

CITY OF STEVENS POINT POLICE AND FIRE COMMISSION

Tuesday, November 3, 2020

1. **Roll Call:** Commissioners Carlson, Kirschling, Moore, Ostrowski, Wescott

Also Present: Fire Chief Finn, Police Chief Zenner, Assistant Chief Moody, Assistant Chief Gemza, Interim Assistant Chief Kussow, Ron Heibler, Trevor Howard, Andrew Egan, Dean Dietrich, Alderperson Shorr, Brandi – SP Metro Wire

2. **Recognition of Life Saving Award – Captain Heibler**

Chief Finn has honored Captain Ron Heibler for saving the life of a stranger in Milwaukee in February 2020 while he was off duty.

Heibler was at Mitchell International Airport on February 15, 2020 headed home from a trip when he noticed a Milwaukee County Sheriff's Deputy running through the baggage area in response to a medical alert in another part of the building. Heibler said he followed the deputy towards a middle aged woman in cardiac arrest lying on the floor. Heibler informed everyone on scene that he was a paramedic and asked if he could help. At this point he learned that the airport's responding firefighters were not certified paramedics and decided to take charge of the scene.

Heibler alternated with deputies in performing CPR on the woman. Heibler talked his fellow emergency workers through cutting the woman's shirt open, placing AED pads in her skin and administering an electric shock. The woman needed two shocks but by the time the ambulance arrived she was breathing on her own.

Chief Finn presented the award to Heibler via zoom and said he would present the award in person as soon as possible, as the department is currently in a state of emergency due to COVID 19. Finn praised Heibler for his actions and stated his actions were directly responsible for saving the woman's life.

Heibler is one of the first firefighter/Paramedics in Portage County, being a member of the first class to graduate from the county wide paramedic system that was created in 1998.

Heibler has been notified by the Milwaukee County Sheriff's office that he is being honored by that department for his actions that day but no date has been set for the presentation due to the pandemic.

3. COVID 19 update – Police and Fire Departments
A. Update status of need for state of emergency

President Wescott reported since the last commission meeting, which was October 6, 2020 the State of Wisconsin reported an increase of 95,917 positive cases and an increase of 651 deaths.

Chief Finn would like to continue the state of emergency resolution which was approved by the PFC on October 26, 2020 minimally through November 10, 2020.

In an effort to contain the spread of COVID 19 at the Fire Department, the following procedures have been acted:

- Before entering the FD an employee fills out a daily screening. Two times per day the employee checks their temperature and records it in a program on the computer.
- Employees are the only people allowed in the fire house. There are no visitors or commercial gatherings at the fire house.
- At every entry to the fire house there is a sanitation unit and employees must put on PPE before entry into the department.
- Meal times are staggered so employees are not gathering at the same time.
- Pods have been created for each employee. After an employee wipes down their pod they are considered isolated.
- Lexipol has been implemented a little earlier than planned. This gives the employee time to review and ask questions about changes to revamped policies.

4. Update on Police Chief Search

The position was posted on various sites on October 7, 2020.

President Wescott read into the record the following regarding the type of individual being sought to fill the police chief vacancy: "The Police and Fire Commission is seeking a community focused, collaborative and innovative professional to lead the Police Department. The police chief must possess an unwavering commitment to transparency and accountability, a contemporary leadership style that is deeply rooted in community policing and a demonstrated aptitude for seeking creative, partnership-driven approaches that improve community health and safety."

The commission is continuing to receive applications and the process will remain open until a satisfactory number of qualified applicants have applied.

5. Update on annual performance evaluations of the Police and Fire Chiefs

Completed evaluations are due to Human Resource Manager Lisa Jakusz by December 4, 2020.

Commissioner Moore and Interim Chief Zenner have met and reviewed the Chief's evaluation.

Commissioner Kirschling and Chief Finn also have spoken. Commissioner Kirschling will have the Chief's evaluation completed by the deadline date.

6. Policy updates – Police Department

Commissioner Moore and Chief Zenner met and decided no change would be made from last month's discussion on Policy 328 – Discriminatory harassment. It was decided they didn't want to put restrictions on to whom a victim is able to report harassment.

The following language, which was reported to the Commission at the October 6 meeting, was added under 328.4.1, Supervisor Responsibility:

The Supervisor or manager shall notify the Chief of Police in writing of the circumstances surrounding any reported allegations or observed acts of discrimination, harassment, or retaliation as soon as practicable.

If the reported allegation or observation involves the rank of Division Chief or above, the Chief of Police shall notify the Police and Fire Commission of the complaint no later than the next business day.

The chief feels these changes are sufficient to appropriately report any harassment through the chain of command.

7. Fire Chief's Report/EMS report

EMS Training:

- SPFD completed the practical driving obstacle course for Emergency Vehicle Operations Course (EVOC)
- Tempus Monitor Training. Each crew was trained on how to use the Tempus Pro ALS Monitor
- Ketamine Presentation and Case Review presented by Dr. Clark

COVID bi-weekly meeting: Continue to participate in the virtual bi weekly EMS-Hospital-Long term care and Portage County Covid 19 Community Response.

Covid 19 testing: Stevens Point Fire Department has participated in two testing dates and two strike team operations with Portage County Health Department

UWSP flu clinic: Assisted UWSP with their flu vaccine clinic.

Significant Events:

- Mutual aid received from the Town of Hull FD for a call on Wellfield Road North
- Mutual aid received from the Village of Plover FD for a hazmat call at 209 Division Street
- Inspections and training have stopped due to the State of Emergency the Stevens Point Fire Department is in.
- Metro Fire calls (1)
- Structure fires (0)
- Vehicle fires (1)
- Brush, grass, wildland fires (0)
- Cooking fire contained (0)
- Overheated cooking (3)
- Other fires (5)
- Rescue (1)
- EMS assist calls (52)
- False alarm responses (15)
- Hazardous materials responses (6)

- Other responses (3)
- Total fire losses (\$0)
- Total Property saved (\$0)
- Total responses (86)
- Training: EMS Infectious Disease Control; EVOC 4 hour practical training; Fleet Program Adjusting to Changing Conditions for Emergency Vehicle Operators; Fleet Program Safe Backing for Emergency Vehicle Operators; High Rise SOP review; Hydrant operations. Total training hours: 456.5.
- Fire inspections: Certificate of occupancy (2); fire alarm inspections (1); general fire inspection (124); general/liquor license inspection (0); re-inspection/liquor license inspection (1); re-inspection (6); sprinkler system (3); complaint inspection (0); special event permit (0); ANSUL/Hood inspections (0); self-certification (0); tent inspection (0); consultation (65); re-inspection certificate of occupancy (2)
Total inspections: 204
- Public Activities: No public activities due to COVID-19. Number of attendees: 0

Commissioner Wescott moved, seconded by Commissioner Kirschling to accept the Fire Chief's Report for October 2020.

Ayes, all; nays, none. Motion carried.

8. Police Chiefs report

COVID-19 related:

- Auxiliary Unit operating in limited capacity.
- Fingerprinting services remain suspended until further notice.
- Patrol continues to work a modified schedule to limit shift change interactions.
- Investigations Bureau, Records Bureau and Administrative personnel operating normal scheduling hours.
- Lieutenant Jeremy Mueller remains the Department Point of Contact for all COVID 19 related communication and FEMA data collection.

Notes of interest:

- OWI/Crash: On Highway 10 East a vehicle sped past an officer in a fully marked squad at 68 miles per hour. The Vehicle turned east onto Old Highway 18 as officer attempted to unsuccessfully catch up. As officer came upon the vehicle, it had lost control and crashed. Accident was a rollover with ejection of the driver. Officer gave male first aid until medics arrived and was transported to Wausau Aspirus. Subject was arrested for operating while under the influence of intoxicants.
- Disturbance: Officers responded to a disturbance with six individuals involved in a disagreement over a speaker. During the confrontation, a female subject grabbed a pick axe and damaged a vehicle's window. Two subjects involved in the disturbance entered the vehicle and fled the scene, running over another individual involved in the disturbance. Call was received by a witness and all subjects had left prior to officer arrival. All were eventually located, including one who had fled into a residence and overdosed on prescription medication. Narcan was administered and subject recovered. Request for charges on damage to property and arrests for active warrants made.
- Drug take back: Drug take back conducted on October 24th. With the drugs taken in, and those through the lobby drop off points at our PD, Plover PD and

the Sheriff's Office, we transported 32 boxes/432.4 pounds of surrendered drugs to the regional drop off point for destruction.

- Peer Group Call in: Members of our Peer Group called in to conduct a diffusion with officers who had responded to a completed suicide involving an individual they had previous contact with.
- Pizza day for cadets: Pizza purchased for cadets at Bannach Elementary School in recognition of their exemplar service.

Drug Enforcement:

- Officers responded to a call of a methamphetamine lab at Point Motel. Initial information obtained indicated a minor explosion had taken place and strong smell of the chemical reaction was present. Large scale incident involving Fire Department and later Wisconsin Department of Criminal Interdiction. Active small scale meth lab located, along with materials used to make methamphetamine. Search involved two rooms. Nuisance abatement current underway on the Point Motel.
- Detective conducted a search of a residence within the city where pills were being sold under claim of being homemade oxycodone. Contents suspected of being fentanyl.

Monthly Use of Force Reporting (annual total in parenthesis):

Number of Use of Force incidents 4 (38)

- September 29th – officers were dealing with a male subject with a Schizophrenia diagnosis who had physically assaulted his mother. The male attempted to leave. Officers were forced to take the subject to the ground (decentralize) and use force on the subject's arms and wrists to get his arms behind his back. No injuries.
- September 30th – SPPD/Plover SWAT conducted a search warrant in the City of Stevens Point. During the execution of the warrant SWAT members pointed their service pistols/rifles at subjects who were taken into custody. There was also a less lethal gun deployed during the execution of the warrant. There were no injuries during the execution of the warrant.
- October 8th – Officer were looking for a female suspect in a domestic battery case reportedly armed with a knife. Officers located the female suspect hiding in a garage. Officers pointed their service weapons at the suspect due to the threat of her being in possession of a knife. Subject taken in to custody without incident. No injuries.
- October 22nd – Officers were struggling with an intoxicated and manic female who was at the hospital. The female had struck an officer in the chest with her fist. A second officer used a wrist compliance hold to handcuff her to the bed to avoid further assault on other officers. No injuries.
- Report of disturbance with information that suspect may be in possession of a gun and knife. Felony traffic stop with display handguns. No injuries.

Mental health related incidents:

Officers responded to the following:

- 31 welfare checks
- 11 voluntary commitments
- Eight emergency detentions
- Two alcohol commitments
- One attempted suicide

K-9 Unit

- Six (6) deployments including:
 - Three mutual aid assist Portage County and Plover PD
 - Three combined traffic stops
 - Four searches were conducted

Staffing:

- Officer Patrick Stanislawski retired October 29, 2020 after 28 years of service with the Stevens Point Police Department.
- Detective Mike Schultz reassigned to Administrative Officer vacancy created by Officer Stanislawski, creating a vacancy in the Investigation Bureau.
- Detective John Lawryn appointed to Acting Sergeant in the Investigation Bureau due to reassignment of Officer Mike Schultz.
- Officer Zachary Gartmann and Officer Kimberly DesRosier have entered the final stages of the Field Training Program and we anticipate solo patrol this month for both.
- Officer Cody Stankowski will begin Step 2 of the Field Training process and progressing on schedule.
- Leopoldo Soria will begin employment November 9th as Community Resource Officer, filling a vacancy created by a recent resignation.

Training:

- Annual handgun qualifications successfully completed for all sworn personnel.
- Sergeant Jeremiah Ballew currently attending Vohne Liche Kennels in the State of Indiana as he completes his training as a K9 Recertification Instructor.
- Brian Brooks and Justin Klein completed a one week training on Death Investigations held in Eau Claire Wisconsin.

Auxiliary Unit:

- Auxiliary participated in one event, Tesla Car Show at the City parking lot in the 1200 block of Main Street. Total volunteer hours: 8.50 hours

Facilities:

- Absentee voting held in the Community Overflow room.
- Community television has completed their move.

Commissioner Wescott moved, seconded by Commissioner Ostrowski to accept the Police Chief's Report for October 2020.

Ayes, all; nays, none. Motion carried.

9. Approval of minutes

Commissioner Moore moved, seconded by Commissioner Kirschling to approve the October 6, 2020 minutes.

Ayes, all; nays, none. Motion carried.

10. Confirmation of bills

Commissioner Ostrowski moved, seconded by Commissioner Wescott, to approve the confirmation of the October 2020 bills.

Ayes, all; nays, none. Motion carried.

11. Review Wisconsin State Statute 62.13, role of Police and Fire Commission

President Wescott reported that the State legislators' primary purpose in creating police and fire commissions was to remove the administration of police and fire departments from city politics and place it in the hands of an impartial and non-political citizen board. The state legislature enacted the law about 100 years ago.

Attorney Dean Dietrich was asked to clarify for the commission in writing the authority of the police and fire commission, specifically an optional powers commission. In his memo Dean states a number of questions have been raised regarding the authority of the Police and Fire Commission and the discretion exercised by the Police and Fire Commission regarding the handling of the disciplinary proceedings involving the former Police Chief.

Attorney Dietrich's memo addresses the questions and concerns that have been raised and provides guidance to the Commissioners going forward with their role and responsibilities within local government in the City of Stevens Point.

A copy of Dean Dietrich's memo is attached.

12. Consideration of motion to adjourn into closed session pursuant to Wis. Stats. Section 19.85 (1) (a), (f) and (g) of the Wisconsin Statutes for the purpose of preliminary consideration of disciplinary matters and charges against specific persons which if discussed in public would likely have an adverse effect upon the reputation of individuals names in those charges, for the purpose of deliberating regarding preliminary matters relating to the disciplinary proceedings, and conferring with legal counsel who is rendering advice concerning strategy to be adopted by the Commission with respect to litigation it may become involved in including discussion regarding preliminary proceedings relating to a hearing on the Statement of Charges against a firefighter employee.

Commissioner Wescott moved, seconded by Commissioner Carlson to adjourn into closed session.

Ayes, all; nays, none. Motion carried.

13. Adjournment

The meeting adjourned at 11:30 a.m.

Dean R. Dietrich
Shane J. VanderWaal
Arthur M. Scheller, III



Dietrich VanderWaal, S.C.
530 Jackson Street
P.O. Box 1343
Wausau, WI 54402-1343
Phone: 715-845-9401
Fax: 715-848-0243
dietrich@dvlawgroup.com
www.dietrichvanderwaal.com

MEMORANDUM

TO: Police and Fire Commission
City of Stevens Point

FROM: Dean R. Dietrich
Dietrich VanderWaal, S.C.

DATE: November 2, 2020

RE: Questions Regarding Authority of Police and Fire Commission

Dear Commissioners:

A number of questions have been raised regarding the authority of the Police and Fire Commission and the discretion exercised by the Police and Fire Commission regarding the handling of the disciplinary proceedings involving the former Police Chief.

We are providing this document to the Commissioners in order to address the questions and concerns that have been raised and to provide guidance to the Commissioners going forward with their role and responsibilities within local government in the City of Stevens Point. Attached to this Memorandum is a document presented to the Commission on September 6, 2016, by the City and Villages Mutual Insurance Company which outlines the duties and responsibilities of a Police and Fire Commission and contains background information regarding the Stevens Point Code of Ordinances and applicable state statutes. We are providing this document as background and a reminder of the duties and responsibilities of a Police and Fire Commission in the City of Stevens Point. While this document is four years old, the information contained in this document is still valid and may be relied upon by the Commission as it continues to assess its duties and responsibilities. We are also providing this document to avoid any duplicity of information received by the Commission.

SUMMARY OF BACKGROUND INFORMATION

While there is a great deal of information provided in the background materials as well as applicable state statutes, we wish to provide a brief summary of this information for consideration by the Commission:

- The Stevens Point Police and Fire Commission is appointed under Section 3.29 of the Stevens Point Code of Ordinances and has the powers and authority conferred under Section 62.13 of the Wisconsin Statutes;

- The Stevens Point Police and Fire Commission has optional powers as described in Section 62.13(6) of the Wisconsin Statutes which provides additional authority to the Commission to:
 - Organize and supervise the police and fire departments;
 - Describe rules and regulations for controlling and managing the departments;
 - Contract for and purchase all necessary apparatus and supplies for the use of the departments;
 - Audit all bills, claims, and expenses of the fire and police departments before such bills are paid by the municipal treasurer;
- The police and fire commission with optional powers does not have the authority to exercise discretion over the “erection and control” of the police and fire stations. The common council is responsible for providing funds to pay for the operation of the police department and the fire department;
- One of the main functions of a police and fire commission is to establish a hiring process for the hiring of staff for the police department and the fire department. This responsibility is to be exercised by the police and fire commission without restriction or influence from the common council or city officials other than the determination of the amount of money that would be directed for the operation of the police department and the fire department;
- One of the main functions of a police and fire commission (whether with optional powers or not) is to oversee and exercise discretion regarding the discipline of all members of the police department and fire department. The exercise of discretion over disciplinary matters is solely vested in the police and fire commission and may not be subject to the influence or direction of the common council or city officials in any manner. This is one of the primary purposes for the creation of a separate police and fire commission.

ADDITIONAL DISCUSSION ITEMS

Media coverage over the past week has suggested that there is confusion regarding the authority of the Common Council and authority of the Police and Fire Commission. This is not unusual because of the general confusion over authority of respective local government bodies and the desire of local elected officials to exercise control over local happenings whether under their authority and jurisdiction or not. We would like to address several of these questions to provide further clarification to the Commission.

Authority of Common Council to Address Personnel Matters in the Police and Fire Departments

As noted above, the Police and Fire Commission has sole and exclusive authority to address personnel matters in the Police and Fire Departments. Typically, personnel matters are addressed through the filing of charges for disciplinary action against an individual member of the Department

or the issuance of disciplinary action by the Police Chief/Fire Chief and the processing of an appeal of that disciplinary action to the Commission. In the case of the Stevens Point Police and Fire Commission (with optional powers), the Commission has the sole and exclusive authority to establish, review, and oversee the personnel policies and procedures of each Department. This is incorporated into Section 62.13(6)(a)(1) of the Wisconsin Statutes which provides that a police and fire commission with optional powers has the power “to organize and supervise the fire and police... departments and to prescribe rules and regulations for their control and management.”

When the Police and Fire Commission is exercising its decision-making authority regarding personnel matters, the Commission is to exercise its judgment and discretion in accordance with its independent view of what is reasonable and appropriate under the circumstances. It is not unusual for other elected officials to disagree with the decision made by the Commission (as a whole); however, the responsibility rests solely with the Commission. The Commission is authorized and expected to exercise its discretion without undue influence from others when considering personnel matters involving a member of the Police or Fire Department.

Sharing of Personnel Information During an Investigation

Section 62.13(5) of the Wisconsin Statutes provides the statutory procedure for the conduct of a hearing and the issuance of discipline by the Police and Fire Commission. Under the requirements of that state statute, a proper investigation must be conducted before a hearing is held and then a hearing must be held before the Commission to determine whether or not discipline should be issued and to determine what is the appropriate discipline. The hearing process is designed to allow the Commissioners to obtain information and receive responses from all parties before a final decision is made regarding a disciplinary matter. It would be inappropriate to disclose information regarding a personnel investigation prior to the conduct of a hearing before the Commission. The release of information to various parties prior to a hearing could constitute a due process flaw in the proceedings before the Commission.

Authority for Hiring of Police Chief or Fire Chief

As noted above, the Police and Fire Commission (whether holding optional powers or not) has the sole and exclusive responsibility for the hiring of a Police Chief or Fire Chief. That is one of the main functions of a Commission. As noted in the materials, the purpose for delegating this authority to the Police and Fire Commission is to eliminate the inappropriate influence of political considerations when hiring a Police Chief or Fire Chief that is responsible for overseeing order within the community.

Appointment Process

Appointments to the Police and Fire Commission are governed by state statutes and the City Code of Ordinances. Under the City Ordinances, a member of the Commission is appointed by the Mayor between the third Monday in April and the third Monday in May with the appointment to be conducted for one member of the Commission on an annual basis. The Mayor is to ensure that no more than three members of the Commission would belong to the same political party. This is consistent with the requirements under state statute. Commissioners may only be removed from

their position for cause as provided under Section 17.12(1)(cm) of the Wisconsin Statutes.

What Does Optional Powers Really Mean?

As noted above, the Stevens Point Police and Fire Commission has optional powers under Section 62.13(6) of the Wisconsin Statutes. This state statute describes the powers of the Police and Fire Commission (with optional powers) and establishes the procedure for the community to authorize the granting of optional powers to the Commission. The Common Council may not unilaterally grant or repeal the grant of optional powers to the Commission.

Simply stated, the Police and Fire Commission with optional powers performs all of the functions of local government as it relates to the operation of the Police Department and the Fire Department. The Commission stands in place of the Common Council except as it relates to the location and construction of buildings to house the Police Department and the Fire Department or to establish the annual allocation of funds to be used to operate the Police Department and the Fire Department. In all other respects, the Commission serves as the decision-making body and the oversight body for the operation of the Police Department and the Fire Department.

CONCLUSION

The above represents a summary of the background information provided to the Commission regarding the duties and responsibilities of a Police and Fire Commission in the City of Stevens Point. We recognize that often tension can arise between a Commission and other local elected officials. The Legislature determined many years ago to create different authority and responsibility for the operation of the Police and Fire Department in a community in order to avoid the mixing of local politics with enforcement of public safety in the community.

If any Commissioner has any questions about this information, please feel free to contact us directly.

Attachment
