

AGENDA
POLICE AND FIRE COMMISSION
Superior, WI 54880

Police & Fire Commissioners: Shawnu Ksicinski, Ephraim Nikoi, Howard Hendrickson,
Arthur Gil de Lamadrid, ChaQuana McEntyre

Council Representative: Brent Fennessey

The Board of the Police and Fire Commission for the City of Superior will meet in regular session on **Wednesday, December 9, 2020 at 6:00 p.m.** This will be a virtual only meeting. Access the meeting online by entering the following information:

[Join with Google Meet](#)

meet.google.com/vhp-egwm-gsr



[Join by phone](#)

(US) +1 617-675-4444 PIN: 244 391 742 7131#

The following has been scheduled for discussion/action:

1. Call to order
2. Roll call
3. Recognition of notice to public
4. Approval of minutes: November 12, 2020
5. Police & Fire department updates
6. Letter from Chief Gordon; Completion of probationary period, Abrahamson
7. Letter from Chief Gordon; Completion of probationary period, Staples
8. Letter from Chief Gordon; Extension of probationary period; Elliot
9. Lateral transfers
10. Article VII, Review PFC rules related to how the Commission receives correspondence and the process for an individual filing a complaint

Adjournment

-Donna Swanson, Recording Secretary

In compliance with Wisconsin Open Meetings Law, this agenda was:

Posted: Government Center, Douglas County Courthouse, Superior Public Library

Notified by email: Superior Telegram, Duluth News Tribune

The City of Superior complies with the Americans with Disabilities Act of 1990. If you are in need of an accommodation to participate in the public meeting process, please contact the City Clerk's Office at (715)395-7200 by 4:30 p.m. on the day prior to the scheduled meeting. We will attempt to accommodate any request depending on the amount of notice we receive.

c:	Mayor Paine	Cammi Koneczny, Human Resources Director
	City Clerk	Frog Prell, City Attorney
	Scott Gordon, Fire Chief	Russ Milroy, WPPA, Local #27
	Nick Alexander, Police Chief	Suzanne Olson, IAFF Local #74
	Rich Burghaus WPPA Representative	

**MINUTES
POLICE AND FIRE COMMISSION
Superior, Wisconsin**

1. A special meeting of the Board of the Police and Fire Commission for the City of Superior was called to order Thursday, November 12, 2020 at 4:30 p.m. Participants the meeting via Google Meet.

2. ROLL CALL

Commissioners present: Howard Hendrickson, Ephraim Nikoi, Arthur Gil de Lamadrid

Also present: Chief Alexander, Chief Gordon, HR Director Koneczny

There being a quorum present, the meeting was in order.

3. RECOGNITION OF NOTICE TO THE PUBLIC

The recording secretary mailed and/or delivered agendas and agenda packets to persons or organizations listed, and the meeting was legally noticed in accordance with Wisconsin State Statutes open meeting law.

4. Police & Fire department updates

Chief Alexander said that overall things are good in the department. He said we were able to get the COVID outbreaks under control. We did have a period when a handful of people were confirmed, but it's been about three weeks since we've had one. We are continually reminding people to use their PPE and take precautions, and we also went back to restricting people's presence within the department. Chief Alexander talked about the need for the hiring process to begin again. Between COVID and recruit schools not being able to function at the same level that they previously did, and possibly up to four retirements in the next year, we will be short staffed for much of 2021. Chief Alexander talked about the training that department members attended last year on Fair & Impartial Policing. This was very good training and largely dealt with de-escalation, professional communication, and implicit and unconscious bias. We now have two officers that have been trained to be trainers in this area, so we can have follow up training for officers. This will allow us to revisit these topics at a much greater frequency than we have in the past.

Chief Gordon said the Fire Department has now had three positive COVID cases, one department member is still off of work. Luckily none of them had severe symptoms. Chief Gordon has put a plan in place to make sure the department can continue to provide service to the community during COVID outbreaks. Chief Gordon said in preparation for a possible bigger outbreak, he has been working on a plan in the event that more department members are affected by COVID. Interviews for new firefighters are scheduled for next week. Some candidates are coming from out of town, so Chief's interviews will take place on that same day as to not make people travel to our city twice. Chief Gordon said the goal is to have four great candidates hired and for them to begin in January. This would put the department at full staffing again, as there have been shortages all through 2020.

No Action

5. Approval of minutes: October 14 and October 28, 2020

Motion by Commissioner Hendrickson, seconded by Commissioner Gil de Lamadrid and carried to approve the minutes from the October 14, 2020 meeting.

Motion by Commissioner Gil de Lamadrid, seconded by Commissioner Hendrickson and carried to approve the minutes from the October 28, 2020 meeting.

6. Police Officer testing process

HR Director Koneczny presented a rough draft for the upcoming testing process. The deadline for applications will likely be December 13th and then the process will move forward with scheduling interviews, etc. There was also some discussion on in-person versus virtual interviews.

Motion by Commissioner Hendrickson, seconded by Commissioner Gil de Lamadrid and carried to approve the Police Officer testing process.

7. Lateral transfers

Chief Alexander explained that this process would offer an open enrollment period for applications for people who are already certified, licensed to be a police officer, or eligible for it through reciprocity. Chief Alexander said this would make it more encouraging for officers from other departments to apply with our department without going through the entire hiring process. Chief Alexander said often this type of process will allow someone to come into the department higher in the pay scale than a new officer. This would offer an extra incentive for officers to transfer to our department. This aspect would need our police unions' approval. Chief Alexander said this would be beneficial to us in that we may get more qualified officers and might offset the hardship of department shortages. Chief Alexander said he can bring some draft language to Commissioners at a future meeting. Chief Gordon said he would be interested in this process for the fire department as well.

No Action

Motion by Commissioner Gil de Lamadrid, seconded by Commissioner Hendrickson and carried to adjourn at 5:09 p.m.

*Submitted by: Donna Swanson
Recording Secretary*



SUPERIOR

W I S C O N S I N

Living up to our name.

Superior Fire Department

*Scott Gordon, Fire Chief
Superior Fire Department
3326 Tower Avenue
Superior, WI 54880*

*Phone: (715) 395-1680
FireDept4@ci.superior.wi.us
www.ci.superior.wi.us*

December 1, 2020

TO: Police & Fire Commission Members
FROM: Scott Gordon, Fire Chief
REF: Probationary Period

For your information and records Firefighter Gustaf Abrahamson will successfully complete his 18 month probationary period effective January 8, 2021.

I recommend that he be appointed to his respective position.

Thank you,

A handwritten signature in black ink that reads "Scott Gordon".

Scott Gordon
Fire Chief

c: Human Resources
FF Gustaf Abrahamson



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*Scott Gordon, Fire Chief
Superior Fire Department
3326 Tower Avenue
Superior, WI 54880*

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FireDept4@ci.superior.wi.us
www.ci.superior.wi.us*

December 1, 2020

TO: Police & Fire Commission Members
FROM: Scott Gordon, Fire Chief
REF: Probationary Period

For your information and records Firefighter Adam Staples will successfully complete his 18 month probationary period effective January 8, 2021.

I recommend that he be appointed to his respective position.

Thank you,

A handwritten signature in black ink that reads 'Scott Gordon'.

Scott Gordon
Fire Chief

c: Human Resources
FF Adam Staples



Living up to our name.

Superior Fire Department

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December 1, 2020

TO: Police & Fire Commission Members
FROM: Scott Gordon, Fire Chief
REF: Extension of Probationary Period

For your information and records, Firefighter Austin Elliott's 18 month probationary period will need to be extended, per PFC rules, due to a light duty assignment that began on 10/04/20 and is anticipated to end 01/04/21.

Once Firefighter Elliott returns to normal duty, his probationary period will resume, until he completes the 18 month probationary period.

I recommend that his probationary period, which was scheduled to be complete on January 8, 2021, be extended to reflect the time spent on light duty.

Thank you,

Scott Gordon
Fire Chief

c: Human Resources
FF Austin Elliott



Superior Police Department

Memorandum

TO: Police and Fire Commission, HR Director Koneczny

FROM: Chief Nicholas Alexander *Nicholas F Alexander*

DATE: 12-02-2020

SUBJECT: Lateral Transfers

At last month's PFC meeting I discussed adding the option of allowing experienced, certified, or reciprocity eligible candidates to have an on-going/open application period. Looking to the future I expect some difficulty in filling vacancies and view this as an option that could provide some relief and potentially save some money. Superior Fire Department Chief Gordon also expressed an interest in this option. I have surveyed many agencies in WI and MN and this process is becoming more of a norm and has helped open up the market for the agencies that have implemented lateral transfers.

Since the last meeting I have met with our police union, WPPA Local #27, and they agreed that this is a desirable option for the department. They did not have any concerns with lateral transfers being elevated in the pay and benefit scales based on their level of experience but feel the lateral transfer would enter the seniority list at the bottom. This is consistent with what I have found other jurisdictions doing. The specifics of what that would look like will need to be worked out with HR Director Koneczny and the union but that appears to be something we will be able to find common ground on.

In terms of the process and how it fits into the PFC rules I have examined Section 6 which deals with the hiring process and certified hiring lists. Here are some draft suggestions, **in red**, that could be added to allow for the lateral process:

Section 603 Determination of Need for Testing and Advertising

add (5) Applicants who are certified WI law enforcement officers, or eligible for the reciprocity exam for certification, may submit an application for employment at any time. At a minimum lateral transfers need to possess one year of full time law enforcement experience and will be required to have passed the reciprocity test, if needed, prior to being placed on a certified hiring list.

Section 605 Examinations

(4) The Commission will schedule oral examinations for the top scoring candidates receiving 70% or greater on the written examination. Oral examinations for lateral transfer applicants will be scheduled on an as needed basis and should only require one interview panel.

Language already exists that places the top five scoring certified applicants who pass the written, oral, and physical agility on the Certified Hiring List. If the addition of the lateral transfer applicants caused the list to exceed that number, I would likely seek a special exception to include all passing certified applicants.

This is just some suggested changes for you to consider. I have essentially just streamlined the process for lateral transfers to be more efficient but still incorporated the same testing requirements that all other candidates need to go through. I have drafted it in terms that apply to the Police Department but I believe a few modifications would also allow it to work for the Fire Department as well.

ARTICLE VII

(Last Updated August 1997)

DISCIPLINARY PROCEDURES

§ 700. Scope and Authority.

- (1) The provisions of this Article govern the administration of disciplinary procedures over which the Commission has jurisdiction pursuant to § 62.13(5) of the Wisconsin Statutes. They are adopted pursuant to the authority granted to the Commission under § 62.13(5)(g) to promulgate rules for the administration of disciplinary actions.
- (2) The provisions of Article VII apply to the Fire Chief, the Police Chief, and to all subordinate members of each department.
- (3) The provisions of Article VII do not apply to:
 - (a) Probationary employees, who may be summarily discharged from the Department by the Chief;
 - (b) Members of the Department who are serving in a probationary capacity in a promoted rank and who are demoted by the Commission for failing to satisfactorily complete the period of probation; and
 - (c) Unsworn employees of the Department.

§ 701. Definitions.

When used in Article VII, the following terms have the indicated meanings:

- (1) **“Complainant”** means the person who signs the statement of charges against the respondent. In the case of a statement of charges filed by the Commission as a body, “complainant” means the Commission.
- (2) **“Respondent”** means the person charged in the statement of charges.

§ 702. Legal Counsel for the Commission.

The Commission may retain legal counsel to assist it in the administration of any disciplinary matter pending before it.

§ 705. Filing of Charges; Suspension Pending Disposition of Charges.

- (1) **Who May File Charges.** Charges may be filed against a subordinate member of the Department by the Chief, by a member of the Commission, by the Commission as a body, or by any aggrieved person. Charges may be filed against the Chief by a member of the Commission, by the Commission as a body, or by any aggrieved person.
- (2) **Statement of Charges.** In order to invoke the formal disciplinary process as described in Article VII of these Rules, the statement of charges shall:
 - (a) Be in writing;
 - (b) Be addressed to the Commission;
 - (c) Identify the person against whom the charges are brought;
 - (d) State sufficient facts to allow the accused to know and understand the factual allegations and to be able to prepare a defense. The statement of charges shall indicate the date(s) and location(s) of the alleged offense(s). If any portion of the statement of charges is made upon information and belief, the source(s) of such information and belief shall be identified by name and address;
 - (e) State the specific statute, rule, regulation, policy, procedure, or order which the accused is charged with violating;
 - (f) Be verified, meaning that the complainant must sign and date the statement of charges in the presence of a notary public after declaring under oath or affirmation that the contents of the statement are true and correct to the best of the person's knowledge, information, and belief; and
 - (g) Be filed with the Chair of the Commission at the address specified in § 105 of these Rules.
- (3) **Dismissal of Charges.** The Commission may dismiss without prejudice any statement of charges that fails to comply with the requirement of § 705(2). The Commission may, in the exercise of its discretion, dismiss any complaint where it determines that the complainant through neglect failed to file a complaint in a timely manner.
- (4) **Service of Charges.** Following the filing of charges with the Chair of the Commission, the complainant shall cause a copy thereof to be promptly served upon the respondent and shall promptly furnish the Chair of the Commission with written evidence of that service.

- (5) **Suspension Pending Disposition of Charges.** Pending disposition of charges that have been filed with the Chair of the Commission, the Chief or the Commission may suspend the respondent.

§ 706. Pre-Hearing Procedures.

- (1) **Scheduling Conference.** After the respondent has been served with the statement of charges, the Commission may conduct a scheduling conference with the parties and their counsel to calendar future proceedings in the matter and to consider any other matters relating to the administration of future proceedings in the case.
- (2) **Pre-Hearing Conference.** The Commission may authorize the Chair, a Commissioner designated by the Chair, or a hearing officer to conduct a pre-hearing conference with the parties for such purposes as attempting to simplify the issues at the hearing, determining which issues are contested by the respondent, and identifying facts to which the parties are willing to stipulate. Participation in a pre-hearing conference shall not disqualify any Commissioner from participating in further proceedings in the case.
- (3) **Discovery.**
 - (a) At least seven calendar days before the date scheduled for the hearing, the complainant and the respondent shall furnish each other and the Chair with the names and addresses of the witnesses each intends to call at the hearing. The Commission may refuse to allow a party to call a witness not named on the witness list, unless the Commission determines that the failure to name the witness occurred for good reason.
 - (b) Except as otherwise allowed by the Commission, there is no right to any additional pre-hearing discovery.
- (4) **Subpoenas.** Both the complainant and the respondent may compel the attendance of witnesses by subpoena, which shall be issued by the Chair of the Commission on request. The service of subpoena shall be the responsibility of the party requesting the subpoenas, and the cost of any service fees, witness fees and other related expenses shall be borne by the party requesting the subpoenas.

§ 707. Hearing Procedures.

- (1) **Commencement.** The hearing shall be commenced not less than 10 days nor more than 30 days following the service of charges on the respondent.

- (2) **Notice of Hearing.** The Commission shall furnish written notice of the hearing to the complainant and to the respondent promptly upon scheduling the hearing. The notice shall state the date, time and location of the hearing and shall advise the respondent of the following rights:
- (a) To attend the hearing in person;
 - (b) To be represented by an attorney;
 - (c) To respond to and challenge the charges;
 - (d) To cross-examine and confront the witnesses against him or her under oath.
 - (e) To present witnesses under oath on his or her own behalf;
 - (f) To testify on his or her own behalf;
 - (g) To argue his or her view of the law and the facts; and
 - (h) To subpoena witnesses.
- (3) **Representation by Counsel.** Both the complainant and the respondent may be represented by counsel at the hearing.
- (4) **Duty to Prosecute Case.** When the complainant is the Chief, it is the responsibility of the Chief and the Chief's counsel, if any, to prosecute the case. When the complainant is other than the Chief, it is the responsibility of the complainant and the complainant's counsel, if any, to prosecute the case.
- (5) **Hearing to be Public.** Disciplinary hearings before the Commission shall be conducted in public, except that deliberations by the Commission may be conducted in closed session.
- (6) **Hearing to be Recorded.** All public portions of the hearing shall be recorded verbatim.
- (7) **Issues at Hearing.**
- (a) No member may be suspended, reduced in rank, suspended and reduced in rank, or removed by the Commission based on charges filed by the Commission as a body, by an individual Commissioner, by the Chief, or by an aggrieved person, unless the Commission determines that there is just cause, as described in § 707(7)(b) below, to sustain the charges.
 - (b) In making its determination of just cause under § 707(7)(a), the Commission shall apply the following standards, to the extent applicable:

- (c) Whether the member could reasonably be expected to have had knowledge of the probable consequences of the alleged conduct;
 - (d) Whether the rule or order that the member allegedly violated is reasonable;
 - (e) Whether the Chief, before filing the charge against the member, made a reasonable effort to discover whether the member did in fact violate a rule or order;
 - (f) Whether the effort described in § 707(7)(b)3 was fair and objective;
 - (g) Whether the Chief discovered substantial evidence that the member violated the rule or order as described in the statement of charges filed against the member;
 - (h) Whether the Chief is applying the rule or order fairly and without discrimination against the member; and
 - (i) Whether the proposed discipline reasonably related to the seriousness of the alleged violation and to the member's record of service with the Department.
- (8) **Opening Statements.** The parties shall be allowed to make opening statements to the Commission prior to the presentation of evidence. The Commission may set reasonable time limitations on the length of opening statements.
- (9) **Presentation of Evidence.**
- (a) The complainant shall proceed first with the presentation of evidence in support of the charges filed with the Commission. The respondent may then present evidence. Thereafter, each side may offer evidence in rebuttal until both sides rest.
 - (b) The testimony of witnesses shall be under oath or affirmation and shall be recorded verbatim.
 - (c) Cross-examination of all witnesses by the opposing party shall be permitted.
 - (d) The Commission may question any witness and may call witnesses of its own.
 - (e) Parties may be called to testify adversely.
 - (f) Witnesses may be sequestered upon order of the Commission.

- (g) The Wisconsin Rules of Evidence shall be applied at the hearing, provided that the Commission may, in its discretion, relax said rules if it deems that the interests of justice will be served by doing so. Objections to the admissibility of evidence and offers of proof regarding evidence ruled inadmissible may be made and incorporated into the hearing record.
- (10) **Final Arguments.** At the close of the presentation of evidence, the complainant may make a final argument, the respondent may make a final argument, and the complainant may make a rebuttal argument. The Commission may set reasonable time limitations on the length of final arguments.
- (11) **Decisions by the Commission.**
 - (a) If the Commission determines that one or more of the charges have been sustained, it may order any of the following as the good of the service may require:
 1. That the respondent be suspended;
 2. That the respondent be reduced in rank;
 3. That the respondent be both suspended and reduced in rank; or
 4. That the respondent be removed from the Department.
 - (b) If the Commission determines that none of the charges are sustained, the respondent, if suspended, shall be immediately reinstated and all lost pay restored.
- (12) **Filing of Written Findings.** Findings and determinations rendered at the conclusion of the hearing and orders of suspension, reduction, suspension and reduction, or removal, shall be in writing and shall be filed within three days of their rendering with the Secretary of the Commission.
- (13) **Appeal and Judicial Review.** Appeals and other forms of judicial review of Commission determinations shall be as provided for by the Wisconsin Statutes and by controlling decisions of Wisconsin courts.
- (14) **Additional Hearing Rules.** The Commission may make additional rules for the conduct of the hearing for purposes of assuring fairness to the parties or promoting the orderly administration of the proceedings.

§ 708. Informal Citizen Complaint Process.

When a citizen files a written complaint with the Commission about the conduct of a member of the Department but does not invoke the formal disciplinary process by filing a statement of charges meeting the specifications of § 705(2) above, the Commission may in its discretion either refer the matter to the Chief for investigation and possible disciplinary action or cause its own investigation of the matter to be conducted. In either event the citizen shall be notified of the results of any investigation conducted in response to his or her complaint.