

Board of Police & Fire Commissioners
Human Resources Department
625 52nd St. , Room 205
Kenosha, WI 53140
Phone (262) 653-4130
Fax (262) 653-4127
E-mail: jbaltes@kenosha.org



COMMISSION MEMBERS:
Charles Bradley - President
James Greco - Vice President
Richard H. Schend - Secretary
Edward Kubicki - Commissioneer
Christine Schwartz - Commissioner

Kenosha Police and Fire Commission
SPECIAL MEETING AGENDA
Wednesday, July 2, 2014
8:00 a.m.
Municipal Office Building, Room 202
625 52nd Street, Kenosha, Wisconsin

1. Call to order.
2. Roll call.
3. Receive and file Fire Chief Thomsen's Disciplinary Charges against Firefighter James D. Adams. (enclosed)
4. Receive and file Casey Apker's Answer, Prehearing Conference Order and other filings of the parties. (enclosed)
5. Receive and file Attorney Eugene Brookhouse's June 25, 2014 letter to Matthew Spidell. (enclosed)
6. Receive and file Firefighter James D. Adams Answer. (enclosed)
7. Receive and file Attorney Eugene Brookhouse's June 27, 2014 letter and Spidell Prehearing Conference Order. (enclosed)
8. Motion to go into closed session. (action)

The Board of Police & Fire Commissioners will go into closed session under authority of Section 19.85 (1)(b) to discuss:

- Disciplinary charges filed against Firefighter Matthew Spidell.
- Disciplinary charges filed against Firefighter James D. Adams.

The Board will reconvene into open session. (action)

9. Set hearing date(s).
10. Adjournment.

If you are a person with a disability, please contact the Human Resources Department at the Municipal Office Building (262-653-4130), at least seventy-two (72) hours in advance of the Commission meeting to give them time to make any necessary accommodations for you.

KENOSHA FIRE DEPARTMENT

625 - 52nd Street

Kenosha, WI 53140-3480

Phone (262) 653-4100

Fax (262) 653-4107



JOHN R. THOMSEN

FIRE CHIEF

COPY

June 16, 2014

VIA PERSONAL DELIVERY at HOME ADDRESS

Charles Bradley
President
Kenosha Police and Fire Commission
625-52 Street
Kenosha, Wisconsin 53140

RE: Disciplinary Charges against Firefighter James D. Adams

Dear President Bradley:

Pursuant to Wisconsin Statute Section 62.13 (5)(b), I am hereby providing notice of the filing of charges against Firefighter (FF) James D. Adams. The charges are being filed as a result of an internal investigation conducted by the Kenosha Fire Department concerning a violation of the General Rules of the Department by FF Adams.

FF Adams intentionally engaged in conduct that is in violation of the Fire Department General Rule which states "*In matters of general conduct, not within the scope of the Department rules, personnel shall be governed by the ordinary rules of good behavior observed by law abiding citizens*" by intentionally and surreptitiously record the private conversations of five chief officers who were located in the private conference room of the Fire Chief, and provided statements to the battalion chief that were not credible nor consistent with the known facts.

BACKGROUND INFORMATION

James D. Adams is assigned as a firefighter on a 24/48 hour work schedule, on the "A" shift at Fire Station 3, and began his employment with the Kenosha Fire Department on May 5, 2008. FF Adams is represented by L-414 of the International Association of Firefighters and is covered by the 2013-2015 CBA with the City of Kenosha.

The Fire Department is a paramilitary organization that requires command and control of subordinate personnel for the purpose of maintaining compliance with the Rules and Regulations of the Department and the collective bargaining agreement.

INVESTIGATION

On April 30, 2014 a meeting was held between Fire Chief John Thomsen, Deputy Chief John Poltrock, Battalion Chief Wes Bernhardt, Division Chiefs Phil Johnson and James Poltrock, and firefighters James D. Adams and Jeremy Ryan. The parties were in open discussion on a step 2 grievance and Battalion Chief Bernhardt request a private caucus at which time firefighters Jeremy Ryan and James D. Adams left the room closing the door behind them. After approximately 5 minutes of private discussion between the chief officers, it was determined that FF Adams surreptitiously utilized a cellular telephone as a recording device with the knowledge and authorization of FF Ryan. FF Adams and FF Ryan were called back into the conference at which point the Fire Chief directly asked Adams if he was recording the private conversations of the chief officers. FF Adams acknowledged in the affirmative.

During the investigative interview on May 28, 2014, FF Adams freely admitted having record the conversations during the open discussion and also during the private caucus of the chief officers. Adams further stated he placed the recording device in the middle of the table but in fact kept the recording device in his lap until his dismissal from the meeting. At that point, Adams placed the recording device on his papers and departed from the meeting. Adams intentionally left the device in the "record" mode for the purpose of recording the private conversation. Adams attempted to discredit a chief officer by suggesting he tampered with the device.

FACTUAL FINDINGS OF THE INVESTIGATION

1. On April 30, 2014 a meeting was held between Fire Chief John Thomsen, Deputy Chief John Poltrock, Battalion Chief Wes Bernhardt, Division Chiefs Phil Johnson and James Poltrock, and firefighters James D. Adams and Jeremy Ryan. The parties were in discussion on a step 2 grievance and Battalion Chief Bernhardt request a private caucus at which time firefighters Jeremy Ryan and James D. Adams left the room closing the door behind them. After approximately 5 minutes of private discussion between the chief officers, it was determined that FF Adams surreptitiously utilized a cellular telephone as a recording device with the knowledge and permission of FF Ryan.
2. On April 30, 2014, in the presence of FF J. Ryan, Battalion Chief Bernhardt, Division Chiefs James Poltrock and Phil Johnson, Deputy Chief John Poltrock, and Fire Chief Thomsen, FF Adams admitted recording the private conversation of the chief officers.
3. On May 28, 2014, FF Adams again admitted having record the conversations during the open discussion and also during the private caucus of the chief officers. Adams further

stated he placed the recording device in the middle of the table but in fact kept the recording device in his lap until the private caucus. At that point, Adams placed the recording device on his papers and departed from the meeting. Adams intentionally left the device in the "record" mode for the purpose of recording the private conversation.

4. Adams attempted to discredit a chief officer by suggesting he tampered with the device.
5. FF Adams acknowledged the recording of the confidential oral communications of the chief officers.
6. The recording of the oral communications was without the consent and knowledge of the individuals in the private conference room of the fire chief.
7. The recording of oral communication without knowledge of the parties is in violation of Wis. Stat. 968.31 a Class H Felony.
8. There is no policy or practice that permits the recording of a confidential conversation without the knowledge of the parties involved.

VIOLATION OF THE GENERAL RULES AND REGULATIONS

Fire Department General Rule which states "*In matters of general conduct, not within the scope of the Department rules, personnel shall be governed by the ordinary rules of good behavior observed by law abiding citizens.*"

FF Adams is in violation of Wisconsin Stat. 968.31 a Class H Felony and therefore has not engaged in conduct of a law abiding citizen.

FF Adams provided false statements to the investigator in regards to the use and placement of the recording device.

FF Adams attempted to discredit a chief officer by suggesting his recording device was tampered by the officer.

PRIOR DIACIPLINARY ACTION

FF Adams received the following counseling/discipline since being appointed in 2007:

01/1/2009	Formal Counseling	Damage to a Fire Department Apparatus
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REQUEST FOR DISCIPLINARY ACTION

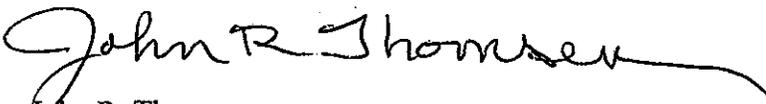
Based upon the first-hand information from five chief officers of the department, and the statements of FF Adams, there is just cause to conclude FF Adams engaged in the misconduct that serves as the basis for this disciplinary charge.

Therefore to restore the legitimate command and control of personnel, to further curtail the prohibited and criminal actions, and for the good of the Department, I am requesting FF Adams be suspended for a minimum of four (4) 24 hour duty days effective immediately.

I will serve these charges on FF Adams and will provide the Commission with an Affidavit of Service once completed.

The City will be represented in this matter by Attorney Daniel Vliet of Buelow Vetter Buikema Olson & Vliet, LLC, 20855 Watertown Road, Suite 200, Waukesha, WI 53185. Mr. Vliet may be reached by telephone at (262) 364-0259. Please include Attorney Vliet on all future correspondence regarding the scheduling of the hearing or any other aspects of this matter.

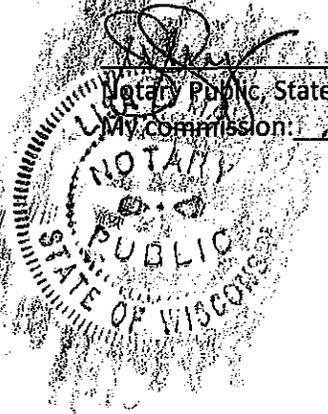
Your Servant,



John R. Thomsen
Chief of the Department
Kenosha Fire Department

cc: Steve Stanczak, Director of Human Resources
Attorney Vliet

Subscribed and sworn to before me
this 16 day of June, 2014.



Notary Public, State of Wisconsin
My Commission: 2-4-18
NOTARY
PUBLIC
STATE OF WISCONSIN

**KENOSHA FIRE DEPARTMENT
NOTICE OF CORRECTIVE ACTION**

- Written Record of Verbal Reprimand X
- Written Reprimand X
- Suspension of Four (4) 24 hour duty days
- Demotion from XXX to XXX
- Termination XXX

Effective Date of Action: June 16, 2014

Employee Name: James D. Adams

Title/Pay Level: firefighter

Department: Fire

Date of Hire: 05/05/2008

I. Corrective action is being taken for the following reasons:

You have intentionally engaged in conduct that is in violation of the Fire Department General Rule which states *"In matters of general conduct, not within the scope of the Department rules, personnel shall be governed by the ordinary rules of good behavior observed by law abiding citizens."*

On April 30, 2014 a meeting was held between Fire Chief John Thomsen, Deputy Chief John Poltrock, Battalion Chief Wes Bernhardt, Division Chiefs Phil Johnson and James Poltrock, FF Jeremy Ryan and yourself. The parties were in discussion on a step 2 grievance and Battalion Chief Bernhardt request a private caucus at which time you and FF Jeremy Ryan left the room closing the door behind you.

After approximately 5 minutes of private discussion between the chief officers, it was determined that you were recording the confidential conversation with your cell phone/recording device. This recording was without the knowledge and consent of any of the chief officers.

Immediately following the meeting, you freely admitted having knowledge of the recording device. Additionally, you incorrectly believe it is your right to surreptitiously record the private conversations without any one of the chiefs' knowledge of the recording in violation of Wis. Stat. 968.31 a Class H felony.

There is no policy or practice that permits the recording of a confidential conversation without the knowledge of the parties involved.

During the investigative interview on May 28, 2014, you freely admitted having record the conversations during the open discussion and also during the private caucus of the chief officers. Additionally, you further stated you placed the recording device in the middle of the table but in fact kept the recording device in your lap until being dismissal from the meeting. At that point, you placed the recording device on your papers and departed from the meeting. You intentionally left the device in the "record" mode for the purpose of recording the private conversation.

You have attempted to discredit a chief officer by suggesting he tampered with your recording device.

II. The following corrective action is expected:

You are directed to strictly adhere to all the Rules, Regulations, Policy and Procedure of the Department.

III.

Failure to comply with the corrective action will result in further discipline up to and including discharge. Additionally, future infraction(s) may result in additional discipline up to and including discharge.

By signing this document, you hereby waive any right you may have to a hearing before the Board of Police and Fire Commission and/or grievance in the above-referenced matter.

Signed: _____

Date: _____

Union Representative _____

Original: Human Resource Department
Copies: Fire Administration
Employee
Employee Personnel File

STATE OF WISCONSIN

CITY OF KENOSHA
POLICE AND FIRE COMMISSION

KENOSHA COUNTY

In the Matter of the Disciplinary
Charges Filed Against

Firefighter James D. Adams

AFFIDAVIT OF SERVICE

This is to certify that I, WESLEY R. BERNHARDT, personally delivered the original of the disciplinary charges against Firefighter James D. Adams to Mr. Charles Bradley, the President of the Kenosha Police & Fire Commission. I personally served Mr. Bradley with a copy of these disciplinary charges at his home on June 16, 2014 at 1:23 a.m. or (p.m.)

Wesley R. Bernhardt
Battalion Chief
Kenosha Fire Department

Subscribed and sworn to before me
this 16 day of June, 2014.

[Signature]
Notary Public, State of Wisconsin
My commission: 2-4-18

STATE OF WISCONSIN

CITY OF KENOSHA
POLICE AND FIRE COMMISSION

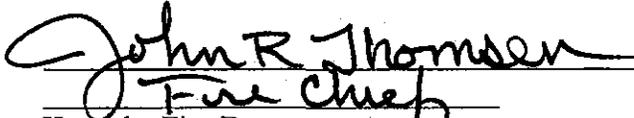
KENOSHA COUNTY

In the Matter of the Disciplinary
Charges Filed Against

Firefighter James D. Adams

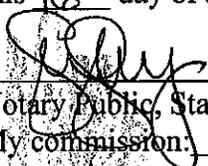
AFFIDAVIT OF SERVICE

This is to certify that I, John Thomsen, personally delivered to James D. Adams a copy of the disciplinary charges filed with the President of the Kenosha Police & Fire Commission on June 16, 2014. I personally served Firefighter James D. Adams with a copy of the disciplinary charges on June 16, 2014 at 11:41 a.m. or p.m.



Fire Chief
Kenosha Fire Department

Subscribed and sworn to before me
this 16 day of June, 2014.



Notary Public, State of Wisconsin
My commission: 2-18-14



In the Matter of the Disciplinary
Charges Filed Against

Firefighter James D. Adams

AFFIDAVIT OF CHIEF JOHN R. THOMSEN

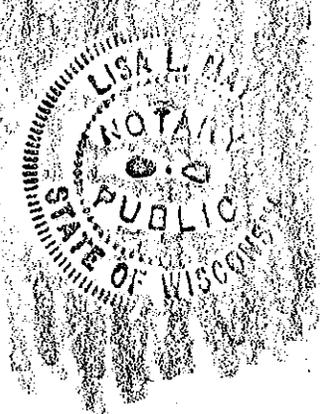
Chief John R. Thomsen states as follows:

1. I am the Fire Chief for the City of Kenosha Fire Department. It is in this capacity that I make this affidavit.
2. I submit this affidavit to comply with Section 6.4.1 of the By-Laws of the Kenosha Police & Fire Commission which requires that I file a verified (notarized) complaint with the Police & Fire Commission.
3. The attached disciplinary charges are the result of an internal investigation conducted by Battalion Chief Ken Schroeder and myself of the Kenosha Fire Department. These charges are true and correct and are supported by substantial facts and evidence developed during the course of this internal investigation.

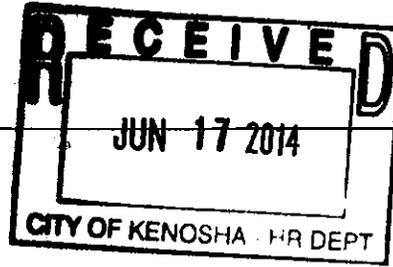
John R. Thomsen
 John R. Thomsen, Fire Chief

Subscribed and sworn to before me
this 16 day of June, 2014.

[Signature]
 Notary Public, State of Wisconsin
 My commission: 2-4-18



ATTORNEYS AT LAW
HAWKS QUINDEL, S.C.



222 East Erie Street, Suite 210
P.O. Box 442
Milwaukee, WI 53201-0442

MILWAUKEE OFFICE

SHAREHOLDERS
Katherine L. Charlton
Timothy E. Hawks
Summer H. Murshid
Barbara Zack Quindel
Richard Saks
Daniel R. Schoshinski
Amy L. Shapiro
B. Michele Sumara

June 17, 2014

414-271-8650
Fax 414-271-8442
www.hq-law.com
Offices also in Madison

EMERITUS
Richard Perry

ASSOCIATES
Larry A. Johnson
Timothy P. Maynard
Kashoua Yang

OF COUNSEL TO FIRM
Walter F. Kelly
Robert J. Lerner
Howard N. Myers
Vicki Schaut
Jeffrey P. Sweetland

VIA HAND DELIVERY

Mr. Charles Bradley
President
Board of Kenosha Police & Fire Commissioners
8306 – 23rd Avenue
Kenosha, WI 53143

RE: Disciplinary Charges Against Officer Casey Apker

Dear Mr. Bradley:

Enclosed please find for the Answer of Officer Casey Apker regarding this matter.

Very truly yours,

HAWKS QUINDEL, S.C.

A handwritten signature in black ink, appearing to read "T. Hawks", written over a horizontal line.

Timothy E. Hawks
thawks@hq-law.com

TEH/kak
Enclosure
cc: Casey Apker

**BEFORE THE CITY OF KENOSHA
BOARD OF POLICE AND FIRE COMMISSIONERS**

In the Matter of Charges filed against

OFFICER CASEY APKER

by

CHIEF OF POLICE JOHN W. MORRISEY

ANSWER OF OFFICER CASEY APKER

NOW COMES Officer Casey Apker (hereinafter "Officer Apker"), through the assistance of his attorneys HAWKS QUINDEL, S.C., by attorney Timothy E. Hawks, and as and for his Answers to Police Chief John W. Morrissey's (hereinafter "Chief Morrissey") "Charges", Office Apker states as follows:

ORGANIZATION OF THIS ANSWER

For the purposes of this answer each paragraph of the correspondence dated June 3, 2014, from Chief Morrissey to Mr. Charles Bradley, President, Board of Kenosha Police and Fire Commissioners (hereinafter referred to as the "Charges") is numbered serially and referred to herein by the applicable paragraph number.

BACKGROUND INFORMATION

1. Officer Apker does not have sufficient information of the content of "a citizen complaint" against him on December 9, 2013, as it has not been provided to him to be able to answer the factual allegations contained in paragraph 1 of the "Charges," nor does he have sufficient knowledge of the content a complaint of harassment filed against him by a female officer as that has not been provided to him to be able to answer the factual allegations contained in paragraph 1 of the "Charges," nor does he have sufficient knowledge of the substance of the grounds upon which the Department conducted an internal investigation into an "independent" rule violation to be able to answer the allegations of fact related thereto in paragraph 1 of the "Charges."

FACTUAL FINDINGS OF INVESTIGATION

A. Internal Investigation of Citizen Complaint

2. Officer Apker does not have sufficient knowledge to answer to the allegation that on November 30, 2013, Jeremie Berry and his fiancée, Susan Romero drove to LaFogata Restaurant; drove around the parking lot a couple of times looking for a parking space; or were waiting for a car to back out of a parking space.

Officer Apker states that he and his wife had dinner at LaFogata Restaurant on November 30, 2013; that a man unknown to him, for reasons unknown to him, accused him of making an “asshole” move and asked him if he was a “tough guy.” Officer Apker asserts affirmatively that he did not know the identity of the man who accosted him or the reason for his threatening behavior. Officer Apker did not learn the identity of that man until receipt of a draft of the charges against him shortly prior to the date that charges were filed in this matter.

Officer Apker states that on November 29, 2013 he and his wife were at Bob’s Grandview when they observed a patron across the bar glaring at them peculiarly to the point that they commented on his odd and unsettling behavior. Officer Apker and his wife believe that the person they saw behaving peculiarly on November 29 was the same person who had accosted Officer Apker on the evening of November 30.

Officer Apker specifically denies saying to the man who accosted him that he should “take his fucking ass back to Illinois.” He admits telling the man to “go back to Illinois.”

On November 30, when Officer Apker approached a parking space being vacated at La Fogata Restaurant he did not observe any other vehicle waiting to occupy the space. He and his wife were surprised, troubled and threatened by the angry accusations and offensive behavior of the unknown man whose motives were also unknown to them.

Officer Apker asserts that when he and his wife finished dinner on November 30 and returned to the car they observed the words “Karma is a bitch” written in dirt on the rear window of his vehicle. He believed that the author of the message was the same man who had accosted him and whose behavior was peculiar and unsettling the prior evening.

Officer Apker asserts that the message “Karma is a bitch” is a threat that expresses an intention to engage in future retaliatory behavior and that under the circumstances that threat constituted an escalation from the threatening and disorderly expression that had already occurred. He asserts further that the expression and conduct of the man who had accosted him on November 30 was abusive and under most circumstances would have the tendency to cause or provoke a disturbance -- conduct which approaches or meets the elements of the criminal misdemeanor of “disorderly conduct.” Application of the disorderly conduct statute to speech alone is permissible under appropriate circumstances. When speech is not an essential part of any exposition of ideas, when it is

utterly devoid of social value, and when it can cause or provoke a disturbance, the disorderly conduct statute can be applicable. *State v. A.S.*, 2001 WI 48, 243 Wis. 2d 173, 626 N.W.2d 712, 99–2317.

3. Officer Apker does not have sufficient knowledge to answer the allegations as to what Mr. Berry did or observed on December 7, 2013.
4. Officer Apker admits that on a date between December 1 and December 7, 2013, at the Speedway gas station at 60th Street and 37th Avenue, he confronted the man who had accosted him on November 30 and warned him that his prior conduct amounted to disorderly conduct. He denies saying “you can stop the nice guy shit.” Officer Apker asserts that on the night in question he observed a man he believed to be the same man who accosted him at Lafogata. Officer Apker asserts that on the night in question he observed the man who had accosted him at LaFogata on 60th Street turning into the Speedway gas station at 60th Street and 37th Avenue and he asserts further as stated below but he denies certain allegations contained in paragraph 6 of the “Charges” as he has insufficient information to admit or deny the allegations.
5. Officer Apker does not have knowledge sufficient to answer the allegations contained in paragraph 5 of the “Charges.”
6. Officer Apker admits speaking to Lt. Hetlet on or about December 17, 2013 to ask if a citizen’s complaint had been filed against him, however he asserts that the balance of the allegations contained in paragraph 6 take his statements at that time out of context, omit certain information about the communications and consequently mischaracterize Officer Apker’s communication with Lt. Hetler.

First Interview of Officer Apker

- 7.-13. Officer Apker cannot answer the allegations contained in paragraphs 8-13 of the “Charges” until after he has had the opportunity to review the record of the interview. He asserts affirmatively that the record will speak for itself.

Other Pertinent Information Collected During the Investigation

14. Officer Apker does not have sufficient knowledge to admit or deny what Officer Jurgens reported to Lt. Hetlet on April 7, 2014, and for that reason denies same. Officer Apker asserts affirmatively that an interview taken four months after a casual conversation is not a reliable source of evidence.
15. Officer Apker cannot answer the allegations contained in paragraph 15 of the “Charges” until after he has had the opportunity to review the record of the times he did computer searches of the Illinois license plate and driver’s license number. For that reason he denies same.

Second Interview of Officer Apker

16.-120. Officer Apker cannot answer the allegations contained in paragraphs 16-20 of the "Charges" until after he has had the opportunity to review the record of the interview. He asserts that the record will speak for itself.

B. Internal Investigation of Harassment Complaint

21. Officer Apker does not have sufficient knowledge of the substance of Field Training Officer Zurcher's communications with Sergeant Tim Schaal on November 6, 2013 to be able to answer the facts alleged therein. He also does not have sufficient knowledge of the substance of Officer Wasielewski's subsequent communications with Sergeant Schaal to be able to answer the facts alleged therein. Officer Apker admits that Officer Wasielewski previously worked for the Wisconsin State Patrol; that during that time they were friends; that they attended a wedding together; that Officer Apker's wife is a corrections officer at the Kenosha County Jail; and that Officer Wasielewski is currently dating Officer Tim Cephress.
22. Officer Apker denies that while Officer Wasielewski was in field training on the 3rd shift he responded to an excessive number of calls for service to which she was also assigned – at least to the extent that the allegation of fact implies that he responded to such calls for an inappropriate reason. He denies that he conversed with officers on calls that included Officer Wasielewski in disparate manner to the exclusion of Officer Wasielewski to the extent that the allegation of fact implies that he did so for an inappropriate reason.
23. Officer Apker admits the facts contained in the first five sentences in Paragraph 23 of the "Charges." He denies that the conversation that he had with Officer Wasielewski was inappropriate and asserts affirmatively that he accurately communicated to her the substance of a malicious, untruthful, insulting and potentially damaging rumor to both of their reputations and personal relationships that was being circulated among officers on the department. He asserts further that his intent in doing so was not to harass, but rather to inform so that appropriate steps to remedy the problem created by the rumor could be taken. Officer Apker denies the allegations of fact contained in the sixth sentence of paragraph 23 and asserts affirmatively that he asked if she had heard the rumor that Tim has received "sloppy seconds." Officer Apker denies the allegation of fact in the seventh sentence.
24. Officer Apker admits the allegations of fact contained in the first two sentences of paragraph 24 of the "Charges." Officer Apker admits the allegation of fact contained in the third sentence of paragraph 24 of the complaint but asserts affirmatively that the call was in his "area" and that was the basis for his decision to call off the other responding officer as he was not from the "area." Officer Apker admits the allegations of fact contained in the fourth and fifth sentences.
25. Officer Apker admits that he said to Officer Wasielewski words of similar import and meaning as the allegation of fact contained in sentence one of paragraph 25. Officer Apker denies the allegations of fact contained in the second sentence. Officer Apker admits that he said to Officer Wasielewski words of similar important and meaning as

those contained in the third sentence. He admits the allegations of fact contained in the fourth sentence. He admits the allegations contained in the fifth sentence except that Officer Wasielewski said “this was none of anybody’s business” or words of similar import and meaning. He admits that Officer Wasielewski asked him if he would have trouble responding to her calls to which he responded “no.” Officer Apker denies that hesitancy in his response, if any, reflected a lack of commitment to provide appropriate backup.

26. Officer Apker has insufficient knowledge of Officer Wasielewski’s emotional reaction to his presence at the November 2, 2013 third shift officers after-work party to be able to admit or deny the allegations contained in paragraph 26 of the “Charges” and therefore denies same. He asserts affirmatively that by attending the party he had no intention of making Officer Wasielewski uncomfortable and did not know at that time that his presence had caused her to feel that way.
27. Officer Apker cannot know Officer Wasielewski’s “feelings” about the November 1, 2013 conversation between them and for that reason cannot admit or deny the allegations of fact contained in paragraph 27 of the “Charges.”

Officer Apker asserts that at no time did Officer Wasielewski inform him about her concerns alleged in the “Charges.” Had she done so, he would have immediately taken all necessary and reasonable steps to address those concerns. Similarly, no administrative officer of the Department ever informed Officer Apker about the fact that Officer Wasielewski had expressed concerns about these matters until he was informed that the Department was conducting an investigation into the matter five months after the alleged “harassment” occurred. Had any done so, Officer Apker would have immediately taken all necessary and reasonable steps to address those concerns. Further Office Apker asserts that between early November, 2103 and the date of his administrative leave there was no complaint nor issue of any sort by Officer Wasielewski regarding the appropriateness of his professional relationship with her.

C. Internal Investigation of the Pleasant Prairie Call.

28. Officer Apker admits the allegations of paragraph 28 of the complaint.
29. Officer Apker admits that Lt. Hetlet worked the 3rd shift patrol on the evening of November 10, 2013. He does not have sufficient information to admit or deny what Lt. Hetlet “checked” or “noticed” that evening and for that reason he denies same. Officer Apker admits that he responded to the call from Pleasant Prairie Police for assistance with a roll-over accident and that the response was out of his assigned area.
30. Officer Apker has insufficient information to admit or deny what Lt. Hetlet “listened to” on November 10, 2013; or what Lt. Hetlet determined to be the number of officers responding to the call. Officer Apker admits that he did notify dispatch that he would be assisting on the Pleasant Prairie call and that he did not request permission to leave his assigned patrol area. Officer Apker has insufficient information to admit or deny what Lt. Hetlet “heard” Officer Ball report with reference to a suspect being in custody and the location where the suspect was taken into custody and for that reason denies same.

31. Officer Apker has insufficient information to admit or deny whom Lt. Hetlet contacted at approximately 01:00 hours on November 11, 2013; what Lt. Hetlet was advised or what Lt. Hetlet determined to be the time that Officer Apker notified dispatch that Officer Apker was on the scene. For these reasons he denies said allegations.
32. Officer Apker is not able to admit or deny allegations regarding his interview that occurred on March 14, 2014 without first reviewing the record of the interview and for that reason denies the allegations of paragraph 32. He asserts that record of the interview will speak for itself. Officer Apker affirmatively pleads that he had been advised by the officer that preceded him in responsibility for this area had advised him that the boundary was 39th Avenue.
33. See the answer contained in paragraph 33 above.
34. See the answer contained in paragraph 34 above.
35. Officer Apker has insufficient information to be able to admit or deny the allegations contained paragraph 35 and for that reason denies same.

CHARGES

A. Internal Investigation of Citizen Complaint

(1) Violation 1

Rule 1.2 – I deny that I violated these rules.

(2) Violations 2, 3, 4, 5 and 6

Rules 26.1(II) 21, 2, 4, 12 and 19 -- I deny that I violated these rules.

(3) Violation 7

Rule 26.1 (II) 16 – I deny that I violated this rule.

(4) Violation 8

Rule 81.4 (IV) 8; Time System Security Policy (DOJ) – I deny that I violated these rules.

B. Internal Investigation of Harassment Complaint

(1) Violation 1

Rule 26.1 (II) 2), 4) and 12) – I deny that I violated these rules.

(2) Violation 2

Rule 26.4 I), IV) B) Harassment and Discrimination in the Workplace – I deny that I violated this rule.

(3) Violation 3

City of Kenosha Work Rules J), 5) and 39) – I deny that I violated this rule.

C. Internal Investigation of Pleasant Prairie Call

(1) Policy Violations 1, 2 and 3

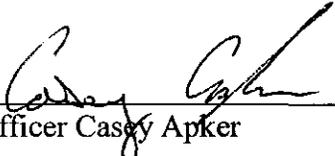
Policy 26.1(II) 4 and 13; Policy 41.1 Patrol, Section III (C) – I deny violation of these rules.

(2) Policy Violation 4.

Rule 26.1 (II)(16) – I deny that I violated this rule.

I respectfully request that following a hearing in this matter, the Board of Kenosha Police and Fire Commissioners dismiss the charges against me.

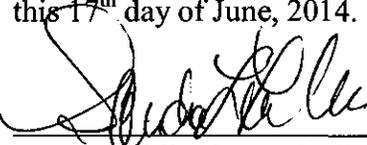
Dated this 17th day of June, 2014



Officer Casey Apker

Subscribed and sworn to before me

this 17th day of June, 2014.



Notary Public, State of Wisconsin **NOTARY PUBLIC
STATE OF WISCONSIN
SANDRA L. LEHN**

My Commission 3-13-18

BROOKHOUSE & HEMSING LAW OFFICES

ATTORNEYS AND COUNSELORS

5455 SHERIDAN ROAD, SUITE 202
KENOSHA, WISCONSIN 53140

EUGENB J. BROOKHOUSE, S.C.
COURT COMMISSIONER
JUSTIN R. HEMSING

E Mail: ebrookhouse@brplaw.com
website: www.brplaw.com
TELEPHONE NUMBER: (262) 658-3571
FAX: (262) 658-8485

Attorney Timothy Hawks
Hawks Quindel, S.C.
222 East Erie Street, Ste. 210
PO Box 442
Milwaukee WI 53202-0442

*Via U.S. Mail and e-mail to:
thawks@hq-law.com*

Attorney Nancy Pirkey
Buelow, Vetter, Buikema, Olson & Vliet, LLC
20855 Watertown Road, Suite 200
Waukesha, WI 53186

*Via U.S. Mail and e-mail to:
npirkey@buelowvetter.com*

Re: Disciplinary Charges Against Officer Casey Apker

PREHEARING ORDER

The Chief of Police for the City of Kenosha, Wisconsin ("Chief"), having appeared by his attorney, Nancy Pirkey, by telephone; Officer Casey Apker having appeared by his attorney, Timothy Hawks, by telephone, at the Prehearing Conference, pursuant to Section 6.6 of the By-laws ("By-Laws") of the Board of Police and Fire Commissioners ("Board") for the City of Kenosha, Wisconsin; the undersigned, as attorney for the Board having conducted such Prehearing Conference pursuant to such By-Laws and at the direction of the Board and having considered the arguments and stipulations of the parties and being fully advised in the premises, it is determined and ordered by the undersigned, for and on behalf of the Board with its authority and at its direction, as follows:

1. The charges against Officer Casey Apker, as more particularly set forth in the Charges of the Chief on file herein, fall within the jurisdiction of the Board.
2. All procedural motions to be considered by the Board shall be filed with the Board by delivery to the undersigned, on or before June 20, 2014.

3. The parties shall endeavor to reach a stipulation as to as many facts and circumstances as the parties are able and shall provide such stipulations to the Board at or before the commencement of the Hearing.

4. On or before June 20, 2014, the Chief shall provide Officer Apker and file with the undersigned a list of the names and addresses of the witnesses he intends to call at the Hearing. On or before June 23, 2014, Officer Apker shall provide the Chief and file with the undersigned a list of the names and addresses of the witnesses he intends to call at the Hearing.

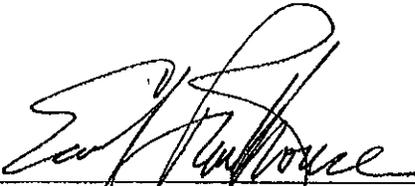
5. Both parties shall provide numbered final exhibits to the other party and the undersigned, with six (6) copies to be provided to the Board, all on or before Friday, June 27, 2014, at the close of business.

6. The attorneys for the parties shall be afforded the right and option to issue subpoenas for witness attendance at the hearing.

7. On or before 5:00 p.m. on June 30, 2014, the parties shall exchange and file notice of any objections to the final exhibits proposed by the other party.

8. The date and place of the hearing is confirmed as follows: Municipal Office Building, Room 202, 625 52nd Street, Kenosha, Wisconsin, at 8:00 a.m., July 2, 2014, with likely additional allotted time on July 3, 2014 and July 8, 2014.

Dated at Kenosha, Wisconsin this 18th day of June, 2014.



Eugene J. Brookhouse, Attorney for the Board,
pursuant to Section 6.6 of the By-laws

EJB/dd

cc via e-mail: President Bradley and Commission Members



Buelow Vetter
Buikema Olson & Vliet, LLC

June 20, 2014

Via E-mail and U.S. Mail

Eugene Brookhouse
Brookhouse & Hemsing Law Office
5455 Sheridan Road, Suite 202
Kenosha, WI 53140-3752

Via E-mail and U.S. Mail

Tim Hawks
Hawks Quindel, S.C.
222 East Erie Street, Suite 210
P.O. Box 442
Milwaukee, WI 53201-0442

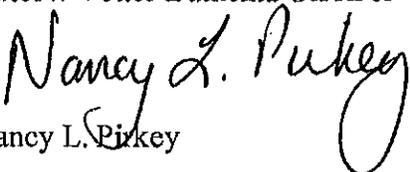
Re: Disciplinary Charges Against Officer Casey Apker

Gentlemen:

Enclosed please find the Chief's witness list for the Police & Fire Commission hearing scheduled to begin on July 2, 2014.

Very truly yours,

Buelow Vetter Buikema Olson & Vliet, LLC


Nancy L. Pirkey

cc: Chief John Morrissey (w/encl)
Lieutenant Brad Hetlet (w/encl)

RECEIVED

JUN 23 2014

BROOKHOUSE LAW OFFICES

**CITY OF KENOSHA
BEFORE THE BOARD OF POLICE AND
FIRE COMMISSIONERS**

In the Matter of the Disciplinary
Charges Filed Against

OFFICER CASEY APKER

**WITNESS LIST SUBMITTED BY CHIEF MORRISSEY
AND THE KENOSHA POLICE DEPARTMENT**

In accordance with Rule 6.6.4 of the Bylaws of the Kenosha Police & Fire Commission and the procedures established at the pre-hearing conference on June 18, 2014, the Chief offers the following list of witnesses that he intends to call in support of the disciplinary charges filed on June 3, 2014:

Jeremie Berry 2404-73 rd Street Kenosha, WI 53143	Susan Romero 2404-73 rd Street Kenosha, WI 53143
Officer Casey Apker Kenosha Police Department 1000-55 th Street Kenosha, WI 53140	Sergeant Timothy Schaal Kenosha Police Department 1000-55 th Street Kenosha, WI 53140
Officer Adam Jurgens Kenosha Police Department 1000-55 th Street Kenosha, WI 53140	Lieutenant Bradley Hetlet Kenosha Police Department 1000-55 th Street Kenosha, WI 53140
Officer Corey Brennan Kenosha Police Department 1000-55 th Street Kenosha, WI 53140	Deputy Chief Daniel Miskinis Kenosha Police Department 1000-55 th Street Kenosha, WI 53140
Officer Jennifer Wasielewski Kenosha Police Department 1000-55 th Street Kenosha, WI 53140	Chief John Morrissey Kenosha Police Department 1000-55 th Street Kenosha, WI 53140

Officer Kurt Zurcher Kenosha Police Department 1000-55 th Street Kenosha, WI 53140	Rhonda Maney Records Manager Kenosha City/County Joint Services 1000-55 th Street Kenosha, WI 53140
Courtney L.H. Doberstein Wisconsin Department of Justice P.O. Box 2718 Madison, WI 53701	

The Chief reserves the right to call rebuttal witnesses as needed to respond to the evidence and testimony presented by Officer Apker.

Respectfully submitted this 20th day of June, 2014.

Buelow Vetter Buikema Olson & Vliet, LLC

By: Nancy L. Pirkey
Nancy L. Pirkey
Attorneys for Chief John Morrissey and
the Kenosha Police Department

Mailing Address
20855 Watertown Road, Suite 200
Waukesha, WI 53186
Phone: (262) 364-0257
Fax: (262) 364-0277
E-mail: npirkey@buelowvetter.com

ATTORNEYS AT LAW

HAWKS QUINDEL, S.C.

222 East Erie Street, Suite 210
P.O. Box 442
Milwaukee, WI 53201-0442

MILWAUKEE OFFICE

SHAREHOLDERS
Katherine L. Charlton
Timothy E. Hawks
Summer H. Murshid
Barbara Zack Quindel
Richard Saks
Daniel R. Schoshinski
Amy L. Shapiro
B. Michele Sumara

June 23, 2014

RECEIVED
JUN 25 2014
BROOKHOUSE LAW OFFICES

414-271-8650
Fax 414-271-8442
www.hq-law.com
Offices also in Madison

EMERITUS
Richard Perry

ASSOCIATES
Larry A. Johnson
Timothy P. Maynard
Kashoua Yang

OF COUNSEL TO FIRM
Walter F. Kelly
Robert J. Lerner
Howard N. Myers
Vicki Schaut
Jeffrey P. Sweetland

VIA EMAIL (ebrookhouse@brplaw.com) AND REGULAR MAIL

Eugene Brookhouse
Brookhouse & Hemsing Law Offices
5455 Sheridan Road, #202
Kenosha, WI 53140

VIA EMAIL (npirkey@buelowvetter.com) AND REGULAR MAIL

Nancy L. Pirkey
Buelow Vetter Buikema Olson & Vliet, LLC
20855 Watertown Road, Suite 200
Waukesha, WI 53186

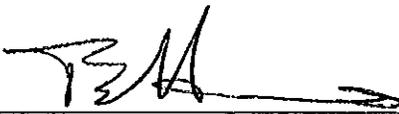
RE: Disciplinary Charges Against Officer Casey Apker

Dear Mr. Brookhouse and Ms. Pirkey:

Enclosed please find Officer Casey Apker's witness list for the Police & Fire Commission hearing scheduled to begin on July 2, 2014.

Very truly yours,

HAWKS QUINDEL, S.C.

By 
Timothy E. Hawks
thawks@hq-law.com

TEH:kak

Enclosure

cc: (Via Email)
Officer Casey Apker
Pete Deates, President, KPPA

**CITY OF KENOSHA
BEFORE THE BOARD OF POLICE AND
FIRE COMMISSIONERS**

**In the Matter of the Disciplinary
Charges Filed Against**

OFFICER CASEY APKER

WITNESS LIST SUBMITTED BY OFFICER CASEY APKER

In accordance with Rule 6.6.4 of the Bylaws of the Kenosha Police & Fire Commission and the procedures established at the pre-hearing conference on June 18, 2014, in addition to the witnesses submitted by Chief Morrissey, Officer Casey Apker offers the following list of witnesses that he intends to call in support of the disciplinary charges filed on June 3, 2014:

Officer Andrew Skowronski
Kenosha Police Department
1000 – 55th Street
Kenosha, WI 53140

Officer Brian Miller
Kenosha Police Department
1000 – 55th Street
Kenosha, WI 53140

Officer Andy Ciskowski
Kenosha Police Department
1000 – 55th Street
Kenosha, WI 53140

Ms. Danielle Apker
7945 – 115th Avenue
Pleasant Prairie, WI 53158

Honorable Jason Rossell
Kenosha County Courthouse, Branch 2
912 56th Street
Kenosha, WI 53140

Sheriff David G. Beth
Kenosha County Sheriff's Department
1000 – 55th Street
Kenosha, WI 53140

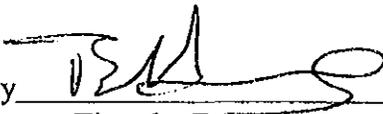
Deputy Jon Scifres
Kenosha County Sheriff's Department
1000 – 55th Street
Kenosha, WI 53140

Joe Williams
3617 15th Street, Apt. 2B
Kenosha, WI 53144

Officer Apker reserves the right to call rebuttal witnesses as needed to respond to the evidence and testimony presented by Chief Morrissey.

Respectfully submitted this 23rd day of June, 2014.

HAWKS QUINDEL, S.C.

By 

Timothy E. Hawks
Attorneys for Officer Casey Apker

MAILING ADDRESS:
222 East Erie Street, Suite 210
P.O. Box 442
Milwaukee, WI 53201-0442
Phone: (414) 271-8650
Fax: (414) 271-8442
Email: thawks@hq-law.com

BROOKHOUSE & HEMSING LAW OFFICES

ATTORNEYS AND COUNSELORS

5455 SHERIDAN ROAD, SUITE 202
KENOSHA, WISCONSIN 53140

EUGENE J. BROOKHOUSE, S.C.
COURT COMMISSIONER
JUSTIN R. HEMSING

E Mail: ebrookhouse@brookhouselaw.com
website: www.brookhouselaw.com
TELEPHONE NUMBER: (262) 658-3571
FAX: (262) 658-8485

June 25, 2014

Mr. Matthew Spidell
mattspidell3473@gmail.com

Re: Disciplinary Charges Filed Against Firefighter Matthew Spidell

Dear Firefighter Spidell:

Our office represents the Kenosha Police & Fire Commission. We write this letter in that capacity.

We understand from the Affidavit of Service that has been filed with the Commission that you were served with charges brought by Chief Thomsen on or about June 11, 2014.

Under the Wisconsin Statutes and the Bylaws adopted by the Police & Fire Commission, you have ten (10) days in which to answer those charges in writing. If in fact you were served on June 11, 2014, your answer to the charges is past due.

We provide you with a copy of the Bylaws of the Police & Fire Commission and direct your specific attention to Section 6.5.

Section 6.6 of the Bylaws requires a prehearing conference to be held, permitting that prehearing conference to be by telephone. We would like to hold that telephone prehearing conference as soon as possible and suggest that it be at 10:30 a.m. on Friday, June 27, 2014. **Please confirm your availability by telephone at that time and provide us with the telephone number to be used to contact you.**

Your answer should be filed with the Commission Clerk at your first opportunity, with a copy thereof to be provided to the attorney for the Chief, to wit:

Daniel G. Vliet
Buelow, Vetter, Buikema, Olson & Vliet, LLC
20855 Watertown Road, Suite 200
Waukesha WI 53185
dvliet@buelowvetter.com
(262) 364-0259.

BROOKHOUSE & HEMSING LAW OFFICES

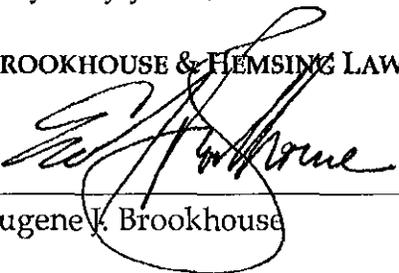
To: Mr. Matthew Spidell
Date: June 25, 2014
Page 2

It is strongly suggested that you retain an attorney to represent you in these proceedings. If this is done by the time of the prehearing conference, we can handle the matter with that attorney on Friday.

Very truly yours,

BROOKHOUSE & HEMSING LAW OFFICES

By


Eugene V. Brookhouse

EJB/dd
Attachment

cc via email: Kenosha Police & Fire Commission President and Members
Attorney Daniel G. Vliet
Jo Baltes, Commission Clerk

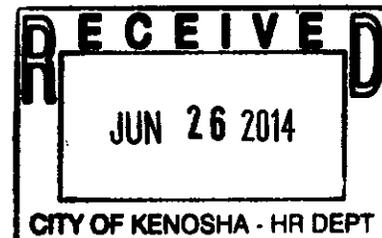
**BEFORE THE CITY OF KENOSHA
BOARD OF POLICE AND FIRE COMMISSIONERS**

In the Matter of Charges filed against

FIREFIGHTER JAMES D. ADAMS

by

JOHN R. THOMSEN, CHIEF, KENOSHA FIRE DEPARTMENT



ANSWER OF FIREFIGHTER JAMES D. ADAMS

NOW COMES Firefighter James D. Adams (hereinafter "Firefighter Adams"), through the assistance of his attorneys HAWKS QUINDEL, S.C., by attorney Timothy E. Hawks, and as and for his Answers and Affirmative Defenses to Chief John R. Thomsen's (hereinafter "Chief Thomsen") "Charges", Firefighter Adams states as follows:

ORGANIZATION OF THIS ANSWER

For the purposes of this answer each paragraph of the correspondence dated June 16, 2014, from Chief Thomsen to Mr. Charles Bradley, President, Board of Kenosha Police and Fire Commissioners (hereinafter referred to as the "Charges") is numbered serially and referred to herein by the applicable paragraph number.

1. Paragraph 1 does not require an answer.
2. Firefighter Adams denies that he engaged in conduct that is in violation of the Fire Department General Rule. He specifically denies that the conversations between management of the Fire Department and union officers during the grievance process prescribed by the Collective Bargaining Agreement is a "private conference." All participants to the conference represent either the City or the Union; all are responsible and accountable to the organization they represent for the words they use; and all have an obligation to speak truthfully during the course of such a meeting. He asserts that it is customary, lawful and expected that the participants at the meeting will keep notes of the discussion that accurately record the conversations. To the extent that the words spoken by any participant at a grievance meeting are subsequently denied, the notes taken by the parties are admissible as evidence to prove the truth of the matter in dispute.

BACKGROUND INFORMATION

- 3.-4. Firefighter Adams admits the allegations of paragraphs 3 and 4 of the Charges.

INVESTIGATION

5. Firefighter Adams admits the allegations of paragraph 5 of the Charges, except as follows:
- The period of time that he left the meeting at the request of management was less than five minutes.
 - He denies having knowingly admitted that his “smart phone” recorded during the break in the meeting. He asserts affirmatively that he believes he “paused” the recording function of the phone at the time he was told there was going to be a break. He asserts that as he and Jeremy prepared to exit we asked if we should take our items form the room which would have included my cell phone and we were told to leave everything right where it was the conference room.
 - He asserts affirmatively that he observed a management representative of the City handle his phone almost immediately upon exiting the room and several administrators have upon info and belief acknowledged handling the phone and pushing buttons on it while he was absent from the conference room.
 - He denies that he understood that he was asked if he was recording the “private” conversations of the chief officers, but asserts affirmatively that he understood that he was asked whether he denied that he had recorded the conversations of all participants at the meeting and he asserts that when he was asked that question he freely acknowledged that he had. Firefighter Adams asserts further that he believed that recording the conversations during the meeting was legal and that there was no reason to be concerned about doing so.
 - He asserts affirmatively that he does not and cannot “know” what Firefighter Ryan knew with regard to his recording of the meeting other than what Firefighter Ryan has acknowledged about the subject; he asserts affirmatively that he and Firefighter Ryan had no conversation about recording the meeting; and that he did not request Firefighter Ryan’s “permission” or “authorization” to record the meeting but instead chose to do so on his own. And as written further below that he was called in without knowledge of what was to transpire and chose to try to make sure to record what was said as he had no copy of the contract, paper or pen.
6. Firefighter Adams neither admits nor denies the allegations of paragraph 6 of the Charges as an audio/video record of the investigative interview was made by the Department and he asserts that the record of the interview will speak for itself. Firefighter Adams asserts affirmatively that his union representative requested a copy of the transcript of his investigative interview prior to filing this answer but the union representative was advised that it was unavailable at the time of the request. Firefighter Adams restates his answer found at paragraph 5 above.

FACTUAL FINDINGS OF INVESTIGATION

1. – 3. Firefighter Adams answers the allegations of fact contained in paragraphs 1 through 3 of the “Factual Findings” by reiterating his answers above.
4. Firefighter Adams denies the allegations of paragraph 4 of the “Factual Findings.”
5. Firefighter Adams denies the allegations of paragraph 5 of the “Factual Findings.”
6. Firefighter Adams cannot respond to the allegations of paragraph 6 of the “Factual Findings” as they relate to the knowledge held by someone other than Firefighter Adams.
7. Paragraph 7 of the “Factual Findings” is a legal conclusion, not a finding of fact, therefore it does not require an answer. Firefighter Adams denies the legal conclusion.
8. Firefighter Adams admits the allegations of fact contained in Paragraph 8 of the “Factual Findings. He asserts that there is no policy prohibiting the recording of a conversation.

AFFIRMATIVE DEFENSES

Firefighter Adams asserts the following affirmative defenses to the Charges:

1. As written the “General Rule” is too vague to be capable of rational enforcement. The standard contained therein, “...ordinary rules of good behavior observed by law abiding citizens...” is capable of as many different and reasonable interpretations as the number of individuals engaged in its interpretation and application.
2. Firefighter Adams asserts that on April 30, 2014 he was “on duty” and engaged in the performance of his routine responsibilities when he was directed to attend a meeting with management of the Fire Department; that he was not apprised of the purpose of the meeting; that upon his arrival he had no notes, no paper, no documents, nor the means to maintain a record of what transpired at the meeting other than his cell phone; that he placed his phone on the table in plain view; that when he left the conference room at the request of management he acted to “pause” the recording; that while outside of the

conference room he had a clear view of his phone and that he saw an officer of the Department pick up his phone and handle it; that he acknowledged that he had recorded the meeting when asked, but that he understood the question to refer to the meeting during which all parties were present;

3. Further, the Department has committed spoliation of the critical evidence by directing that FF Adams destroy the recording he made legally and consistent with applicable statutes which constituted the best evidence consistent with the recording only of the meeting at which he was present and of the fact of his having turned off the recording device; and that the proof of the matter of whether his phone continued to record the conversation of management, despite his effort to "pause" the recording feature was therefore destroyed as a result of his obligation to comply with the direct order of the Chief. The Department by its own negligence has thus directed and caused the destruction of the best evidence to defend himself and has engaged in the spoliation of evidence as Firefighter Adams has been advised an effort to retrieve the recording has proved unsuccessful.

VIOLATION OF THE GENERAL RULES AND REGULATIONS

Firefighter Adams denies that he was in violation of Sec. 968.31, Wis. Stats., which requires that an individual must have acted intentionally to record another and specifically states:

§968.31 (2) It is not unlawful under ss. 968.28 to 968.37:

(c) For a person not acting under color of law to intercept a wire, electronic or oral communication where the person is a party to the communication

He asserts that the failure to include this language in the charges has caused them to be cast in a false light and failed to fairly and accurately represent the true nature of the statutory language applicable herein.

He denies having made false statement to an investigator in regard to the use and placement of the recording device.

He denies that he attempted to discredit a chief officer by accusing him of tampering with his recording device, as several department administrators have, upon information and belief, acknowledged having handled the cell phone after he left the room with the phone in plain view of all present as the break commenced.

I respectfully request that following a hearing in this matter, the Board of Kenosha Police and Fire Commissioners dismiss the charges against me.

Dated this 26th day of June, 2014



Firefighter James D. Adams

Subscribed and sworn to before me

this 26th day of June, 2014.



Notary Public, State of Wisconsin

My Commission 2/27/2018



BROOKHOUSE & HEMSING LAW OFFICES

ATTORNEYS AND COUNSELORS

5455 SHERIDAN ROAD, SUITE 202
KENOSHA, WISCONSIN 53140

EUGENE J. BROOKHOUSE, S.C.
COURT COMMISSIONER
JUSTIN R. HEMSING

E Mail: ebrookhouse@brookhouselaw.com
website: www.brookhouselaw.com
TELEPHONE NUMBER: (262) 658-3571
FAX: (262) 658-8485

June 27, 2014

Firefighter Matthew Spidell
5008 Emstan Hills Road
Racine WI 53406

Via U.S. Mail and e-mail to
mattspidell3473@gmail.com

Attorney Daniel G. Vliet
Buelow, Vetter, Buikema, Olson & Vliet, LLC
20855 Watertown Road, Suite 200
Waukesha, WI 53186

Via U.S. Mail and e-mail to
dvliet@buelowvetter.com

Re: *Disciplinary Charges Against Firefighter Matthew Spidell*

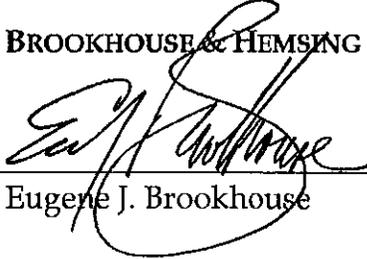
Gentlemen:

We attach for each of you the Prehearing Order entered today and respecting the hearing set for July 10, 2014, before the Police & Fire Commission.

Very truly yours,

BROOKHOUSE & HEMSING LAW OFFICES

By


Eugene J. Brookhouse

EJB/dd
Attachment

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BROOKHOUSE & HEMSING LAW OFFICES

ATTORNEYS AND COUNSELORS

EUGENE J. BROOKHOUSE, S.C.
COURT COMMISSIONER
JUSTIN R. HEMSING

5455 SHERIDAN ROAD, SUITE 202
KENOSHA, WISCONSIN 53140

E Mail: ebrookhouse@brplaw.com
website: www.brplaw.com
TELEPHONE NUMBER: (262) 658-3571
FAX: (262) 658-8485

Firefighter Matthew Spidell
5008 Emstan Hills Road
Racine WI 53406

Via U.S. Mail and e-mail to
mattspidell3473@gmail.com

Attorney Daniel G. Vliet
Buelow, Vetter, Buikema, Olson & Vliet, LLC
20855 Watertown Road, Suite 200
Waukesha, WI 53186

Via U.S. Mail and e-mail to
dvliet@buelowvetter.com

Re: Disciplinary Charges Against Firefighter Matthew Spidell

PREHEARING ORDER

A Prehearing Conference having been held by telephone on June 27, 2014; the Fire Chief for the City of Kenosha, Wisconsin ("Chief"), having appeared by his attorney, Daniel G. Vliet, by telephone; Matthew Spidell having failed to appear personally or by telephone, at the Prehearing Conference, pursuant to Section 6.6 of the By-laws ("By-Laws") of the Board of Police and Fire Commissioners ("Board") for the City of Kenosha, Wisconsin; Firefighter Matthew Spidell having been given notice of such Prehearing Conference in writing on June 25, 2014; the undersigned, as attorney for the Board having conducted such Prehearing Conference pursuant to such By-Laws and at the direction of the Board and being fully advised in the premises, it is determined and ordered by the undersigned, for and on behalf of the Board with its authority and at its direction, as follows:

1. The disciplinary charges against Matthew Spidell, as more particularly set forth in the Disciplinary Charges of the Chief on file herein, dated June 10, 2014, fall within the jurisdiction of the Board.
2. All procedural motions to be considered by the Board shall be filed with the Board by delivery to the undersigned, on or before July 3, 2014.

3. The parties shall endeavor to reach a stipulation as to as many facts and circumstances as the parties are able and shall provide such stipulations to the Board at or before the commencement of the Hearing.

4. On or before Thursday, July 3, 2014, each party shall provide to the other and file with the undersigned a list of the names and addresses of the witnesses they intend to call at the Hearing.

5. On or before Wednesday, July 2, 2014, Firefighter Matthew Spidell shall file, with the Board and the undersigned, an Answer to the Complaint.

6. The Chief shall provide six copies of his final exhibits to be submitted at the hearing unto the clerk and Firefighter Matthew Spidell on or before July 7, 2014; Firefighter Matthew Spidell shall provide six copies of his final exhibits to be submitted at the hearing unto the clerk and the Chief by July 8, 2014

7. The attorneys for the parties shall be afforded the right and option to issue subpoenas for witness attendance at the hearing. Firefighter Matthew Spidell, if unrepresented, may obtain subpoenas for witness attendance at the hearing by application to the Board President.

8. The date and place of the hearing is confirmed as follows: Municipal Office Building, Room 202, 625 52nd Street, Kenosha, Wisconsin, at 8:00 a.m., July 10, 2014.

Dated at Kenosha, Wisconsin this 27th day of June, 2014.



Eugene J. Brookhouse, Attorney for the Board,
pursuant to Section 6.6 of the By-laws

EJB/jle

cc via e-mail: President Charles Bradley and Commission Members
Jo Baltes, Clerk