipal Center

Conference Room C

Call to Order: Roll Call. Members Present: Stransky, Wagner, Mullen, McKay and Krusiec.

Others in Attendance: Fire Rescue Chief Dennis, Police Chief Sherven

Meeting called to order by President John Stransky at 5:30 p.m.

Approval of September 30, 2019 Meeting Minutes: Motion by Wagner, second by Mullen. Motion Carried.

BUSINESS:

Introduction of New PFC Member - Chair Stransky introduced Jim McKay as the new PFC Member.

Discussion and approval of updates to PFC Rules and Regulations – Discussion followed by a motion by Wagner to adopt the “PFC Rules and Regulations” as presented with agreed upon changes and shown as revised on Nov. 4, 2019. Second by Mullen, Motion carried.

Police Department Update

1. Chief Sherven provided the Commission with an overview of activities within the department during the last reporting period to include a short synopsis of the department budget.

Fire & EMS Department Update:

1. Chief Dennis provided an overview of the interview process and provided EMT Candidate Interview Questions. He also shared next steps to be taken following the conclusion of the PFC's interviews.

CLOSED SESSION:

Discussion and action to convene into Closed Session in accordance with Wis. Stats. 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, more specifically to interview candidates for Advanced EMT position.

Entered into Close Session for the purpose of candidate interviews.

Motion by Mullen, second Wagner to go into closed session. Roll Call Vote: Wagner - yes, Mullen - yes, McKay – yes, Stransky – yes, Krusiec – yes. Motion carried.

OPEN SESSION:

Motion by Krusiec, second by Mullen to go back into open session. Roll Call Vote: Wagner – yes, Mullen – yes, McKay – yes, Stransky – yes, Krusiec – yes. Motion carried unanimously.

Mullen motioned for the chair to prepare a letter to the Fire and EMS Chief with the candidates in ranked order as determined by the PFC. Second by McKay. Motion carried.

Adjournment: Motion by Wagner, second by Wallen. Motion carried. Adjourned at 7:22 p.m.

Respectfully Submitted by,

Kathy Krusiec, Secretary

Dane County Legal Notice LLC
6041 Monona Dr, Suite 105
P.O. Box 6097
Madison, WI 53716

Village of McFarland
5919 Milwaukee, st
McFarland, WI 53558

McFarland Police Dept.

Lt. Redman

Notification of Complaint.

January 30, 2020

Village of McFarland

5919 Milwaukee St.

McFarland, WI 53558

Re: Malicious intent; Misconduct/Abuse of Power of Lt. Brian G. Redman

I request a Formal hearing by the Board of Police and Fire Commission pursuant to Wis. Statue 62.13 Hearing of Citizen Complainant by the Police and Fire Commission.

The charging, Party, **Cory McDonnell v Brian G. Redman** of the McFarland Police Dept. the charged party.

Complaint: #1 (brief descript, circumstances)

I Called Lt. Redman on phone shortly after sept. 5th 2019 to express my distress on a 2nd time involvement I had with the McFarland PD.

The conversation was about 20min in duration, I was upset as to my Sept 4 2019 arrest. I expressed this was the 2nd time I had been Not Guilty of a crime I was looked at.

Lt. Redman then said to me, **"Cory you're not going to like what I'm going to say. But I think you were Guilty of the Property Damage Charge."** Lt. Redman was not at the hearing.

TH Above hearing was Case 2019-00031494. His disregard for the fact that I was Found **Not Guilty by Judge** having heard all evidence. I knew I had not done this. The Judged Ruled on the case correctly. **Lt. Redman was not present for any of this hearing.**

There is no place for a Law Enforcement officer to interject his Bias Malicious intent towards me. To make a statement without Merit, non-fact based to me about me, in the face of a Judicial Ruling. This I believe was outside his job duty and was a personal affront to me.

I believe this to be **#1 Misconduct and Malicious intent.**

Complaint #2 (brief descript. Circumstances)

After my 2nd arrest then release Oct 2, 2019 I went to pick up Lt. Redman denial letter on my request for Release of Records.

While waiting to pick up the documents. Lt Redman came out and asked me to talk with him in an interview room. We just completed talking for approx. 30-40 min. Then while leaving the room, Lt. Redman offered to get me hard copies of the denial letters in that he had emailed me them originally, I accepted and waited. When Lt. Redman came out with them he handed them to me and said the following to me:

"Cory I went and talked to judge (Judge Raendi Othrow). She told me she made a Mistake in your case." This the Judge who had ruled me NOT GUILTY on the case that Lt. Redman earlier said that he believed I was guilty of.

Lt. Redman made this statement to me on Oct. 2, 2019, clearly was still ruminating over the case which had occurred January 25, 2019. **This case had been ruled on some 8 months previous. Ruled on and Concluded. No Appeal by Village attorney.** *Again worth noting a hearing Lt. Redman did not attend.*

Lt. Redman did: for no investigate reasons, sought out for no legitimate purpose, no job related reasons and no pending case for these discussions with a Judge who had ruled on that case. This case was over.

It is clear Lt. Redman's **Personal Bias and Malicious intent was to have his statement affect me negatively.** He was successful. These actions had and have profoundly negatively affected me on an emotional level.

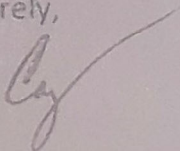
I believe this to be **#2 Malicious Intent and Misconduct.**

Re: Police Chief.

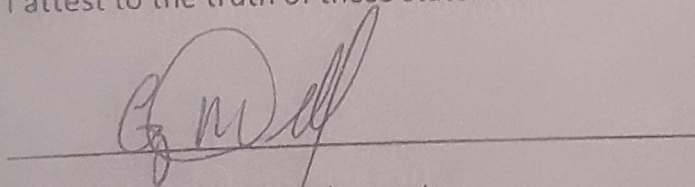
I understand that there is an option to have this adjudicated by the Chief of Police. Unfortunately in this situation the Chief is not an outside party and has made comments to me indicating he would not be impartial and therefore should be recused.

Disclosure: I am a citizen not an attorney nor can I afford one. I hope this documentation is taken with the weight I feel it and I deserve.

Sincerely,



I attest to the truth of these statements.



Cory McDonnell; charging party.

Dated this 30th day of January 2020

Cory McDonnell; 5906 Spartan dr. #2, McFarland, WI 53558 608.772.7089

CORY MC DONNELL

v.

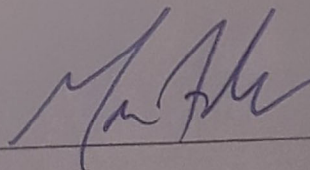
BRIAN REDMAN

AFFIDAVIT OF SERVICE

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

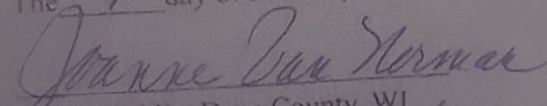
Michael P. Foley, an adult resident of the State of Wisconsin, not a party to this action, being duly sworn under oath deposes and says that on February 4, 2020, at 10:55 AM, in the City of McFarland, Dane County, Wisconsin, at 5915 Milwaukee Street, **Brian Redmand** was served with a copy of the Notification of Complaint by then and there leaving copies thereof with said named individual after reasonable inquiry. Such copies were endorsed with my name, the date, and time of service.

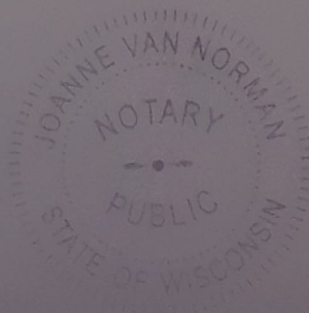
Attempts were made: 1/28/20 at 10:23 am



Michael P. Foley, Process Server
Dane County Legal Notice, LLC
6041 Monona Drive, Suite 105
Madison, Wisconsin 53716
(608)251-1181

Subscribed and sworn to before me
The 4 day of February, 2020.


Notary Public, Dane County, WI
My Commission expires 8/7/2020



POLICE AND FIRE COMMISSION
OF THE
VILLAGE OF MCFARLAND

RULES AND REGULATIONS

*Adopted August 7, 1997
Revised April 19, 2004
Revised September 19, 2006
Revised November 4, 2019*

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1. *Scope of Authority*

1.01 Definition. The word "Commission" when used herein shall refer to the Police and Fire Commission.

1.02 Application of Rules. Except as specifically provided, otherwise, the rules herein shall be applicable to all sworn employees in the Police Department and all full time employees engaged in the firefighting & EMS service.

1.03 Fire & EMS Department Representative. The legal status of the volunteer Fire & EMS Department, as permitted by Sections 61.65 and 62.13, Wis. Stats., shall not be affected or impaired by this chapter or the rules and regulations contained herein. The Fire & EMS Department will operate under its adopted by-laws and the Fire & EMS Chief will be the representative to the Commission. Monthly reports will be accepted by the Commission from the Fire & EMS Chief.

1.04 Police Department Representative. The Police Chief will be the representative to the Commission for the Police Department. Monthly reports will be accepted from the Chief by the Commission.

2. *Administrative Procedures*

2.01 Regular Meetings. Regular meetings of the Police and Fire Commission shall be held at the Village Hall, McFarland, Wisconsin as necessary, as set by the President, who shall notify the Commission members of any changes. All discussion shall be held and all action of any kind, formal or informal, shall be initiated, deliberated upon and acted upon only in open session except as provided in Section 19.85, Wis. Stats. Notices of the meetings shall be given in accordance with Section 19.84, Wis. Stats.

2.02 Special Meetings. Special meetings may be called by the President at the time of the request of any member of the Commission upon 24 hours' notice in advance to each member of the Commission and to the public. All discussion shall be held and all action of any kind, formal or informal, shall be initiated, deliberated upon and acted upon only in open session except as provided in Section 19.85, Wis. Stats. Notices of any special meeting shall be given in accordance with Section 19.84, Wis. Stats.

2.03 Officers. The officers of the Commission shall be a President and a Secretary/Recorder.

At the regular meeting in June, the Commission shall elect one of its members to act as President and one to act as Secretary 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 from the June meeting.

2.04 Quorum. Three members of the Commission shall constitute a quorum to do business.

2.05 Records. The Secretary shall record all official actions and shall act on behalf of the President in the President's absence. In absence of the Secretary, the President shall appoint an acting Secretary.

The records of the Commission shall be maintained in the Village Clerk's Office.

2.06 Order of Business. The regular order of business for Commission meetings shall be as follows:

1. Approval of Minutes
2. Police Department Business
3. Fire & EMS Department Business
4. General Business
5. Other New Business

2.07 Waiver of Rules. The Commission may waive any specific provision relating to hiring or promotions upon the request of either Chief and upon unanimous vote of all Commission members present.

2.08 Amendment of Rules and Regulations. These Rules and Regulations may be amended at any time by a 3/5TH vote of the full Commission.

2.09 Duties of President. The duties of the President shall be to preside over all meetings of the Commission, to preside over hearings conducted by the Commission, to receive written charges filed against chief officers or subordinates, and to issue subpoenas to compel the attendance of witnesses. In event of his/her absence or disability, the Secretary shall assume the duties of the President.

2.10 Duties of the Secretary. (a) The Secretary shall, or the President may, conduct correspondence of the commission, receive appeals from action of chief officers, send out notices required by law, ordinance, these rules, or as requested by the Commission, to make such official publications as may be necessary, to attend all meetings and hearings of the Commission's proceedings, to provide for the taking and recording of testimony and other evidence received at hearings, to preserve such evidence in a permanent record, and to certify such record to the Circuit Court when required by law.

(b) The Secretary shall keep minutes 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 to each member and the Chiefs 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.

3. *Qualifications of Applicants*

The Chiefs shall determine the qualifications, examinations, and examination procedures for applicants subject to approval by the Commission.

4. *Application Procedures*

4.01 Application Forms. The Commission shall authorize the issuance of forms for making application for appointments. Notice of the time and place for issuance of such forms shall be given by publication in a newspaper of general circulation in the Village of McFarland and by such other means of publicity as the Village may elect.

4.02 Misrepresentation. Any misrepresentation in regard to any material fact contained in

the application shall be sufficient cause for excluding the applicant from the examination, or for removing the name of the applicant from the eligible list, or for the discharge of the applicant from the service.

4.03 Unqualified Applicants. Whenever the application itself reveals that the applicant cannot meet the qualifications of the position he/she is applying for, such application shall be rejected by the Commission or its designated representative and the applicant shall be notified of the reason.

4.04 Incomplete Applications. Incomplete applications may be cause for rejection or may be returned to applicants for correction.

4.05 Medical Certification. An applicant previously rejected by a medical examiner shall not be privileged to take the examinations until a certificate from a medical examiner shows that the cause for which the applicant was rejected has been corrected.

4.06 Former Employees. Any former employee of the police and Fire & EMS service who desires to re-enter the service shall undergo such examination as directed by the Commission.

5. *Examination Procedures*

5.01 Supervision of Examinations. All examinations shall be carried on under the supervision of the Commission, which may designate any suitable municipality or state agency, person or persons to conduct or assist in conducting the examinations and may fix the compensation to be paid to such persons by the Village, in conformity with the budgetary procedures of the Village Board.

5.02 Instructions. Each applicant taking an examination shall follow the instructions given by the person conducting the examination.

5.03 Confidentiality. Information relative to the applicant's scores, shall be considered 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 to be necessary by the Commission.

5.04 Assistance. No assistance shall be permitted to be given to any applicant in any manner

during the examination unless specifically authorized by the person conducting the examination as an accommodation to a special need of an applicant. A violation of this rule shall subject each applicant involved to exclusion from the examination.

5.05 Additional Examinations. No applicant shall be given a second or special competitive test in connection with any examination held, unless it is shown to the satisfaction of the Commission that their failure to take or complete such was due to a manifest error or mistake for which the Commission or its designated assistants are responsible, the nature of which shall be set forth in the minutes, or that such failure was the result of other good and valid reasons.

5.06 Examination Scores. A passing grade for the entire examination shall be established by the Commission prior to the examination. The Commission shall apply appropriate veteran's preference as provided by Section 62.13(4)(d), Wis. Stats.

5.07 Destruction of Examination Materials. Examination papers may be destroyed by the Commission or its designated representative at any time after seven years from the date of the examination, except as may be otherwise required by applicable local, state or federal law or regulation.

5.08 Special Accommodations. It is the policy of the Commission to provide a reasonable accommodation(s) during the selection process to any applicant(s) who needs such accommodations. Any applicant requiring an accommodation during any phase of the selection process should make his/her need for accommodation known to the testing agent. Applicants will be advised of this policy in the original application materials.

6. *Appointment Procedures*

6.01 Appointment of Chiefs. The Commission shall appoint the Chiefs who shall hold office during good behavior, subject to suspension or removal by the Commission for cause, as defined in Section 62.13, Wis. Stats.

6.02 Appointment of All Other Positions. The Commission shall interview candidates and prepare an eligibility list, which shall contain the names of applicants who meet the qualifications of the position subject to such further examination(s) as those rules provide for. The Chief will make the necessary appointments from the list of eligible persons, at his/her

discretion, and the appointments shall be approved by an affirmative vote of the Commission prior to the start of employment. The eligibility list will expire twelve (12) months from the date of preparation unless extended or discontinued by the Commission. The eligibility list will be kept on file with the Secretary of the Commission and with the Chief of the Department.

6.03 Part-Time Positions. The Chief will make the necessary appointments to part-time positions of employees who have current State of Wisconsin law enforcement certification or who are currently eligible for such certification. The Chief shall notify an officer of the Commission prior to the start of employment.

7. *Promotional Procedures for Internal Hirings*

7.01 Candidate Pool. Prior to the start of each hiring process, the Commission shall determine whether or not the available position will be advertised to qualified internal candidates only or whether it will be advertised to qualified internal and external candidates. The following procedures shall be utilized in evaluating internal candidates who apply for promotional positions.

7.02 Posting of Promotional Opportunities. Specific promotional requirements shall be established by the Commission prior to the beginning of the selection process. Notice of the holding of all examinations shall be authorized by the Commission and appropriate notice shall be posted on the bulletin board of the Police or Fire & EMS Department. All qualified employees desiring to compete for the promotional position(s) shall notify the Commission in writing, submitting that notification through designated lines of organization.

The selection process information shall be described in writing at the time the requirements are posted. The posting will be made at least ten (10) days prior to the beginning of the process. All efforts will be made to adjust any departmental work schedule to allow all qualified-employees who desire to do so the opportunity to compete. If the departmental work schedule interferes, the Commission will arrange for a special process so that no one is prevented from competing due to the needs of the service.

7.03 Minimum Requirements. The minimum requirements that must be met for any internal candidate to be considered for promotion shall include:

1. Two (2) years in current rank and
2. Satisfactory departmental evaluations at current rank

7.04 Examination Procedure. The examination procedure shall include:

1. A written test to be supplied by the City and County testing section of the Wisconsin Department of Employment Relations or any other test approved by the Commission;
2. An evaluation of promotional potential evaluation conducted by the Chief;
3. An oral evaluation conducted by the Commission.

7.05 Process to Evaluate Promotional Potential. The Chief shall evaluate the promotional potential of each candidate utilizing the following criteria:

1. A review of the candidate's work record in their current job, including his/her efficiency, experience, training, attendance, commendations and disciplinary actions;
2. An evaluation of the candidate's ability to perform the duties of the new job, including any limitations or special skills that would be applicable to the new job;

At the conclusion of the process, the Chief shall assign each candidate a promotional potential score.

7.06 Oral Evaluation. An oral interview shall be administered by the Commission.

7.07 Promotional Eligibility List. Utilizing the results of the examination procedures set forth in Section 7.04, the Commission shall create a list of internal candidates who are eligible for promotion.

The Chief may appoint from this internal eligibility list to fill the promotional vacancy. The internal eligibility list shall be valid for a period of two (2) years.

7.08 Lateral Transfer. The movement of an individual from one position to another within the same pay scale is considered a lateral transfer. This type of movement may be originated by the Chief at his/her discretion. The Chief shall keep the Commission informed of all transfers made through notification at the next regular meeting of the Commission. Transfers are not considered to be appointments as the employee is already working in the same pay classification.

8. *Probation*

8.01 Probationary Period for Positions Covered by Collective Bargaining Agreements.

Newly hired employees, who are covered by collective bargaining agreements, shall be considered probationary for the first eighteen (18) months of actual service. If during the first eighteen (18) months of actual service the person appointed proves unsatisfactory for the position, the Chief may, with the prior approval of the Commission, dismiss the person from the department or, in the case of promotional appointments, the Chief may return the person to their former rank. The person so dismissed or reduced in rank shall not be entitled to any appeal to the Commission from such dismissal or reduction in rank.

8.02 Probationary Period for Positions Not Covered by Collective Bargaining

Agreements. Appointments to positions not covered by collective bargaining agreements shall be considered probationary for a period of eighteen (18) months, unless reduced by the Commission. If during the probationary period in the new position the person appointed proves unsatisfactory for the position, the Chief may, with the prior approval of the Commission, dismiss the person from the position or, in the case of promotional appointments; the Chief may return the person to their former rank. The person so dismissed or reduced in rank shall not be entitled to any appeal to the Commission from such dismissal or reduction in rank.

Upon successfully completing probation, the Chief shall serve during good behavior, subject to suspension or removal by the Commission for cause.

8.03 Evaluation of Performance During Probation. At least one month prior to the end of each employee's probationary period, the Chief shall review with the Commission the employee's performance and recommend to the Commission retention or termination of the employee or extension of the probationary period.

9. *Lay-offs and Re-employment*

9.01 Order of Lay-Offs. When it becomes necessary to reduce the number of paid employees because of lack of work, lack of funds, the need for economy or any other just cause, these reductions shall proceed in the following order:

- (a) Emergency, special or temporary employees in the specified classification shall be laid off first;
- (b) Thereafter, employees in the specified classification shall be laid off in order of shortest length of service in accordance with the applicable union contract.

All lay-offs shall be in accordance with the provisions of the Wisconsin statutes.

9.02 Re-employment. The name of each employee laid off as described above shall be retained on a recall list for a period of two (2) years. If any vacancies occur in the classification, or if the number of such positions is increased, such openings shall be filled first by persons on the recall list in inverse order of lay-off. If an individual on the recall list refuses a particular opening when offered, he/she shall still be retained on the list and offered the next appropriate opening until that individual's eligibility expires.

10. *Disciplinary Actions*

10.01 Discipline of Employees. The Commission may suspend, demote or terminate an employee for just cause. The Chief may reprimand or suspend an employee for just cause without prior approval of the Commission. The Chief must report this action to the President of the Commission immediately in writing and explain the cause(s) of the action (Section 62.13(s)(c), Wis. Stats.).

10.02 Discipline of the Chiefs. The Commission may suspend or terminate a Chief upon its own initiative. It may suspend the Chief pending the investigation of written charges.

10.03 Right to Request Hearing. If an employee against whom a disciplinary action of suspension, demotion, or termination has been taken requests a hearing on the matter, the Commission will proceed with such hearing. Charges must then be filed with the Commission by the party initially taking the disciplinary action.

11. *Filing of Charges*

11.01 Standing to File Charges. Charges may be filed with the Commission by a Chief, a member of the Commission, by the Commission as a body or by any aggrieved party.

11.02 Content of Charges. The charges shall be in writing and shall be signed by the charging party. The sources of all information contained in the charges shall be stated in the charges or in accompanying documents. Information regarding the names and addresses of witnesses having relevant knowledge relating to the charges may be embodied in a separate statement accompanying the charges. The charges shall identify the person who is charged and specify, if possible, the date(s) and place(s) of the alleged offense(s).

11.03 Filing of Charges. The charges shall be filed with the President of the Commission and may be conveyed through the Village Administrator. Pending disposition of such charges, the Commission or Chief may suspend the employee.

12. *Procedure For Responding to Charges*

12.01 Participation of Commission. If the Commission as a body files charges, it shall retain special counsel to prosecute such charges on the Commission's behalf and the Commission shall refrain from any active involvement in the prosecution of such charges.

If any member of the Commission files and actively prosecutes such charges, such member shall not participate in deliberating the charges or determining whether they are sustained.

12.02 Docket List. All charges filed with the Commission shall be recorded on a docket list and assigned a number in sequence of filing with the date of filing added in parentheses.

12.03 Preliminary Investigation. Upon the filing of charges, the Commission may have a preliminary investigation conducted to determine if it has jurisdiction in the matter. If the Commission judges that it does not have jurisdiction over the charges, it may dismiss the charges. In the event of such dismissal, the Commission will notify the complainant in writing of its action.

12.04 Scheduling of Hearing. Following the filing of charges or a request for hearing, a copy of the charges shall be served upon the person charged. The Commission shall set a date for hearing not less than ten (10) days or more than thirty (30) days following receipt of the

charges.

13. *Pre-Hearing Conferences*

13.01 Scheduling of Pre-Hearing Conference. At the discretion of the Commission, a pre-hearing conference may be required. If required, the conference shall be held at least five (5) days before the hearing. The charged party and the charging party shall be notified in writing of the date, time, and place of the pre-hearing conference and provided a copy of the rules covering such matters. Parties may be represented by counsel.

13.02 Purpose of Pre-Hearing. The following matters shall be accomplished at the pre-hearing conference:

- (a) Witness lists and any prior written or recorded statements or reports of witnesses shall be exchanged by the parties and/or counsel.
- (b) Exhibit lists, if any, shall be exchanged.
- (c) Witnesses or exhibits not submitted at the pre-hearing conference may be introduced at the hearing only if the Commission determines that there has been satisfactory or sufficient reason for such exclusion from the pre-hearing conference.

13.03 Failure to Appear. If a party does not appear at the pre-hearing conference either in person or by counsel, the conference facilitator shall report this to the Commission. If the charging party or counsel does not appear, the Commission shall dismiss the charges unless a satisfactory reason for non-appearance is provided. Such dismissal shall be documented in writing to each of the parties and/or counsel within two (2) days of such dismissal.

14. *Adjudicatory Hearing*

14.01 Hearing Procedures. The adjudicatory hearing shall be conducted in open session. Following the adjudicatory hearing, the deliberations of the Commission may be conducted in closed session at the discretion of the Commission.

A record of the proceeding shall be created by the Commission.

Exhibits introduced shall be marked with a docket number and exhibit number in sequence of introduction. Either or both of the parties may be represented by counsel and may compel the attendance of the witnesses by subpoenas, which shall be issued by the President of the Commission.

All testimony of witnesses at hearings shall be given under oath, administered by a member of the Commission in the form and manner provided by Section 887.03, of the Wis. Stats.

14.02 Order of Proceedings. At the hearing, the order of proceedings shall be as follows:

- (a) Statement of the charges read by a member of the Commission.
- (b) Opening statement, if any, by the charged party and charging party.
- (c) Presentation of testimony and introduction of evidence by the charging party to substantiate charges.
- (d) Cross examination of witnesses by the charged party or counsel.
- (e) One additional opportunity to question witnesses by the charging party or counsel.
- (f) One additional opportunity to cross-examine witnesses by the charged party or counsel.
- (g) Presentation of testimony and the introduction of evidence by the charged party or counsel to refute the charges.
- (h) Cross examination of witnesses by the charging party or counsel.
- (I) One additional opportunity to question witnesses by the charged party or counsel.
- (j) One additional opportunity to cross-examine witnesses by the charging party or counsel.

- (k) Final opportunity for each side to present evidence in rebuttal of any evidence presented by the opposing side.
- (1) Closing arguments by both sides.

15. *Deliberations, Findings, Conclusions, Orders from Hearing*

15.01 Finding of Fact. At the conclusion of the hearing, the Commission shall prepare written findings of fact based upon the testimony and evidence presented and shall prepare conclusions, which are based on the findings and an order consistent with such findings, and conclusions within ten (10) days.

For purposes of deliberation after the hearing, the Commission may choose to adjourn into closed session.

15.02 Just Cause Standard. In determining whether there is just cause for discipline, the Commission shall apply the standards set forth in Section 62.13, of the Wis. Stats., as the same may be amended from time to time.

15.03 Charges Rescinded. If the Commission determines that the charges are not sustained, the charged party shall immediately have all related disciplinary action taken to date rescinded and all lost pay or other benefits, if any, restored.

15.04 Charges Sustained. If the Commission determines that the charges are sustained, the charged party, by order of the Commission, may be suspended, demoted, reassigned, or removed as deemed necessary. If the Commission concludes that the charges are sustained but a lesser sanction is appropriate, the Commission may direct that a reprimand or counseling letter be placed in the personnel file of the charged party.

15.05 Announcement of Decision. The Commission shall announce its decision in open session.

15.06 Appeal of Decision. Any employee suspended, demoted, reassigned or removed by the Commission may appeal from the order of the Commission to Circuit Court by serving written notice to the Secretary of the Commission with ten (10) days after the order is filed. Within

five (5) days thereafter the Commission shall certify to the Clerk of Circuit Court the record of the proceeding including documents, testimony, exhibits and minutes.