

Approved Meeting Minutes
Code & Ordinance Committee Meeting of 4/20/09

Meeting called to order at 6:35 pm. Members present Scheff, Thomas, French, Rice. Ehlers was excused. Citizens in attendance Jim Frisch and Rich Spurrell. There were no citizen comments.

First order of business was consideration of (2) drafts of an ordinance for “just cause” hearings to allow either;

1. a hearing examiner or police disciplinary committee
2. a hearing examiner only.

Discussion began on why we are looking at such an ordinance. As provided in a memo by Atty. Shawn Reilly to the Village of Eagle Board, using a hearing examiner like a retired judge, experienced in conducting hearings and knowledgeable of the law pertaining to police discipline, will reduce potential procedural errors. A police disciplinary committee may not have that expertise. In an email sent to the committee, Chief Ehlers felt “it is in our best interest to employ the services of a Hearing Examiner.” The committee looked at the ordinance using a hearing examiner only. Scheff questioned why the ordinance draft didn’t say that the individual should have experience in conducting “just cause” hearings as mentioned in Atty. Reilly’s memo. Spurrell suggested that there would be very few candidates if they had to have experience in having conducted “just cause” hearings since most of these types of hearings go before a Police Commission. The important thing is that the individual be experienced in “hearing” procedures. Scheff asked why the ordinance draft didn’t require that the individual be from outside the municipality for purposes of impartiality. Atty. Reilly’s memo mentioned that “it is advantageous to appoint an individual from outside the municipality.” . The committee discussed the merits and felt it would be wrong to pass on a qualified candidate because of their residence. Spurrell explained that a qualified candidate would have to be approved by the Village Board, where questions could be brought up.

Thomas made a motion to approve the ordinance draft allowing a hearing examiner only, with the wording as is, to be presented to the full Village Board for approval. French seconded the motion. Motion passed unanimously.

The committee moved to the next agenda item, a review of updates to Chapter 15 Orderly Conduct. Rice suggested that 15.02(2) Vagrancy be removed because it was found that most vagrancy laws have been ruled unconstitutional because they single out poor and homeless. Rice said that a review of codes and ordinances in about two dozen Wisconsin communities in our area had no mention of vagrancy laws. Municipalities use loitering laws to handle many of the old vagrancy issues. In an email read to the committee, Chief Ehlers suggested that all dollar figures be removed from 15.04(8) Theft, 15.04(9) Receiving Stolen Property, and 15.04(10) Shoplifting because “the current wording suggests that a person CAN engage in theft if the value is OVER a certain amount.” He feels that the police officer investigating could use his/her discretion on whether to charge with an ordinance violation, or charged in circuit court. A firearm definition was

added to differentiate between an actual firearm and a child's toy. Scheff asked that the last line of Sect 15.01(1) "especially a pistol or rifle" be removed since the definition was self-explanatory. Scheff also suggested that the word "great" be removed from 15.01(3)(a). Scheff suggested that changes be made in Sect 15.02(5) Carrying A Concealed Weapon to allow for individuals who have a concealed carry permit. Committee discussion came up with the wording to be added "unless an individual has a valid permit to carry a concealed weapon as allowed by State of Wisconsin law." The committee recommended getting Chief Ehlers' thoughts on that section before proceeding further. Other minor grammatical changes were made. No motion was made until the final draft is completed with Chief Ehlers input.

Mike,
I believe the following language would be sufficient:

"Persons allowed to legally carry a concealed weapon by authority of State or Federal law shall be presumed to not be in violation of Section 15.02(5) unless other substantive evidence supports a violation."

This will allow police officers from any state to carry concealed weapons (federal law) and will put us in a position of not having to change the ordinance in the event that Wisconsin, some day, allows concealed carry by way of permit. Currently, many other states have permit carry but Wisconsin does not recognize their permits here. That is to say, if a Floridian comes to Wisconsin, he/she may not carry concealed, regardless of the fact that they hold a valid permit to carry in Florida.

It was my first thought to exempt everyone under the cloak of state and federal law but feel the additional language regarding "other evidence" will allow us to enforce this ordinance in circumstances that are, for now, unforeseen. As an example: If a police officer from Madison comes to Eagle and is found to be carrying a concealed weapon, at first glance he/she would not be in violation of this ordinance. If our investigating officer later discovers that the Madison officer is on administrative suspension for a department violation, and per his/her department policy, has been temporarily suspended of his/her police powers, that officer would in fact be in violation of our ordinance and would be cited.

The final agenda item on bail bond schedule was tabled until the next meeting when Chief Ehlers is present.

The committee agreed to meet again on Thursday May 14, 2009 at 7:00 pm to review an ordinance to repeal the existing Chapter 15 Orderly Conduct of the Village of Eagle Municipal Code and replace it with the updated copy of Chapter 15 Orderly Conduct. The ordinance will be presented to the full Village Board for approval.

Motion to adjourn made by Thomas and seconded by Scheff. Meeting adjourned at 7:30 pm.