

## **VILLAGE OF DRESSER CITIZENS POLICE REVIEW COMMITTEE MEETING**

Purpose of the meeting is as follows: To conduct an organizational meeting of the committee, to select a secretary of the committee, to consider establishing rules for the administration of Dresser Municipal Code Section 1.03(7) and to receive a citizen complaint on referral from the Village Board.

The Thursday, May 24, 2018 Citizen Police Review Committee Meeting was called to order at 4:00 PM by Michael Nelson. Roll Call Vote was done. Present: Michael Nelson, Tom St John, Rodney Brust, Attorney Tim Laux, Clerk Jodi A Gilbert. Other public present: Ryan Haass, Bryan "Fatboy" Raddatz, Wayne Moberg, Suzanne Lindgren - The Osceola Sun and Greg Marsten – The Inter County Leader.

Announcement of a Quorum. Nelson turned the meeting over to Attorney Tim Laux. Next item on the agenda - Organizational Business. The Village Board received a communication from a citizen that alleges a complaint against a police officer. This committee has been populated over the years and is on the list of Committee Appointments and is designated by the Village President. No actual use or reason or any kind of paperwork or complaint has been brought forward that would need to come before this committee for years. We are calling this committee to order and addressing the document that the board received. The first question is what do you do if you get a complaint. I am going to go through the provisions that mandate having this type of committee. The jest of this meeting is to get organized and so you know what you are doing and the procedures steps to follow. Once that occurs we can turn our attention to the document. The first thing to note is to be a committee one person has to act as president, which has been done on the Committee Appointment List. Further down the paperwork is suppose to be filed with a secretary. So the first action is to decide who would be designated as the secretary. Serving in that capacity if the committee made a decision and disciplined a police officer and they wanted to appeal you would receive the appeal documentation. We need to revise the list and put a secretary on it. Motion Nelson/Brust to select Tom St John as secretary of this committee. All in Favor. Motion Carried. The next item on the agenda is to consider/adopt administrative rule(s) and procedure(s). The committee was given a copy of a document that Attorney Tim Laux worked up for the meeting. Laux stated this is Rules of Procedure: If you have any questions as I go through this please ask. "The Wisconsin Legislature has made this procedure an enactment of statewide concern for the purpose of providing a uniform regulation of police, fire and combined protective services departments. It is commonly referred to as the Police and Firemen's Bill of Rights." The State of Wisconsin is taking over control of this particular issue because of its importance. Every designated public entity - you all have to follow these rules. The Bill of Rights for Police and Firemen. It is found in two places: "Village Law Wis. Stat. Sec. 61.65, Police and fire departments; pension funds (2016-17) makes a portion of Chapter 62 governing cities, namely Wis. Stats. Sec. 62.13(2)-(12) applicable to villages as well." Turning our attention to Chapter 62.13(5) – there are specific rules and regulations set out in the statutes. "62.13(5)(b) requires written charges to be filed with the president of the committee." For this discussion the individual handed it to the Village Board during the citizen comment

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portion of the May 7<sup>th</sup> Village Board meeting. For the board this is not what we do – politics need to be out of the equation. Police and fire committees are to be populated by people who are not employees or elected officials. You’re the ones. So one of your business jobs will be to receive this later in the agenda. “62.13(5)(d) states that the charges shall be filed upon the person charged.” If we jump ahead a little bit and talk about the time frame on that – the importance on charges being filed is to set the clock running for a hearing if there is going to be one. A hearing is 10 days from the date the person charged and before 30 days. You have a 20 day window. The following section was read “A committee may create a preliminary step where upon the filing of charges the committee may make a preliminary determination whether the charges state a complaint sufficient for the committee to find cause to serve the charges upon the person charged. See: Wis. Stat. Sec. 62.13(5)(g) and Conway v. Board of the Police and Fire Commissioners of the City of Madison, 2003 WI 53; 262 Wis.2d 1; 662 N.W.2d 335, 01-0784 . This is similar to the procedure in the legal system where the court conducts a preliminary hearing to determine whether probable cause exists to find that an offense has been committed. Adopting such a rule would serve the purpose of eliminating frivolous charges, subjecting employees to retaliatory charges or those motivated by personal animus and conserving the time and expense of conducting committee proceedings over charges that lack genuine disciplinary merit.” You receive this document – is it really a complaint. You have to examine it closely and have some guidelines. You may have to have a preliminary hearing to see if there is enough evidence to move forward. It is not a high bar, but it gives a court a chance and review an initial and see if they have merit. Did you as a committee adopted some rules and regulations to do that. The point of this is that there is not that specific rule of procedure in place in the Village and not in the statutes and you have the right to make rules. “62.13(5)(c) and (em) mandate that disciplinary action against a police officer shall only be for just cause.” The standards for just cause are items 1-7 you see listed. Editorially those standards parallel just cause in a collective bargaining agreement where police or fire is represented by a labor union. This happens in public and private unions. The words of collective bargaining just cause to discipline. These are what are required. The following was read: “The standards for finding that charges constitute just cause are set for in the statute as follows: 1. Whether the person could reasonably know of the consequences of the alleged conduct. 2. Whether the rule or order allegedly violated is reasonable. 3. Whether the person filing the charges made a reasonable effort to discover whether the person charged did in fact violate a rule or order. 4. Whether the effort described above was fair and objective. 5. Whether the evidence that a rule or order was violated is substantial. 6. Whether the rule or order is being fairly and without discrimination against the person charged. 7. Whether any proposed discipline reasonably relates to the seriousness of the alleged offense and to the record of service of the person charged.” That is your mandate. That is really clear if considering charges and having a hearing those are the things that need to be proven. The person bringing the complaint has to prove those. You are not an investigative body - you don’t look into issues. You have a document in front of you and somebody violated something and you have to hear the evidence. Laux continued if you go to the top of the second page. 62.13(5)(f). You have gone through this process. There is just cause to discipline and you

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make those findings and you have to put it in writing and have it served on the individual in 3 days. 62.13(5)(g) – you have the obligation to make your own rules and regulations. How you administrate this law. Due process – procedural and the person has a right to a hearing and the right to be heard. Your internal operating rules – the burden of proof and how documents and minutes are going to be done. Hearings are in the public. The following was read: “For example, the committee might make a rule requiring the charging party and the person charged to submit documents marked as exhibits prior to any hearing. The committee might make available guidelines addressing the use of the rules of evidence, decorum during meeting, the order of meetings and hearings, and the burden of proof applicable to the respective parties.” These are my suggestions and things you should think about. Only for the purpose if a decision is appealed you can show that you first did this and you are treating everyone fairly and in an orderly matter. If decisions are appealed and then those records have to go to circuit court. The judge in Balsam Lake reviews what you have done. If you are appealed and the case goes to circuit court the judge must also follow those 7 issues. To make a determination did the committee have enough information and constitute just cause. 62.13(5)(h) regulation that says where other places you could suspend someone prior to hearing. An example would be a chief to officers under his command. The chief can suspend but it can’t be without pay. 62.13(5)(i) - appeal available to circuit court. At this point and time ask any questions. My suggestion would be if you would like, since there is nothing in place right now. You don’t have any guidelines. I assist in that effort and put together another document and bring it to another meeting for an action item for you to approve and have your self organized enough to make a decision. Motion Brust/St John to authorize Attorney Tim Laux to draw up some rules and regulations. All in Favor. Motion Carried. That being done. You have received the complaint from the Village Board. You have been presented with it. There are documentation minutes of the received complaint. You will address this once you have rules and regulations. Unless there are any other questions or concerns issues at this time? Brust asked do we have more than 3 days. Laux stated the 3 days is after a hearing and a decision was made – then you have 3 days to write out the reasons for your decision. The other deadline once you served it on the person who the complaint was filed on then you have those 10 to 30 days – the 20 days kicks in. You do that after you have your own rules and regulations adopted. Right now you have nothing to go on. The closed session was put on the agenda if you decided to go into closed session. At this point 19.85(1)(g) conferring with legal counsel where counsel strategy etc... this is peer speculation at this point. You need to get organized. You don’t have the grounds to go into closed session. Motion Nelson/Brust to adjourn the meeting at 4:35 PM. All in Favor. Motion Carried.

The committee members agreed that June 13<sup>th</sup> or 14<sup>th</sup> at 4:00 PM would work for the next meeting. Gilbert will confirm the date and post another agenda.