



Holmen Area Fire Department

Agenda – Final

710 South Main Street
Holmen, WI 54636

HOLMEN AREA FIRE COMMISSION

Date/Time: Tuesday March 5, 2024 @ 6:30 pm

Location: Town of Holland Town Hall, Holmen, WI, 54636

The Holmen Area Fire Commission will hold a regular meeting on **March 5, 2024 at 6:30 pm** at the **Town of Holland Town Hall**.

All items on the agenda indicate items for discussion and possible action.

The agenda for the meeting is as follows:

- 1.) Roll Call
- 2.) Pledge of Allegiance
- 3.) Introduction of Fire Commissioners
 - a. Patrick Brockman
 - b. Marc Ertz
 - c. Neal Forde
 - d. John Miller
 - e. Barry Ploessl
- 4.) Election of Fire Commission Officers
 - a. Chair
 - b. Vice Chair
 - c. Secretary
- 5.) Approval of Meeting Minutes
- 6.) Resident or Employee Concerns/Comments

The Commission may receive information from the public and department employees, but reserves the right to limit the time that the public/employee may comment, as well as the right to limit the degree to which members of the public and employees may participate in the meeting.
- 7.) Fire Administration Report (Chief Ostreng)
 - a. General Review of Fire Department
 - b. Staffing/Personnel Updates
- 8.) Commission Chair Report
- 9.) Unfinished Business
- 10.) New Business
 - a. Adoption of Fire Commission Rule



11.) Closed Session

a. Convene in Closed Session

The Board shall consider a motion to convene in closed session pursuant to Wis. Stats. §19.85(1)(c) Considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility. To Wit:

- a. Review of probation extension of full-time Firefighter/EMT
- b. Review of conditional offer status of full-time Firefighter/EMT candidate

12.) Reconvene in Open Session

13.) Reservation of right for action and/or recommendation on Closed Session item(s)

14.) Next Regular Meeting Date

15.) Adjourn



Date Notice Emailed: 03/01/024

Notices Posted: 03/01/2024

Notices Emailed To:

Holmen Area Fire Commission	Board/Town/Village	Media	Posted
Patrick Brockman - Holland	Marilyn Pedretti	Holmen Courier	Holmen Area FD
Marc Ertz - Holland	Rhonda Hesselberg	La Crosse Tribune	Town of Holland
Neal Forde - Holmen	Scott Heinig	La Crosse Radio Group	Village of Holmen
John Miller - Holland	HAFD Members/IAFF L127	WXOW	Holmen USPS
Barry Ploessl - Holmen	HAFD Admin	WKBT	Holmen Library
	HAFD Fire Board	WIZM	
		FOX2548	

CALLS BY MONTH

	2017	-/+	2018	-/+	2019	-/+	2020	-/+	2021	-/+	2022	-/+	2023	-/+	2024	-/+
JANUARY	74	23	74	0	103	29	83	-20	83	0	113	30	92	-21	99	7
FEBRUARY	82	23	71	-11	80	9	71	-9	80	9	92	12	97	5	90	-7
MARCH	81	8	65	-16	107	42	64	-43	111	26	112	1	103	-9		
APRIL	90	23	87	-3	97	10	85	-12	104	19	122	18	130	8		
MAY	85	22	92	7	82	-10	70	-12	101	31	131	30	114	-17		
JUNE	76	-4	90	14	98	8	83	-15	88	5	91	3	94	3		
JULY	79	0	98	19	80	-18	92	12	109	17	104	-5	101	-3		
AUGUST	82	-14	87	5	84	-3	97	13	125	28	104	-21	113	9		
SEPTEMBER	64	5	84	20	77	-7	90	13	113	23	128	15	97	-31		
OCTOBER	80	22	82	2	87	5	109	22	132	23	100	-32	120	20		
NOVEMBER	89	21	94	5	77	-17	106	29	94	-12	109	15	107	-2		
DECEMBER	64	-8	77	13	85	8	102	17	109	7	109	0	118	9		
TOTAL	946	121	1001	55	1057	56	1052	-5	1249	176	1315	66	1286	-29	189	0

CALL TYPES RESPONDED TO FOR MARCH

<u>INCIDENT TYPE</u>	<u>TOTAL</u>
1 - Fire	0
3 - Rescue & Emergency Medical Service Incident	65
4 - Hazardous Condition (No Fire)	5
5 - Service Call	1
6 - Good Intent Call	8
7 - False Alarm & False Call	9
8 - Severe Weather & Natural Disaster	0
9 - Special Incident Type	2
	90

Holmen Area Fire Department
710 Main Street South
Holmen, WI 54636
608-526-9363

February 21, 2024

Caden Douglas
1115 5th Ave. NW
Byron, MN 55920

via email: cadendouglas4@gmail.com

Caden,

On behalf of the Holmen Area Fire Department Board of Directors, I am pleased to inform you that you have satisfied all conditions of employment. Please report to work as a Probationary Firefighter on March 18, 2024 at 0730 hours. The Department reserves the right to transfer you to a different shift for training purposes during your probationary period. Your probationary period is for a period of one year.

The following information is needed to complete the hiring process.

- Completed W-4 Form sent to me via email.
- Completed I-9 Form sent to me via email.
- Report any child support garnishments to me via email.
- A voided personal check for direct deposit purposes scanned and sent to me via email.
- Wisconsin Retirement System: Information on the WRS System can be found at: [Your Benefit Handbook | ETF \(wi.gov\)](#)
 - You will be enrolled in the WRS System.
 - If you wish to participate in the Variable Trust Fund of WRS, you must apply directly to ETF using this form: [Election to Participate in the Variable Trust Fund | ETF \(wi.gov\)](#)
- You must complete a Health Insurance Program Application found here [download \(wi.gov\)](#). Employees must contribute 10% of the premium for the plan they chose via payroll deduction. Information on available plans can be found at: <https://etf.wi.gov/publications/24et-2168/download?inline=>. You must complete this application form even if you are not participating in the Department's Health Insurance.
- Information can be found on the Life Insurance Program here: [The Wisconsin Public Employers Group Life Insurance Program | ETF](#). You need to complete this form even if you decline participation: [et2304_3.pdf](#)

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- Information on Income Continuation Insurance can be found here: [Income Continuation Insurance - Local | ETF \(wi.gov\)](#). You need to complete this form even if you do not want to participate: [Income Continuation Insurance Application--Local Employee | ETF \(wi.gov\)](#)

If you have questions about any of these benefit programs, please feel free to reach out to me. I would be more than happy to set a time we can meet virtually.

We are happy to have you join the Holmen Area Fire Department. Please let me know if you have any questions or concerns.

Congratulations,



Robert Whitaker
Human Resources Consultant

Holmen Area Fire Department
710 Main Street South
Holmen, WI 54636
608-526-9363

January 21, 2024

Nicholas Meinertz
305 North Gjere Avenue #5
Caledonia, MN 55921

via email: meinertzn@yahoo.com

Nicholas,

I am pleased to extend to you a conditional offer of appointment as a probationary firefighter of the Holmen Area Fire Department. This offer is conditioned on your successful completion of the following:

- Background Investigation
- Medical Examination
- CPAT certificate dated less than 1 year old

If all conditions are successfully completed, we will set a start date and obtain uniforms.

If you accept this conditional offer, please confirm through email to me at rwhitaker@mcmgrp.com and also complete and return the attached Release of Information Authorization Form. Feel free to send any additional questions to me via email also.

I am happy to have you join the Holmen Area Fire Department.

Respectfully,



Robert Whitaker
Human Resources Consultant

HOLMEN AREA FIRE COMMISSION



RULES

Adopted: 08-16-2023

ARTICLE I: ORGANIZATION OF THE HOLMEN AREA FIRE COMMISSION

§ 100. Establishment of the Holmen Area Fire Commission.

(1) The Holmen Area Fire Commission is a "joint fire commission" as provided for in § 61.65 of the Wisconsin Statutes.

(2) The Commission was created by the municipalities of the Village of Holmen and Town of Holland in the Holmen Area Fire Services Agreement amended August 15, 2023.

§ 101. Powers of the Commission.

The Commission exercises those powers specified in § 62.13 of the Wisconsin Statutes pertaining to boards of police and fire commissioners, but it does not exercise the "optional powers" specified in § 62.13(6) of the Statutes.

§ 102. Appointment of Commissioners.

(1) The Commission is composed of five members with the village president or town board chair of each of the participating municipalities having the power to appoint one Commission member.

(2) There are no alternate members of the Commission.

§ 103. Terms of Office.

(1) **Initial Terms of Office.** The initial terms of office for Commission members shall expire according to the following schedule:

(a) Commissioner #1: Town of Holland – Term expires April 30, 2024

(b) Commissioner #2: Village of Holmen – Term expires April 30, 2025

(c) Commissioner #3: Town of Holland – Term expires April 30, 2026

(d) Commissioner #4: Village of Holmen – Term expires April 30, 2027

(e) Commissioner #5: Alternating – Town of Holland term expires April 30, 2028. Upon the expiration of Commissioner #5's Term, the Village of Holmen appoints a Commissioner for Commissioner #5 for a five-year term. This alternating term continues unless amended by the Holmen Area Fire Services Agreement.

(2) **Subsequent Terms of Office.** Subsequent terms of office for all Commission members shall be five years in duration.

(3) **Vacancies.** Whenever a vacancy occurs during the term of office of a Commissioner, a new Commissioner from the same municipality shall be appointed to complete the predecessor's term of office. The appointment shall be made in the same manner as original appointments are made.

§ 104. Officers of the Fire Commission.

(1) **Chair.**

(a) **Election.** The Commission shall elect a Chair at the first meeting of the Commission that occurs after May 1st of each year. The Chair shall hold office until his or her replacement is duly elected by the Commission.

(b) **Duties.** The Chair of the Commission shall have the responsibility to:

1. Set the agenda for Commission meetings, which shall include all items requested by any Commission member;
2. Preside over Commission meetings;
3. Preside over any disciplinary hearings involving the Fire Chief or subordinate members over whom the Commission has jurisdiction and perform such other functions in the disciplinary process as are identified in Article VII of these Rules or in § 62.13 of the Wisconsin Statutes;
4. Preside over appointment and promotion ceremonies;
5. Serve as public spokesperson for the Commission;
6. Appoint Commission members to any committees that are created by the Commission from time to time;
7. Assure that the Holmen Area Fire Department Board of Directors is regularly informed about Commission activities;
8. Supervise any session at which candidates for promotion are afforded an opportunity to review their written promotional tests and the accuracy of the scoring thereof.
9. Assure that Commission expenditures are vigilantly monitored and kept within budgetary limits established by the Board of Directors of the

Holmen Area Fire Department; and

10. Take such other action as is necessary to assure that the duties of the Commission are properly discharged, provided that such action is not inconsistent with these Rules or with the Wisconsin Statutes.

(2) Vice Chair.

(a) **Election.** The Commission shall elect a Vice Chair at the first meeting of the Commission that occurs after May 1st of each year. The Vice Chair shall hold office until his or her replacement is duly elected by the Commission.

(b) **Duties.** The Vice Chair of the Commission shall have the responsibility to:

1. Preside at Commission meetings when the Chair is absent;
2. Assume the responsibilities of the Chair when requested to do so by the Chair; and
3. Perform such other Commission duties as requested by the Chair, provided that such duties are not inconsistent with these Rules or with the Wisconsin Statutes.

(3) Secretary.

(a) **Election.** The Commission shall elect a Secretary at the first meeting of the Commission that occurs after May 1st of each year. The Secretary shall hold office until his or her replacement is duly elected by the Commission.

(b) **Duties.** The Secretary of the Commission shall have the responsibility to:

1. Attend all meetings of the Commission, prepare the Minutes thereof for approval by the Commission, and maintain the official copy of the Minutes once they are approved;
2. Serve as the official custodian of the Minutes of Commission meetings and of all other Commission documents and records;
3. Prepare and publish official notices of Commission business, including meeting notices and agendas, as requested by the Chair or as otherwise required by these Rules or by the Wisconsin Statutes;
4. Assist the Chair in preparing and circulating Commission correspondence;

5. Accept for filing all appointments of Commission members;
6. Perform such functions in the disciplinary process as are identified in Article VII of these Rules or in § 62.13 of the Wisconsin Statutes;
7. Perform such other Commission duties as requested by the Chair, provided that such duties are not inconsistent with these Rules or with the Wisconsin Statutes.

§ 105. Address of the Fire Commission.

All correspondence with the Commission, its officers, and its members shall be sent to the following address:

Holmen Area Fire Commission
Holmen Area Fire Department
710 S. Main Street
Holmen, Wisconsin 54636

§ 106. Service of Process on the Fire Commission.

The Commission designates the Fire Chief, whose office is located at Holmen Area Fire Department, 710 S. Main Street, Holmen, Wisconsin 54636, as its agents to receive legal process addressed to the Commission or to any of its members in their official capacities, unless personal service of process is otherwise required by law.

§ 107. Rules of the Fire Commission.

- (1) These Rules of the Fire Commission shall govern the conduct of all business relating to the duties and responsibilities of the Commission and shall further apply to the position of Fire Chief and to all subordinate positions within the Holmen Area Fire Department that are under the jurisdiction of the Commission.
- (2) These Rules of the Fire Commission and any amendments thereto shall take effect upon adoption by the Commission at a regular meeting thereof and shall remain in effect until such time as they are repealed or amended in whole or in part.
- (3) These Rules of the Fire Commission are subject to the applicable provisions of state and federal law. It is the express intention of the Commission to comply with all applicable state and federal laws as they relate to hiring, promotion, discipline, and termination of Department members within the jurisdiction of the Commission.
- (4) Should any provision of these Rules be declared unlawful by a court of competent

jurisdiction, all other provisions shall remain in full force and effect.

§ 108. Public Records and Records Retention Policy.

Maintenance of Holmen Area Fire Department records, access to those records, and destruction of those records are governed by the "Policy Regulating Access to and Maintenance and Destruction of Holmen Area Fire Department Records" as adopted by the Board of Directors and subject to state law.

§ 109. Definitions.

Unless otherwise indicated, the following terms have the indicated meanings whenever they are used in these Rules:

(1) "Board of Directors" and "Board" mean the Board of Directors of the Holmen Area Fire Department.

(2) "Chair" means the duly elected chairperson of the Holmen Area Fire Commission.

(3) "Chief" and "Fire Chief" mean the person officially appointed by the Commission to the position of Fire Chief of the Holmen Area Fire Department and, in the event of a vacancy in the position of Fire Chief, the person appointed by the Commission to serve as Acting Fire Chief.

(4) "Commission" and "Fire Commission" mean the joint fire commission officially known as the Holmen Area Fire Commission.

(5) "Commissioner" and "Fire Commissioner" mean a duly appointed member of the Holmen Area Fire Commission.

(6) "Department" means the Holmen Area Fire Department.

(7) "Member" means all personnel employed by the Holmen Area Fire Department, including the Fire Chief, who are within the jurisdiction of the Fire Commission. As used in these rules, the term "member" does not include Paid-on-Call Firefighters, Part-Time Firefighters and unsworn employees of the Department.

(9) "Participating municipality" means a municipality that is a party to the Holmen Area Fire Services Agreement.

(10) "Rules" means the Rules of the Holmen Area Fire Commission.

(11) "Secretary" means the duly elected secretary of the Holmen Area Fire Commission.

(12) "Subordinate" and "subordinate member" mean all personnel employed by the Holmen Area Fire Department, except the Fire Chief, who are within the jurisdiction of the Fire Commission. As used in these Rules, the terms "subordinate" and "subordinate member" do not include Paid-on-Call Firefighters, Part-Time Firefighters and unsworn employees of the Department.

(13) "Vice Chair" means the duly elected vice chairperson of the Holmen Area Fire Commission.

ARTICLE II: FIRE COMMISSION MEETINGS

§ 200. Schedule of Meetings.

- (1) The Commission shall meet at least annually to elect a Chair, Vice Chair, and Secretary.
- (2) The Commission shall also meet at any time set by the Commission during an official business meeting, at the call of the Chair, or upon the written or electronic request of at least two members of the Commission.

§ 201. Location of Meetings.

The Commission meets at a neutral meeting location within the Holmen Area Fire District as specified in the Commission's public meeting notices.

§ 202. Notice of Meetings.

- (1) Public notice of every meeting shall be given at least twenty-four (24) hours prior to the commencement of such meeting unless for good cause such notice is impossible or impractical, in which case shorter notice may be given, but in no case may the notice be provided less than two hours in advance of the meeting.
- (2) The notice of meeting shall be provided to each Commission member, to the administrators of the participating municipalities for public posting, to the designated representative of the La Crosse Area Professional Fire Fighters' Association, and at the fire station.
- (3) The notice of meeting shall be provided to those news media which have filed a written request for such notice and to any official newspapers designated under §§ 985.04, 985.05 or 985.06 of the Wisconsin Statutes or, if none exists, to a news medium likely to give notice in the Holmen area.
- (4) The notice of meeting shall set forth the time, date, place and subject matter of the meeting, including that intended for consideration at any contemplated closed session, in such form as is reasonably likely to apprise members of the public and the news media thereof.
- (5) The notice of meeting shall invite those who require special accommodations in order to attend the meeting to contact the Fire Chief in advance so that reasonable accommodations can be made.

§ 203. Meeting Agenda.

(1) The Chair shall set the agenda for each meeting and cause it to be included in the notice of meeting.

(2) In setting the agenda the Chair shall include any item of business requested by any Commission member.

§ 204. Order of Business.

The ordinary order of business for most meetings of the Commission is as follows:

Call to Order
Roll Call
Consideration of Minutes of Previous Meeting(s)
Fire Chief's Report on Department Activities relating to
 Department Calls, Staffing, Appointment/Promotion Needs,
 Training, Fire Prevention activities and upcoming events
Chair's Report on Activities of Board of Directors
Unfinished Business from Prior Meetings
New Business
Other Business Authorized by Law
Set Next Meeting Date
Adjournment

§ 205. Meetings Subject to Wisconsin Open Meetings Law.

Meetings of the Commission are open to the public and all business of the Commission shall be conducted in open session, except that the Commission may convene in closed session when duly authorized to do so pursuant to law and then only upon a motion to that effect that is carried in a roll call vote that is recorded in the Minutes. The motion shall specify the subject matters to be discussed in closed session and the statutory authority for considering them in closed session.

§ 206. Quorum.

A majority of the members of the Commission shall constitute a quorum for the transaction of any business at a meeting of the Commission.

§ 207. Vote Required to Take Action.

(1) The act of a majority of the Commissioners present at a Commission meeting at which a quorum is present shall be the act of the Commission.

(2) Only duly appointed members of the Commission may vote on matters at a Commission meeting.

(3) Proxy voting is not permitted at Commission meetings.

§ 208. Floor Privileges.

(1) Only duly appointed members of the Commission shall have the right to speak at Commission meetings.

(2) The Commission may, in its sole discretion, allow anyone else present at a Commission meeting to speak at the meeting and then only to the extent of and subject to any parameters established by the Commission.

§ 209. Rules of Order.

The then current edition of *Robert's Rules of Order* shall be the rules of order for the conduct of business at Commission meetings, unless otherwise provided by these Rules of the Commission or by the Wisconsin Statutes or unless the Commission waives those rules of order or specified provisions thereof for a particular meeting.

ARTICLE III: APPOINTMENT OF FIRE CHIEF

§ 300. General Provisions.

(1) The provisions of Article III shall govern the appointment of the Fire Chief and, when necessary, Acting Fire Chief.

(2) The position descriptions for these ranks and the qualifications for appointment thereto are established by the Board of Directors.

§ 301. Recruitment and Appointment of Fire Chief; Acting Fire Chief.

(1) The Commission is vested under the Wisconsin Statutes with the authority to appoint the Fire Chief, who shall hold office during good behavior, subject to suspension or removal by the Commission for cause.

(2) Whenever there is a vacancy in the office of Fire Chief, the Commission shall devise and implement a search process to recruit and appoint a Fire Chief. The steps in the search process are, subject to applicable state and federal law, within the sole discretion of the Commission.

(3) Whenever there is a vacancy in the office of Fire Chief, the Commission may appoint an Acting Chief who shall perform the duties of the Fire Chief until such time as he or she is removed by the Commission or until a new permanent Fire Chief is appointed and takes office.

(4) An appointment to the rank of Fire Chief is specifically subject to the appointee's compliance with the residency requirement for Fire Chiefs as established by the Board of Directors. A failure to establish residency within the physical boundaries established by the Board within the time limits specified by the Board or a failure thereafter to continuously maintain residence within those boundaries shall constitute just cause for removal from office.

ARTICLE IV: PROMOTION PROCEDURES FOR THE REPRESENTED RANKS

§ 400. General Provisions.

- (1) The provisions of Article IV shall apply to the creation of eligibility lists for promotions to the ranks of Captain, Lieutenant and Engineer. They shall also govern promotions to these ranks.
- (2) Position descriptions and qualifications for promotion to the ranks of Captain, Lieutenant and Engineer are established by the Board of Directors.
- (3) Any person promoted to the rank of Captain, Lieutenant and Engineer shall be on probation in the new rank for a period of one year from the date the promotion takes effect.¹
- (4) Following the period of probation in a promoted rank, a member becomes permanent in that rank only upon positive action by the Commission.
- (5) If a promotion to the rank of Captain, Lieutenant and Engineer is subject to the promoted member achieving certain Wisconsin Technical College System certifications for the position specified by the Board of Directors within a certain time period specified by the Board, a failure to obtain any required certification(s) within the specified time limit shall constitute just cause for the Commission to rescind the promotion. When a promotion is rescinded on this ground, the member shall revert to his or her previous rank if there is a vacancy in that rank; otherwise, the reversion is to the rank of Firefighter/EMT.

§ 401. Promotions to the Rank of Captain, Lieutenant and Engineer.

- (1) This section applies whenever there is a vacancy in the rank of Captain, Lieutenant and Engineer.
- (2) Whenever a vacancy occurs in the rank of Captain, Lieutenant and Engineer, the Commission shall act as expeditiously as possible to fill that vacancy, provided that it is authorized by the Board of Directors to fill the vacant position. Within the meaning of this rule, a position is vacant when it is a newly created but unoccupied position or when it is an existing position that is available due to the death, termination, promotion, demotion, resignation or retirement of its previous occupant.
- (3) If an eligibility list exists for a position that is vacant, the Fire Chief shall appoint the highest ranked individual on the list, assuming that the highest ranked individual remains

¹ See *Kraus v. Waukesha Police and Fire Commission*, 2003 WI 51, 261 Wis. 2d 485, 662 N.W.2d 294 (analyzing power of chiefs and police and fire commissions to promote personnel on a probationary basis).

otherwise qualified for the position of Captain, Lieutenant and Engineer. Any such appointment may require the candidate's participation in a management/psychological assessment conducted by a qualified vendor selected by the Commission. The appointment is further subject to final approval by the Commission.

(4) Creation of Eligibility List. If no eligibility list exists for a position that is vacant, the Fire Commission shall proceed as expeditiously as possible to adopt a promotional process in order to create an Eligibility List and shall observe the following procedures in doing so. Once the list is created, the Fire Chief shall appoint from it subject to the conditions specified in paragraph (3) above. In creating the list, it is the express policy of the Commission to search for qualified individuals from within the Holmen Area Fire Department before soliciting applications from outside the Department.

(a) Posting of Notice. The Commission shall post a notice of its intent to create an eligibility list at the fire station, which notice shall give persons interested in applying for promotion at least thirty days in which to do so. The notice shall include a description of the following, if applicable:

1. Eligibility requirements for participation in the promotion process,
2. The application process,
3. The steps in the process for creating an eligibility list, including a description of the type and nature of the tests to be conducted,
4. The anticipated schedule of the promotional testing/assessment process,
5. The general subject matter to be covered in any written examination or assessment center, and
6. The grade needed to pass any written examination or assessment center.

(5) Steps in the process of creating an Eligibility List may include the following:

(a) Verification of Qualifications. The Commission reviews applications, resumes and personnel files to assure that the candidates meet the minimum qualifications for promotion.

(b) Written Examination. Candidates shall participate in a Written Examination, as outlined in the adopted protocol.

(c) Assessment Center. Candidates shall participate in an Assessment Center, as outlined in the adopted protocol.

(d) Oral Interview with Fire Commission. Candidates who successfully pass the Written Examination and Assessment Center will be interviewed by the Commission.

(e) Chief's Assessment of Candidates. Prior to the oral interview described in the preceding step, the Fire Chief shall provide the Commission with a written assessment of each candidate to be interviewed.

(f) Such other performance measures that will assist the Commission in creating the Eligibility List.

(g) Creation of Eligibility List. Those candidates who successfully pass the process described in the adopted protocol will be placed on a ranked Eligibility List. In developing the rankings, the Commission shall consider all relevant information gathered in the preceding steps.

ARTICLE V: APPOINTMENT OF ENTRY LEVEL FIREFIGHTER/EMT

§ 500. General Provisions.

(1) The provisions of Article V shall apply whenever there is a vacancy in the rank of Firefighter/EMT.

(2) Whenever a vacancy occurs in the rank of Firefighter/EMT, the Commission shall act as expeditiously as possible to fill that vacancy, provided that it is authorized by the Board of Directors to fill the vacant position. Within the meaning of this rule, a position is vacant when it is a newly created but unoccupied position or when it is an existing position that is available due to the death, termination, promotion, resignation or retirement of its previous occupant.

§ 501. Appointment Options.

When a vacancy in the rank of Firefighter/EMT occurs, the Fire Chief may promote a member of the staff of Part-Time Firefighters pursuant to § 502 if this can be done with advantage; otherwise, the Chief shall appoint from an eligibility list created pursuant to § 504.

§ 502. Promotion of Members of the Part-Time Firefighters.

(1) If the Fire Chief elects to promote a member of the staff of Paid-on-Call or Part-Time Firefighters, the promotion is subject to approval by the Commission.

(2) Before approving such a promotion, the Commission will interview the candidate for promotion.

(3) If the Commission approves the promotion, a conditional offer of employment at the rank of Firefighter/EMT shall be made to the candidate.

(4) The offer of employment is subject to the candidate's successful completion of a background investigation, a medical examination, verification of qualifications required for the position of promotion, and to final approval by the Commission.

§ 503. Appointments from Eligibility List.

(1) If the Fire Chief elects to appoint from a ranked eligibility list created under § 504, the Chief shall select from among the top five individuals on the ranked list who are available for appointment and who remain otherwise qualified for appointment. The Chief may extend to a candidate so chosen a conditional offer of appointment on behalf of the Holmen Area Fire Department.

(2) The offer of employment is subject to the candidate's successful completion of the Candidate Physical Ability Test (CPAT), a medical examination, and a background investigation, possession of a valid Wisconsin driver's license and to final approval by the Commission.

§ 504. Creation of Eligibility List.

(1) When the Commission decides to establish an eligibility list for appointments to the rank of Firefighter/EMT, it shall observe the procedures specified in this section.

(2) The Commission shall approve a protocol specifying application procedures, advertising techniques to be employed, the vendors (if any) to be employed for purposes of conducting testing procedures, the passing score for scored tests, the number of applicants passing the written test who are to be invited to participate in the prescreening interview, and any other specifications which the Commission deems necessary to assure a process which fully conforms with the law and which reliably identifies the most qualified applicants.

§ 505. Probation.

A person appointed or promoted to the rank of Firefighter/EMT under the provisions of Article V shall be on probation in that rank for a period of one year from the date on which the appointment/promotion takes effect.²

² See generally *Kraus v. Waukesha Police and Fire Commission*, 2003 WI 51, 261 Wis. 2d 485, 662 N.W.2d 294 (analyzing power of police and fire commissions to appoint newly hired personnel in a probationary capacity).

ARTICLE VI PART-TIME FIREFIGHTERS

§ 600. General Provisions.

(1) The provisions of Article VI shall apply whenever there is a vacancy on the staff of Part-Time Firefighters.

(2) Whenever a vacancy occurs on the staff of Part-Time Firefighters, the Commission shall act as expeditiously as possible to fill that vacancy, provided that it is authorized by the Board of Directors to fill the vacant position. Within the meaning of this rule, a position is vacant when it is a newly created but unoccupied position or when it is an existing position that is available due to the death, termination, promotion or resignation of its previous occupant.

§ 601. Appointments of Part-Time Firefighters.

(1) When a vacancy on the staff of Part-Time Firefighters occurs, the Fire Chief shall appoint a qualified applicant to fill the vacancy.

(2) The appointment is subject to final approval by the Commission.

ARTICLE VII DISCIPLINARY PROCEDURES

§ 700. Scope and Authority.

- (1) The provisions of Article VII 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 and to all subordinate members of the Department.
- (3) The provisions of Article VII do not apply to:
 - (a) Part-Time Firefighters, who may be disciplined or discharged at the discretion of the Fire Chief;
 - (b) Probationary Firefighters, who may be summarily discharged from the Department by the Fire Chief;
 - (c) 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;³ and
 - (d) 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.

³ See *Kraus v. Waukesha Police and Fire Commission*, 2003 WI 51, 261 Wis. 2d 485, 662 N.W.2d 294 (holding that police officer serving a period of probation in a promoted rank but who is thereafter returned to his/her former rank for nondisciplinary reasons does not have the right to a "just cause" hearing under Wis. Stat. sec. 62.13(5)(em)). Compare *Antisdell v. Oak Creek Police and Fire Commission*, 2000 WI 35, 234 Wis. 2d 154, 609 N.W.2d 464 (holding that police officer serving a period of probation in a promoted rank is entitled to a "just cause" hearing under Wis. Stat. sec. 62.13(5)(em) before being returned to his/her former rank for disciplinary reasons).

(3) "Respondent" means the person charged in the statement of charges.

§ 702. Legal Counsel for the Commission.

The Commission may, with the prior approval of the Board of Directors, retain legal counsel to assist it in the administration of any disciplinary matter pending before it.

§ 703. Appointment of Hearing Examiner.⁴

The Commission may, with the prior approval of the Board of Directors, appoint a hearing examiner to assist it in the administration of any disciplinary matter pending before it. Use of a hearing examiner, however, does not relieve the Commission of its responsibility for making findings of facts and conclusions of law in the matter. A hearing examiner duly appointed by the Commission may be discharged by it at any time.

§ 704. Suspension of Members as a Penalty.

(1) **Authority to Suspend; Written Order of Suspension.** The Fire Chief or the Commission may suspend a member of the Department as a penalty. Such suspension may be imposed only for just cause, as described in § 707(7)(b) below. The order of suspension shall be in writing, shall state the reasons for the suspension and the length thereof, shall indicate the date on which the suspension takes effect, and shall advise the member suspended of the right to appeal the suspension to the Commission pursuant to § 704(3) of these Rules.

(2) **Report of Suspension.** If a suspension penalty is imposed by the Fire Chief, the Chief shall file a report with the Chair of the Commission immediately upon issuing the order of suspension.

(3) Request for Hearing.

(a) If a member suspended by the Fire Chief requests a hearing on the suspension, the Fire Chief shall file with the Chair of the Commission a written statement of charges upon which the suspension is based. The statement shall conform to the requirements of § 705(2) below. Thereafter, the processes described §§ 706-707 shall be observed.

(b) If a member suspended by the Commission requests a hearing on the suspension, the Commission shall require the complainant to file a written statement of charges upon which the suspension is based. The statement shall conform to the requirements of § 705(2) below. Thereafter, the processes described in §§ 706-707

⁴See *Conway v. Madison Board of Police and Fire Commissioners*, 2003 WI 53, 262 Wis. 2d 1, 662 N.W.2d 335.

shall be observed.

(c) A request for a hearing shall be in writing and shall be filed with the Chair of the Commission within ten (10) calendar days of the date on which the written order of suspension was received by the respondent.

(4) **No Request for Hearing.** If the suspended member does not request a hearing on the suspension within ten (10) calendar days of the date on which he or she received the written order of suspension, no hearing shall be held.

§ 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 Fire Chief, by a member of the Commission, by the Commission as a body, or by any aggrieved person. Charges may be filed against the Fire 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 requirements of § 705(2).

(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 Fire 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 or a Commissioner designated by the Chair 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 subpoenas 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 Fire 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 Fire 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 Fire Chief, or by an aggrieved person, unless the Commission determines that there is just cause, as described in § 607(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:

1. Whether the member could reasonably be expected to have had knowledge of the probable consequences of the alleged conduct;

2. Whether the rule or order that the member allegedly violated is reasonable;
3. Whether the Fire 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;
4. Whether the effort described in § 707(7)(b)3 was fair and objective;
5. Whether the Fire Chief discovered substantial evidence that the member violated the rule or order as described in the statement of charges filed against the member;
6. Whether the Fire Chief is applying the rule or order fairly and without discrimination against the member; and
7. Whether the proposed discipline reasonably relates to the seriousness of the alleged violation and to the member's record of service with the Fire 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 Fire 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.

ARTICLE VIII GENERAL PROCEDURES

§ 800. Scope and Authority.

(1) The provisions of Article VIII include general procedures over which the Commission has jurisdiction pursuant to § 62.13 of the Wisconsin Statutes not addressed in other sections of this document.

§ 801. Definitions.

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

(1) *Intentionally blank*

§ 802. Testing Accommodations.

(1) Requests for reasonable accommodation for application and testing processes are interactive and require cooperation and communication between the individual request accommodations.

Job-related tests are intended to assess the ability of an individual to perform essential job functions. All employment tests will be given to individuals who have disabilities in a format that does not require the use of the impaired skill, unless the skill is one that is job-related and is what the test is designed to measure. Thus, all job requirements that screen out or tend to screen out individuals with disabilities are legitimate only if they are job-related and consistent with business necessity.

In applying this rule, the Fire Commission will be guided by the United States Department of Justice ADA testing accommodations policy which can be found at https://www.ada.gov/regs2014/testing_accommodations.html.

Individuals who are participating in job-related tests and wish to request an accommodation for the test should notify the Fire Commission at the time of application. Documentation to support the request/need for accommodation verifying the disability will be required in most instances.