

Review of Current Situation

The following is a review of the current situation and terminology.

The very first thing that I want to address is that our current pension plan and our current firefighters are not changing. Nobody is being laid off, let go, or being eliminated and the pension is remaining in place with no effort or plans on our part to change it. The pension benefit is staying as it is. In addition, the “plan” is that the current pension plan and our current “volunteer/paid on call/part time firefighters” system continue as long as possible. This has been the position of the Fire Department for the 35 years that I have been Chief.

It is hard to argue that we have been able to consistently staff and respond to all of our calls. We have not. This is not a new issue but one we have been tracking for many years and the reason for proposing a change now is the frequency of events, structure fire calls specifically, that we are responding short is rising. With the number of calls that we respond to shorthanded rising, the risk of a critical event at one of these calls rises as well. In addition, our last recruiting efforts have not yielded a sufficient number of firefighters that stay with the department.

Clearly the Department has to adapt to the changing socio-economic environment. The City is changing both in the problems it is facing, and the opportunities that are coming. The Fire Department has to be true to its mission. Does anyone remember what our mission statement says? If your short paraphrased answer was “when someone calls us for help, we respond and help” you get the basic premise. We can continue to try to meet our mission using the same system that has been in place for decades and hope we do not fail, or we can proactively change to meet the challenge. For those of you who are curious what the mission statement actually says:

Bloomington Fire Department Mission:

The Department’s mission shall be fire prevention and education and the preservation and protection of life, property and the environment against injury and damage from fires, hazardous materials incidents, natural and human-made disasters and other incidents occurring within the city and as directed by the City Manager.

There is no mention in the statement of meeting the mission most of the time, sometimes, or when we can. The response to a call for help has to be 100% of the time. 99% is not acceptable – that would have meant that at least 30 of our calls for service last year would not have had a response.

I would also like to address the thought that this proposal is a “new” model for our Fire Department. It is not. We are a combination career/volunteer/paid on call/part time Fire Department. Clearly people have an attachment to how they are referred to, volunteer, paid on call, or part time. There are at least four definitions of volunteer firefighter in State statute and another definition in Federal Statute. I have included those below so that you can see the variety of interpretations and applications depending on State pension laws, State licensing laws, or the Federal Fair Labor Standards Act. As you will quickly see, there is little consensus on just one definition. When we refer to “part time” firefighters we are referring to our existing firefighters (paid on call/part time).

The multiple definitions of a firefighter

MINNESOTA STATUTES 2018 - 299N.03 DEFINITIONS

Subd. 5. **Full-time firefighter.** A "full-time firefighter" means a person who is employed and charged with

the prevention and suppression of fires within the boundaries of the state on a full-time, salaried basis and who is directly engaged in the hazards of firefighting or is in charge of a designated fire company or companies that are directly engaged in the hazards of firefighting. Full-time firefighter does not include a volunteer, part-time, or paid-on-call firefighter.

Subd. 6. **Licensed firefighter.** "Licensed firefighter" means a full-time firefighter, to include a fire department employee, member, supervisor, or appointed official, who is licensed by the board and charged with the prevention or suppression of fires within the boundaries of the state. Licensed firefighter may also include a volunteer firefighter.

Subd. 7. **Volunteer firefighter.** A "volunteer firefighter" means a person who is charged with the prevention or suppression of fires within the boundaries of the state on a volunteer, part-time, or paid-on-call basis. Volunteer firefighter does not include a full-time firefighter.

MINNESOTA STATUTES 2018 - 353.01 DEFINITIONS

Subd. 36. **Volunteer firefighter.** For purposes of this chapter, a person is considered a "volunteer firefighter" for all service for which the person receives credit in an association or fund operating under chapter 424A or credit in the retirement plan established under chapter 353G.

MINNESOTA STATUTES 2018 353G.01 DEFINITIONS

Subd. 15. **Volunteer firefighter.** "Volunteer firefighter" means a person who is an active member of a municipal fire department or independent nonprofit firefighting corporation and who, in that capacity, engages in fire suppression activities, provides emergency response services, or delivers fire education or prevention services on an on-call basis.

MINNESOTA STATUTES 2018 - 424A.001 DEFINITIONS.

Subd. 10. **Volunteer firefighter.** "Volunteer firefighter" means a person who is a member of the applicable fire department or the independent nonprofit firefighting corporation and is eligible for membership in the applicable relief association and:

- (i) is engaged in providing emergency response services or delivering fire education or prevention services as a member of a fire department;
- (ii) is trained in or is qualified to provide fire suppression duties or to provide fire prevention duties under subdivision 8; and
- (iii) meets any other minimum firefighter and service standards established by the fire department or specified in the articles of incorporation or bylaws of the relief association.

V. Volunteer and paid on-call firefighters - 29 U.S.C. § 203(e) (4) (A). DOL Opinion Letter 2007-3NA, September 17, 2007.

Cities are not required to pay minimum wage or overtime to true "volunteers." However, in order to qualify as volunteers, individuals cannot receive anything but "expenses, reasonable benefits or a nominal fee" for the work they perform. For example, a fire department might provide uniforms at no expense or reimburse volunteers for their uniform cleaning, meals, and transportation expenses. Generally, pension benefits provided to volunteer firefighters are also viewed by the Department of Labor (DOL) as "reasonable."

29 C.F.R. § 553.106(e).

"Nominal fee" is not specifically defined in the law; however, the closer compensation is to minimum wage, the less likely it will be viewed as "nominal." Many fire protection employees in Minnesota cities would probably not meet this definition due to the level of compensation paid and are often referred to as "paid on-call" employees.

29 C.F.R. § 553.106(e).

The regulations do provide some guidance on factors to examine to determine whether fees and stipends are nominal. These include:

- The distance traveled and the time and effort expended by the volunteer;
- Whether the volunteer has agreed to be available around-the-clock or only during certain specified time periods;
- And whether the volunteer provides services as needed or throughout the year.

DOL Opinion Letter 2007-3NA, September 17, 2007.

The DOL has stated that fees and stipends paid to volunteer firefighters that are less than 20 percent of what would be paid to a full time firefighter are likely to be found to be nominal. "So long as the City's calculations are based on an approximation of the prevailing wages of a driver or firefighter within its area and the fee amount does not exceed 20 percent of that driver or firefighter's wages for the same services, the Department would find that such a fee would be nominal within the meaning of 29 C.F.R. § 553.106. Moreover, in evaluating whether a fee is nominal, the City should consider that, in addition to paying a nominal fee, as noted above the City may reimburse an individual for the approximate out-of-pocket expenses incurred."

29 C.F.R. § 553.106(e).

Cities should also avoid paying employees on an hourly basis or on any basis tied to productivity. Per-call rates are, however, specifically allowed within the regulations.

Two years ago to specifically address Federal wage issues we adjusted how we paid firefighters for their volunteer/paid on call/part time service. This did not impact their service pension requirements with the BFDRA and did not change the pension benefit. Prior to that, in 1993 after an Internal Revenue Service (IRS) review and a Minnesota Department of Revenue review, they determined that the Fire Department was an employer and the firefighters were employees and as such the Department was subject to employment taxes and withholding resulting in back taxes and penalties being paid.

My only point in the history and definition review is that it is not a simple one definition fits all answer.

To reiterate an earlier point. We are not changing what we are. We are a combination Fire Department with some career and mostly volunteer/paid on call/part time firefighters.

The Department is currently planning to add 10 paid on call/part time firefighters this year, and hopefully 10 next year. Our efforts to continue to recruit paid on call/part time firefighters is still underway and will continue into the future. Our success will depend on the availability of willing qualified candidates that can commit the time to the Department.

I will ask in a very near future email, that we form a working group to examine the current performance requirements. This is basically the requirements that you have to meet to be paid and to earn your pension. This will be a collaborative inclusive effort to do what is best for the Department to meet its mission and to meet our firefighter's service requirements. Details of this effort and more details will be forthcoming.

Review of the grant proposal/request

Staffing for Adequate Fire & Emergency Response Grant Program

The request is to approve application for a Staffing for Adequate Fire & Emergency Response (SAFER) Grant from FEMA to add full time firefighters. The grant period is for three years and the grant will cover salary and benefits for the three-year period. At the end of the three-year period, the cost for the salary and benefits are then assumed by the City. This allows the City to plan for changes and adjust budget projections for the Fire Department.

Background and reasoning:

The Fire Service assessment identified turn out time as a significant barrier for meeting acceptable response time standards. **Currently the response is within 9:39 from time of call to arrival 90% of the time (2020 statistic). More than 4 minutes of this is the time it takes for units to respond after the call has been toned out.** This is the time it takes for units to respond after the call has been toned out. This number would be greater but for the daytime duty crew responses from 4 stations M-F 0800-1700, positively affecting the metric. The assessment also identified the staffing issue including command staff as critical to the Department's ability to meet the response needs of the City.

The changes to the City's response risk, density, and development and the inability to currently provide adequate response is driving the need to add full time personnel to begin to meet current and future response needs of the City.

The goal is to eventually expand the response capability to 24-hour response from six stations with adequate staff reducing the turn out time by 2.5 minutes. This will have to be accomplished over a period of time and will include full time and part time staff with the ultimate goal of providing 24 hour staffed response from all six fire stations utilizing both full and paid on call/part time firefighters.

Currently the Fire Department is a combination department with 8 full time firefighters – 4 Chiefs/command staff, 4 inspector/firefighters, and 107 paid on call/part time firefighters.

The Department has difficulty in recruiting and keeping qualified candidates for part time firefighter positions. Most recruits have no training and no experience requiring a significant investment on the part of the City over an 18-month period just to attain basic level certifications. The demands and training requirements for a part-time firefighter to maintain required proficiency and certifications has become very difficult to achieve.

The Department is currently have continuing difficulty in staffing daytime duty crews or special duty crews for weather or special events and emergencies. In addition, we have been unable to maintain staffing/response levels 24/7 with paid on call/part time firefighters responding from home via pager alert.

The current response for calls shows a significant number of calls for service that have an inadequate number of firefighters on a truck. A response of less than 3 firefighters per unit is included in this count and includes response units with one or two firefighters responding.

- 8 months of 2020 [May-December] = 551 instances responding with one or two (out of 2359 calls).
- January 2021 = 65 instances responding with one or two (out of 222 calls).

Due to a change in data collection and management systems in the Fire Department the recorded number of units responding with 2 or 1 which is considered inadequate was recently re-constituted and is the reason for partial and incomplete statistics. The Department also has a number of incidents where units failed to respond to a call from a station and we are working on those statistics. It is important to note that no call went unanswered and any call not covered by the closest station was covered by another unit.

The Department has studied the feasibility of utilizing paid on call/part time firefighters for 24 hour staffing at the stations. The part time model for staffing has limitations when applied to a 24 hour in station staffing model. The number of firefighters to reach full 24 hour staffing with paid on call/part-time firefighters is more than 175 just to achieve a 20 hours/week/firefighter time commitment. The required 20 hours per week required of each firefighter becomes prohibitively time consuming considering their full-time employment and family responsibilities. The ability to even hire that many part time firefighters is not feasible as the Department has struggled and failed to meet and maintain a much-reduced staffing of 130 much less than the goal of 150.

The current response system of firefighters carrying pagers and responding when alerted has been in place for many years. While this has been effective for many years, it no longer is able to meet the response needs of the City. In addition, the current system has resulted in a fairness issue as some fighters are required to respond to many fewer calls than others due to the disparity in call volume across the City. An effort to examine the current requirements to earn pension credits is being planned to adjust to a more equitable system and provide better response coverage for the City. The service requirements and if or how they change will be a product of the working group and the administration but it is important to note that the failure to address our response issues will result in change with or without our participation.

Grant Timeline

The grant closes March 12 and will be awarded sometime between July 1 and September 30. The City has an opportunity to refuse the grant if awarded. If accepted, the City then has 180 days to hire the firefighters provided for in the grant.

This request for the grant submission approval is for 18 full time firefighters to provide partial 24-hour coverage from 3 stations. This plan will utilize full time firefighters and additional part time firefighters to provide more consistent staffing and response.

The estimated cost for these 18 FT FFs starting the 4th year when the grant period coverage ends is \$2,180,000 (est.).

The cost of providing initial hiring, safety equipment, and training is \$120,000. This could be reduced if some existing firefighters were hired for the full time positions.

There are infrastructure deficiency issues with the fire stations that will need to be addressed to temporarily accommodate 24-hour response staffing until the deficient stations are re-built.

Frequently Asked Questions about the BFD Staffing Problem

1. When is The Fire Department planning to request the City Council to approve application for a Staffing for Adequate Fire & Emergency Response (SAFER) Grant from FEMA to add full time firefighters? **The City Council item is requested to be heard on March 8th. The request is asking for permission to apply for a SAFER Grant. The application window for this year opened February 15th and closes March 12th.**
2. Will this be open to public commentary and feedback, and be addressed during one of the regularly scheduled City Council meetings? **This is just asking for permission to apply. If the grant application is successful, it would come back to City Council to accept or reject. The grants will be awarded from July 1 to September 30th. It would come back to Council if we received a notification of a grant award.**
3. If the grant is not approved, will BFD leadership and the city still pursue adding full time firefighters? **The Fire Administration is committed to addressing our response and staffing issues. We are committed to our current combination system and will continue to work to provide consistent service to our City.**
4. Is there a plan to expand the number of full-time firefighters beyond 18? **Currently the plan is for a combination department to continue. This includes both career and paid on call/part time firefighters like we are currently operating. Adding firefighters is budget impact for either career or paid on call/part time and takes considerable planning. There is no plan currently beyond what we have outlined. We will have to continue to adjust and adapt to the changing conditions with the goal of meeting our mission.**
5. The 2/25 e-mail references the difficulty of hiring part time firefighters to meet the needs of our customers. Have you explored eliminating the 4-minute response time in shifting to the new model? That would open up a broader candidate pool for us to recruit from. **That concept has been discussed. If it is done it extends the response time unless we consider a different way to manage our response which is the reason for having a working group. The intent is to constitute a working group with representation from each station. Part of that working group's charter would be to examine ways to better provide service for our citizens. We are currently**

working on the notice requesting interested firefighters and officers to apply to for the working group and it should be emailed out soon.

6. In reference to the above, has there been a cost analysis done for hiring full time vs part time firefighters?
 - a. What is the annual cost of a part-time FF? A range could be defined, but there are many variables and differences across the City that create a wide range. As stated, this is our current system and the cost of our paid on call/part time firefighters is what will continue with some planned adjustments.
 - b. What is the annual cost of a full-time FF? Rough numbers only – if allowed to apply, we will be doing a more formal analysis so that if offered an award, we can present to the City Council what the cost implications are after the term of the grant.
 - c. In addition to the standard cost of a part-time FF, how many DC hours on an annual basis are expected? 24 hrs x 365 days x 6 stations? We do not have a specific plan for duty crews yet. It is clear from our response times and crew numbers that what we are currently doing is not providing the service that the City needs. The time it takes to get apparatus in service from the alert 90% of the time is over 4 minutes contributing to the 9:39 response time 90% of the time. The response time is part of the picture. Adequate staffing is the other aspect, and we are rolling many times with 1 or 2 firefighters. We do not have enough firefighters to staff 24 hour duty crews and the number required (175 or more) is unlikely to be met.
7. Have we explored hiring more part time firefighters rather than incur the added expense of adding full time firefighters? Has there been a cost analysis done on this? (e.g. how many part time firefighters could we hire with the fully loaded comp and ben costs for 18 full time firefighters). This is the struggle that we have had for years. The number of qualified candidates that want to participate in a paid on call/part time system is not meeting our current needs. There is more to this equation than raw cost. There must be willing candidates that stay and commit after we expend considerable resources to get them to a level where they are effective members of our team. In the final analysis, if we fail in our mission, the cost is immaterial. This is a national problem, not unique to our City.
8. Have we examined the opportunity to increase the duty crew hourly pay to drive improved staffing? That is part of the discussion although we do not believe that it will attract many more, if any, additional firefighters to work duty crews.
9. Will the new full time firefighters' pension be covered under the State PERA plan vs the existing BFD defined pension benefit plan? All new career firefighter hired since 1980 have to be in PERA Police and Fire by State Statute.
10. How are we defining "Part Time Firefighters" in this new model? Same model as we are now and the firefighters will be the same as now – see above for the definition discussion. All of the below items would be discussed and examined as part of the working groups efforts.
 - a. Number of hours required per week/month.
 - b. Will the employment status match how the city currently defines part time employees?
 - c. Will city benefits, beyond what's provided by BFD today, be provided?
 - d. How will non-emergency response work be handled in this new model?
 - i. Will mandatory training and equipment inspections/maintenance take place during assigned part time hour shifts? (e.g. Work detail, equipment fitting and testing, snow plowing, etc.)
 - ii. Will public relations activities be held during assigned part time hour shifts? (e.g. National Night Out, Annual Open House, recruiting events, etc.)
 - e. How will the shift assignment process work?
 - f. How will seniority apply in the new model? (e.g. Part time firefighter shift assignments)
11. Will the part time firefighter hourly pay scale be equivalent to the full time firefighters' hourly pay scale? We have not discussed this yet. Just a reminder, this grant opened with little notice from FEMA other than it will open and the open period is relatively short.

12. Will the existing part time firefighters need to reapply to become one of the part time firefighters in this new model? **No – the existing paid on call/part time firefighters are the same ones that we currently have and that we are talking about moving forward.**
13. Will the existing BFD part time members who apply for one of the full-time positions receive priority or a preferred status as a part of the application process? **This has yet to be determined.**
14. Will the full and part time positions be open to non-Bloomington residents? **Most likely. This would be true for all positions if the response time to the station is increased from the existing 4 minutes.**
15. Will the new model be phased in over time? If so, over how long of a period? **If the new model is utilizing more career firefighters as part of our response model, yes. If the new model is referencing “part time”, we are considered paid on call/part time now and will continue to recruit and add paid on call/part time firefighters. We are requesting to expand the number of career firefighters in our existing model - it is the same model.**
16. What if an existing part time fire fighter declines to move to the new hybrid model? Is there a plan to pay out a pro-rated pension payment lump sum, or similar alternative, to those firefighters? **Any changes to performance requirements would be required for all existing firefighters. There is no statutory ability to pay out early and there are no plans to change the statute. Once again, this is the same model we currently operate in. If there are changes to how our pensions are earned, it will be a collaborative inclusive effort that will take time.**
17. Will the support from Allina for paramedic response in the city be altered or eliminated as a result of this new model? **No, Allina EMS is still the primary EMS provider for the City and one of our partners.**
18. How does this new model impact the capital spending plan in support of new fire station construction? **The planned replacement of the Fire Stations is a separate issue and will proceed regardless of the staffing model the department has in place.**
19. How will the 18 proposed full time firefighters be allocated across the existing six stations? **This is yet to be determined. If the grant is awarded, and if the City accepts the grant (both big ifs), a staffing model will be developed that will also include input from the working group.**
20. What is the impact to our existing defined benefit pension plan? **No impact**
 - a. Will the existing State Statute that covers our defined benefit plan need to be revised? **No need to revise statute unless we want to change something about our plan. There would be no need to change anything.**
 - b. If it is revised, what risk will this pose to our defined benefit plan? Have we engaged city legal counsel and the CFO to ensure we minimize the risk to our retirees and active firefighters? **There is no desire to revise or change statute. Our current pension obligations and benefits are still covered and there are no plans to alter this.**
 - c. Will our existing, active fire fighters still qualify for full pension benefits at 20 years and age 50? **No change to the existing plan for either vesting or qualifications is foreseen or planned.**
 - d. Will there be any changes to the disability benefits? **No change to the existing benefits is foreseen or planned.**
21. There was mention in the 2/25 e-mail that “an effort to examine the current requirements to earn pension credits is being planned to adjust to a more equitable system” is underway. **This will be studied by the working group after it is constituted and brought back to everyone. The effort here is to fix our responses to calls. A big part of that is the response time followed closely by the number of firefighter responding.**
 - a. Will this impact our existing firefighters, or apply to new part time firefighters hired at a future date? **This is yet to be determined.**
 - b. Will this analysis be made available to the fire department members before it is finalized? **Yes, there will be a significant period of review and revision undertaken with input from the firefighters.**
 - c. Will each station have representation on the committee conducting the analysis? **Yes, that is what will be proposed.**

- d. Will we need the fire department members to vote and approve the change the existing by-laws to adopt this new model? **The fire department does not have bylaws but there may be changes needed to the rules if the performance expectations are changed.**
22. Should the Dept. continue to move toward full time staff and phase out POC staff will FF's be given the opportunity to complete 10 years of service to meet state minimum pension benefit requirements? **There are no plans to phase out paid on call firefighters and in fact we are continuing to try to add to our ranks.**
23. Will fulltime FF's be part of BFD relief pension program? If so how will they earn their pension credit? **There are problems with this (legal) that will need to be studied before a decision is made.**
24. What will the officer structure look like? Will there be full time and POC captains? **We have not projected that far out. Currently the grant request would be for firefighters only and our current organizational structure would stay in place.**
25. Would POC captains be expected to help with full time FF management? **That is yet to be determined. Clearly an officer on the fire ground and in the station is responsible for their crew regardless of their employment status.**
26. What 3 stations would be staffed 24/7? **That has not been determined yet.**
27. Would there be a pay difference for fulltime employees and POC employees? **Depends on what you are referencing. There will be a difference in benefits although an hourly rate could be similar.**
28. Are we moving away from call percentages and moving toward POC shift work? If so how many hours per month/quarter would be expected? **This will be part of the working groups work to examine our response and how we accrue service credit.**
29. How will older stations be retro fitted to meet OSHA requirements for 24 hour staff? **Still yet to be determined.**
30. If the City chooses **not** except the grant what is plan B? Especially as it was outlined that the current model doesn't work. **In the near term, we will continue to struggle as we are right now and hope we do not have a critical incident that has a high cost. Longer term, we will use the results from the working group to plan a path forward.**
31. Are the full time FF's listed in the e-mail based on hours worked or are have they already been hired as fulltime employees? **Not sure exactly what you are referencing, but the career firefighters we have right now are full time employees. We also have some paid on call/part time firefighters that work close to full time, a situation that cannot continue indefinitely.**