



## **STIPULATIONS**

1. That only the remaining issues before this Fact-finder are in dispute. That previously withdrawn issues or issues agreed to by the Parties be recommended by this Fact-finder.
2. That all contractual and SERB procedures/time frames preceding the Fact-finding Hearing have been met. Therefore, this matter is properly in Fact-finding.

## **CRITERIA**

Pursuant to Rule 4117-9-05(J) State Employment Relations Board, the Findings of Fact and Recommendations presented in this Report are based on reliable information relevant to the issues before the Fact-finder. In making recommendations, Fact-finders shall take into consideration the following:

1. Past collectively bargained agreements, if any between the parties;
2. Comparison of unresolved issues relative to the employees in the bargaining unit with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;
3. The interest and welfare of the public, the ability of the public employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standard of public service;
4. The lawful authority of the public employer;
5. Any stipulations of the parties; and,
6. Such other factors, not confined to those listed above, which are normally or traditionally taken into consideration in the determination of issues submitted to mutually agreed-upon dispute settlement procedures in the public service or in private employment.

## **BACKGROUND -- THE CITY & ITS FIREFIGHTERS**

The City of Franklin ("City") is located in Southwestern Ohio, in Warren County. It has a population of 11,396 (2000 census).

The City employs unionized full-time firefighters, represented by the International Association of Firefighters, Local 3742. There are approximately ten (10) employees in the full-time bargaining unit. The City and IAFF Local 3742 are parties to a collective bargaining agreement with effective dates of October 12, 2003, through October 11, 2006.

The City regularly supplements its firefighting force with approximately twenty-three (23) part-time firefighters in this bargaining unit (International Brotherhood of Teamsters Local 114, AFL-CIO, the "Union"). Among them, six are truly part-time, appearing regularly on the schedule and working regular, part-time hours. There are approximately 17 part-time call firefighters, appearing regularly on the schedule but who also are eligible for call outs because they reside within the township. Both the full-time and part-time firefighters serve the citizens of Franklin, Ohio, to protect life, property and the environment. This is accomplished through fire suppression, code enforcement, public education, confined space rescue, and hazardous material operations.

The Union's bargaining unit members view their collective bargaining agreement as the vehicle by which the City may attract a capable labor pool, retain their current skilled members, achieve and maintain a stabilized employer-employee relationship, promote and improve work performance, provide a peaceful and equitable method for adjustment of differences that may arise, ensure the treatment of members as fair and impartial, and generally provide for the orderly and harmonious relations in the interest of the citizens of the City.

The Union was certified as the exclusive bargaining representative on May 5, 2005 (Case No. 04-REP-06-0098) for a bargaining unit which consists of all part-time on-call Firefighters who worked 500 or more hours in the previous calendar year. ***THE PARTIES ARE NEGOTIATING THEIR FIRST COLLECTIVE BARGAINING AGREEMENT.***

The Parties engaged in negotiation sessions on a number of occasions and in mediation on several occasions, resolving a number of tentative agreements for the provisions of a collective bargaining agreement. During the two fact-finding hearing sessions noted above, the Parties successfully engaged in additional mediation settlement efforts. Due to the professional and conscientious hard work of the Parties and their Representatives, they resolved additional tentative agreements to become part of a collective bargaining agreement. The Parties have set a positive tone and a solid foundation for their future bargaining relationship. They are commended for their substantial efforts and for reducing their differences to only a few.

There are three fundamental underlying facts that readers need to recognize when reviewing the Parties' positions and this Fact-finder's recommendations for the unresolved issues. First, that the City has the highest respect for all of its firefighters. For example, on September 2, 2002, the Mayor issued a proclamation regarding the City's public safety forces (police, fire, and emergency services). That proclamation notes that they are "unfailing and untiring in their passion;" that they "demonstrate bravery and heroism on a daily basis affording us and our families a sense of safety and security;" and that, "the City of Franklin wishes to acknowledge the unmistakable courage and the untold sacrifices that they and their families make for the good of their neighbors and our community." Neither within the Proclamation, nor on the job, is there a distinction between the full-time firefighters and the Union's part-time firefighters. When responding to a call for help, the City's residents cannot distinguish one from the other – there is no "F-T" or "P-T" on the backs of the firefighters' uniforms.

The second fundamental underlying fact is that the Parties are entering into their first collective bargaining agreement. Since certification, they only have started on their mutual journey toward establishing a solid, trusting, long-term bargaining relationship. At this early stage, it is premature for either Party to expect that their first agreement will include all that they may ultimately wish to accomplish. Collective bargaining is an ongoing process that will develop and mature during future years and future collective bargaining agreements. Their primary purpose now should be an initial agreement that serves their basic needs; one they can live with for the immediate future; and, one on which they can then build for their future mutual benefit through the bargaining process of give and take.

Finally, this situation is rather unique in that there is a lack of valid comparables. There are very few unionized part-time firefighter units in Ohio, and those few are located in northern Ohio, (predominately in the Cleveland area) in areas not demographically comparable to the City. While there are closer part-time units, any attempt at comparison fails because they are not unionized and have not had the benefits of collective bargaining.

## BACKGROUND -- THE ECONOMY

The economy (national, state, and local) was not an issue between these Parties inasmuch as the unresolved issues do not present significant monetary consequences. Nevertheless, a few recent background references on the national economy may help set the stage. Overall, barring catastrophe, the U.S. economy is healthy.

[A]n economic rebound has sent corporate profits to an 11<sup>th</sup> consecutive quarter of double-digit gains, the longest streak since the 1950s. (“Behind Surging Stock Market: Old-Fashioned Economic Boom,” *The Wall Street Journal*, May 11, 2006, p. A1)

[W]hile recent data have shown that the economy remains strong . . . inflationary pressure is growing. (“Fed Raises Rates, Keeps Its Options Open for Future,” *WSJ*, May 11, 2006, p. A1)

Regarding the U.S. Department of Labor’s report for April 2006,

The slowdown in hiring kept the unemployment rate steady at 4.7% , a level that economists see as close to the threshold below which demand for workers begins to fuel inflation. . . . [E]conomists found evidence of persistent strength in the labor market. The average workweek rose to 33.9 hours from 33.8 hours, an increase equivalent to about 300,000 jobs. Meanwhile, the average hourly wage jumped a larger-than-expected 0.5% to \$16.61, a sign that competition for qualified workers is heating up. Compared with a year ago, the average hourly wage was up 3.8%, the largest year-on-year rise since August 2001. (“Hiring Slows, but Strength Is Seen In Rising Pay, Longer Workweeks,” *WSJ*, May 6-7, 2006, p. A3)

The rise in prices last month capped a first quarter in which consumer prices advanced at a 4.3% annual rate, up from 3.4% in 2005. The rising cost of gasoline was the biggest factor in last month’s increase . . . . (“Jump in Prices Stirs Rate Concerns,” *WSJ*, April 20, 2006, p. A2)

The Fact-finder is acutely aware of threats to the local economy, primarily Delphi’s pending bankruptcy proceeding, and the overall perilous financial state of General Motors. However, the Parties have no real influence on these mega concerns, the number in the bargaining unit is small, and the financial consequences of the unresolved issues are minimal when compared to the continuing mission of the bargaining unit members.

## PRIOR NEGOTIATION/MEDIATION

**Prior Negotiation/Mediation:** The City and Union met a number of times to negotiate, and met with a SERB mediator, resolving most provisions for their new collective bargaining agreement. Additionally, the Parties engaged in significant additional mediation efforts as part of the fact-finding process, tentatively agreeing to additional provisions for their agreement.

**Issues Resolved by the Parties' Prior Agreement:** Agreement was reached regarding all issues brought to the table by either Party -- other than those that are the subject of this Fact-finding Report. The Articles agreed to are identified hereinafter, and are incorporated by reference into this Report as recommended for acceptance by both Parties.

**Issues Remaining at Impasse:** The following issues, identified by the Parties in their Pre-hearing Position Statements, remained unresolved at the conclusion of the Fact-finding Hearing:

## **ISSUES**

### **ISSUE 1: UNION DUES AND FAIR SHARE FEE – ARTICLE 5**

#### **UNION'S ECONOMIC PROPOSAL**

The Union's proposal is found in its Fact-finding materials, Tab "Fair Share Fee." It proposes a checkoff for dues deduction for its members, and for a "fair share" deduction for non member bargaining unit members, with provisions for bona fide religious objections and an indemnification/hold harmless for the Employer.

The Union argues that the issue is an equitable one (inherent fairness) since all bargaining unit members will gain from the collective bargaining agreement (its security, predictability, and benefits) and the Union's initial (and continuing) efforts on behalf of all bargaining unit members. The Union notes that under law it must represent all bargaining unit members, even if they chose not to join the Union. It also argues that it would be an unfair financial burden for the Local's members to pay the costs associated with providing union representation for such a small, part-time bargaining unit as this one. In fact, even with all bargaining unit members paying dues or fair share, it is not likely that they will even fully fund the services incurred just with negotiating the Parties' collective bargaining contract, let alone the costs of future services. All members of the bargaining unit need to pay their fair share for all members of the Local to enjoy the benefits of unionization. The Union explained representation costs and "fair share" to the bargaining unit members during meetings before they voted the Union as their representative. The Union notes that there is a fair share provision in the agreement governing the full-time firefighters.

#### **CITY'S ECONOMIC PROPOSAL**

The City's proposal is found in its Fact-finding materials, Tab 6B. It proposes that members pay their dues directly to the Union (unless requested by an employee to make such deductions) and that there be no fair share payments or deductions. The City argues that there could be instances when an employee's pay would be insufficient for the employer to deduct the dues.

The City primarily opposes fair share fees on philosophical grounds. It argues that not all bargaining unit members necessarily want to belong to the Union, as the vote leading to certification was not unanimous. Fair share is not mandated by Ohio law, rather it is a permissive topic. Fair share provisions should be negotiated and not imposed by a neutral. All union members should have the opportunity for time to pass and to see if uniform security is provided by the Union for the bargaining unit members, and to develop the costs associated with representing non members. Additionally, in the past, when the current bargaining unit members accepted employment with the City, they did not then know that there would be a union or that they would be subject to paying fair share fees.

#### **RECOMMENDATION**

Dues, including fair share, is one of the foundation stones for a union to effectively represent both its members and all other members of the bargaining unit. Asking a union to perform its duties

without a reliable source of funding from its beneficiaries is analogous to asking a city or other governmental entity to meet its service obligations with funding totally reliant on residents/citizens voluntarily choosing to contribute and then following through by voluntarily mailing a check. The need for the Union's funding is most critical at this early stage of establishing the bargaining relationship between the Parties. Without funding, the certification of this bargaining unit becomes a slight of hand – “yes” you can vote to have collective representation with your employer, but “no” you cannot have the resources to effectively bargain through your chosen representative. The Union's proposed language addresses the City's concerns about insufficient wages from which to make a deduction. ORC 4117.09 provides that a collective bargaining may provide for fair share.

For these reasons, the Fact-finder recommends that the Parties agree to Article 5 as proposed by the Union, in its Tab “Fair Share Fee.”

## **ISSUE 2: SICK LEAVE – ARTICLE 9**

### **UNION'S ECONOMIC PROPOSAL**

The Union's proposal is found in its Fact-finding materials, Tab “Sick Leave.” Its proposed Article 9 Sick Leave would provide for such leave at the rate of .0575 hours for each one hour of service. It further proposes when the leave may be used, and for cash payments upon certain events (such as death, termination, and for accumulated leave according to a schedule). Its proposed language was taken from the full-time firefighters' agreement, as the Union is seeking parity with the benefit enjoyed by the full-time firefighters. It notes that the schedules for some of its bargaining unit members parallel those of the full-time firefighters. Further, it argues that prior to certification, the part-time firefighters accrued sick leave on the same basis as other City employees.

Prior to selecting the Union as their representative, the bargaining unit members were eligible to accrue sick leave under the City's policy. Further, they were not aware that they had the benefit, until about 2004, when they were told that they would get credit for leave to date, but that the City was changing its ordinance to exclude part-time employees from that point on. The Union notes that this was one of several reasons why the part-time firefighters began looking to unionize.

### **CITY'S ECONOMIC PROPOSAL**

The City's proposal is found in its Fact-finding materials, Tab 6C. It would permit bargaining unit employees to retain such sick leave as they may have accumulated under the City's prior policy for City employees, but not provide for any additional sick leave. It notes that the City changed its regulations in 2004 regarding sick leave to only provide for full-time City employees (143.04). The City argues that sick leave is a benefit typically afforded full-time employees, not part-time employees. The City revised its ordinance to remove the sick leave benefit from all part-time employees, not only the part-time firefighters.

As noted by the Union, the part-time firefighters were unaware of the former sick-leave benefit. Therefore, they had no expectation of a sick leave benefit when they were originally hired, therefore there is no current right to the benefit. The City will agree that the employees may use such leave as each may have accrued until it is exhausted.

### **RECOMMENDATION**

Considering the totality of the circumstances (including tentative resolution of most provisions for

a first collective bargaining agreement, and including the issues remaining) it clearly appears that sick leave is best left to the Parties' future bargaining. On one hand, it is a workplace benefit that is typically reserved for full-time employees. On the other, these bargaining unit members perform the same duties as the full-time firefighters, as a cost effective alternative to the City hiring additional full-time equivalent firefighters. Perhaps through future quid pro quo, the Union may gain this benefit.

For these reasons, the Fact-finder recommends that the Parties agree to the City's proposal that there be no provision for sick leave, but that the bargaining unit members not lose leave previously accrued under the City's prior policy. (Note: the Parties tentatively agreed to the other [non sick leave] provisions in Article 9).

### **ISSUE 3: GRIEVANCE PROCEDURE [ARBITRATION] – ARTICLE 20**

#### **UNION'S NON ECONOMIC PROPOSAL**

The Union's proposal is in its Fact-finding materials, Tab "Grievance Procedure." While a tentative agreement was not signed during the Fact-finding hearing, both Parties indicated satisfaction with the language of the Union's proposal (with minor clean-up modifications in the City's version of the same language). However, one issue remains regarding arbitration, and that is the City's proposed addition to the end of Section 20.13, which would limit an arbitrator's ability to modify a disciplinary penalty imposed on a grievant. The City's proposed language in dispute is:

Further, while disciplinary actions of suspension, reduction, and dismissal may be appealed to the arbitration step of the grievance procedure, the arbitrator shall only be authorized to determine whether or not misconduct occurred; he or she shall not be authorized to modify the Employer's disciplinary penalty if he or she finds that the misconduct occurred.

The Union notes that in grievance arbitrations, a common question that arises is how the employer treated/disciplined other employees in like or similar circumstances of misconduct. Without the ability of an arbitrator to potentially modify a discipline imposed on a grievant, including reviewing how others were previously treated by the employer, then favoritism could occur through the imposition of different penalties. Additionally, such a limitation would undermine the provision for just cause before the imposition of appropriate discipline.

#### **CITY'S NON ECONOMIC PROPOSAL**

The City's proposal is in Tab 6I of their fact-finding materials. Again, there is only the City's proposed addition (quoted above) at issue. The City argues that, unlike most unionized public sector employees, these bargaining unit employees previously were not classified civil service employees and as such previously had no civil service protections to "trade in" for the protections of grievance and arbitration.

#### **RECOMMENDATION**

It would be very unusual for a collective bargaining agreement to limit a neutral arbitrator's authority to review, and modify if necessary, a discipline grievance as proposed by the City. Authority to review, and if necessary modify, a punishment in light of the totality of the circumstances is a

fundamental principle of fairness and equity – due process – as inherited from our English law tradition and as further developed in these United States since 1776.

By agreeing to not include its proposed language, the City will not be exposing itself to unjust consequences. It can take solace in two facts: first, that unions are motivated by economics and by their desire to protect their credibility when they decide whether or not to move a specific grievance to arbitration. Second, labor arbitrators do not lightly, easily overturn or modify disciplinary actions imposed by employers. If the City acts with due process, including consistency, then it has little to fear from arbitrators having the authority to review and modify its disciplinary decisions. Review by a neutral third party (an arbitrator) is a fundamental benefit of employees bargaining collectively.

For these reasons, the Fact-finder recommends that the Parties agree to the language contained in the City's proposal – excepting for the City's proposed addition, quoted above. That is, the recommendation is that arbitrators not be limited in their review of disciplinary actions.

#### **ISSUE 4      HOLIDAYS – ARTICLE 26 AS PROPOSED BY THE UNION ; ARTICLE 15 AS PROPOSED BY THE CITY**

##### **UNION'S ECONOMIC PROPOSAL**

The Union's proposal is in its Fact-finding materials, Tab "Holidays," which mirrors the language in the full-time firefighters' contract as concerns premium pay for working on a holiday. The Union is not seeking paid holidays when not worked. The Union argues that it has cooperated with the City by accommodating differences between part-time and full-time firefighters where a distinction may be legitimate (e.g., health insurance, some paid time off). However, the Union sees no basis for a distinction between the two groups of firefighters when it comes to holiday pay. It notes that through prior mediation, it accommodated the City's desire to begin to move the part-time firefighters toward a schedule of 24 hours on/48 hours off. Thus, in the future, the part-timers may be working shifts that are the same as full-time shifts.

The Union's bargaining unit members are entitled to share some of the benefits enjoyed by the full-time firefighters. The part-time employee (and their family) who works a holiday is just as inconvenienced as is the full-time employee and their family. They work the holiday side-by-side, performing the same duties, without distinction between them. The Union reports that their bargaining unit members feel a grave sense of unfairness when they work a holiday at regular pay, while their full-time partners are receiving double time pay. Collective bargaining permits bargaining unit members to seek additional benefits, notwithstanding that they were hired in without those benefits. The Union seeks holiday pay at double the rate of regular pay, the same as is received by the full-time firefighters.

##### **CITY'S ECONOMIC PROPOSAL**

The City's proposal on holidays is in Article 15, Tab 6F. Essentially, the City opposes any pay for a holiday not worked, and opposes any premium pay for holiday work, as that is a benefit reserved for full-time employees. The City proposes that no language be included regarding holidays. It cites City ordinance 143.05, which lists 12

. . . legal holidays of the City which all full-time non-union employees of the City shall be entitled to receive with pay:

New Year's Day	Thanksgiving Day
President's Day	Friday after Thanksgiving
Memorial Day	Christmas Eve
Independence Day	Christmas Day
Labor Day	New Year's Eve
Veterans' Day	Birthday

The City says that the part-time firefighters are a supplemental staff who did not come into their jobs with an expectation that they would receive a premium for holidays. The City sees a difference between its part-time and full-time employees, and benefits need not be the same.

**RECOMMENDATION**

When it comes to working on Thanksgiving, Independence Day, or on any holiday, the Fact-finder sees no difference between a full-time firefighter and a part-time firefighter. The Fact-finder sees no difference between the inconvenience and sense of sadness that their families must experience. Further, the Fact-finder takes the Union at its word that the part-time firefighters feel they are treated unfairly when performing the same duties on a holiday as are the full-time firefighters, yet receiving only regular pay and no premium pay. It is precisely this type of blatant inequity that may foster resentment in the ranks.

The City has an opportunity to step up to the plate and recognize this inequity – consistent with the City's 2002 proclamation, acknowledging the firefighters' work "affording us and our families a sense of safety and security;" (including on holidays) and "the untold sacrifices that they and their families make for the good of their neighbors and our community" (including on holidays). On the other hand, the Union needs to recognize that their negotiations for a first contract cannot accomplish all that its bargaining unit members may wish.

For these reasons, the Fact-finder recommends that the Parties agree to the language (including the 12 holidays listed therein) contained in the Union's holiday proposal – excepting: 1) that the premium rate of pay (Section 26.04) be at time and one-half for working a holiday (not two times); and, 2) that the Union's proposed Section 26.03 include an additional three (3) hours (not eight hours).

**ISSUE 5      EMERGENCY RESPONSE ELIGIBLE (ERE) – ARTICLE 18**

**BACKGROUND**

The Parties came close to mediating a tentative agreement on Article 18. They indicated that a number of modifications would be acceptable. Working from the marked copy of the City's proposal, furnished to the Fact-finder during the second day of Fact-finding on May 2, 2006, the Parties are in agreement on Sections 18.01, 18.05, and 18.06.

Regarding Section 18.02, the Parties find the language acceptable (as modified) until the sentence:

The Employer shall monitor run percentages bi-monthly for ERE designated employees.

**UNION'S NON ECONOMIC PROPOSAL – SECTION 18.02 – 25% OFF DUTY RUNS**

The Union proposes to continue the existing practice for monitoring based on six-month periods.

Currently, employees have to respond to 25% of the off duty runs in a six month period to continue their employment with the City. Originally, the Union proposed to continue the current practice of each part-time firefighter receiving a 14-day semi-annual (28-day annual) leave bank which could be applied toward meeting the 25% requirement. For example, a bargaining unit member might be out of town, on vacation, or otherwise unable to respond at times during the six month period. The Union opposes changing the monitoring from every six months to bi-monthly.

Further, the City's proposal for an employee who falls below the 25% requirement limits their opportunity to reestablish compliance to the following bi-monthly period – or the employee will be removed from the schedule. Being removed from the schedule is especially critical to the part-time firefighters because most work schedules at other jobs. That is, if a member fails to meet the 25% requirement and is removed from the schedule, return to the schedule is subject to the availability of the member's previous hours/schedule (typically a 12-hour shift). The Union is concerned that as 12-hour shifts are vacated, the Chief will fill two consecutive 12-hour shifts with someone who can work 24 hours. The Union notes that the Chief stated his goal of doing just that, i.e., converting to 24 on/48 off. The Union also notes that, through mediation, it and the City agreed to language that will enable the Chief to move toward his goal over time.

In summary, the Union's concern is that once a member is removed from their 12-hour shift for failing to meet the 25% requirement, the shift will be lost, and the practical consequence will be that the member may not be able to continue working for the City. That is, they will not be able to work a new 24-hour shift and retain their other, full-time employment. Removing an employee from the schedule for failing to meet the 25% requirement could be the same as terminating that employee. Hence, the City's proposed shortened time period for monitoring the 25% becomes problematic for the bargaining unit members.

The Union understands the need for its bargaining unit members to respond to off duty alarms, the City's need for predictability in those responses, and the Union expressed its commitment to working with the City to achieve that goal. It suggests that for a first contract, wherein it has already agreed to give the City flexibility in future scheduling, it would be draconian to simultaneously reduce the current six months to four months (i.e., two bi-monthly periods) for its members to meet the 25% requirement.

The Union notes that the current 6-month time period has resulted in only one employee being taken off his shift, therefore the current system is working. The Union sees no reason to go backward and lose what it had before the collective bargaining process began.

### **CITY'S NON ECONOMIC PROPOSAL – SECTION 18.02 – 25% OFF DUTY RUNS**

The City proposed the bi-monthly monitoring for members to meet the 25% off-duty run requirement because it finds that the part-time firefighters tend to respond to very few runs during the first five months (of the current 6-month allowance) and then try to make up the 25% during the sixth month. This practice poses a problem for the City in call out situations. The City's proposal is structured such that the employee needs to meet the 25% in the first bi-monthly period. But, if they fail, then they have the second bi-monthly period to meet the requirement. Finally, if they fail to meet the requirement during any three bi-monthly periods in a rolling year, then the employee may be discharged. The City's motivation is to try to correct an employee's behavior without it reaching the point of discharge, and is not a substantial variation from the current practice. The City is seeking the members' participation in callouts in a more uniform fashion.

Regarding the Union's argument for 28 days per annum "leave bank" against which an employee

may offset failures to respond to callouts, the City says that the practice has been 14 days per annum, designed to cover a typical two week vacation period. The City conceded that it would continue the 14 day practice, even though it is not contained in their proposal on this Section – but in two blocks of seven days each. This will accommodate an employee taking a one or two week vacation without it being held against them for failing to meet the 25% participation rate.

### **UNION’S ECONOMIC PROPOSAL – SECTION 18.03 – CALLOUT TIME & MONEY**

One remaining issue in Section 18.03 (call out) concerns the time and money portions thereof. Currently, there exists a pool of money that is set aside from which firefighters are compensated for off duty call outs. The pool is divided by the number of runs, and then further divided by the number of employees who reported for a run. The Union is concerned that the pool is in danger of shrinking, and that the number of employees drawing from it may increase, then per run compensation will decrease. Currently, the firefighters are paid a flat amount regardless of the duration of a specific run. The Union notes that the Chief has announced that he desires to open another fire house, potentially meaning additional part-time employees to share the pool.

The Union proposes a more conventional method for handling pay for these runs. The Union proposes pay for the first hour equal to two and one-half hours of pay (at regular rate) for a total of two and one-half hours pay for an off duty call out. The full-time contract provides for two hours at time and one-half, for a total of three hours of pay for an off duty callout. The Union acknowledges that the compensation for a call out will be higher than under the current system.

In response to the City’s argument that the average call out run is only 23 minutes, so why should they be paid more, the Union responds that compensation is not only for the run time but also for the inconvenience of being called out in the middle of the night, or interrupting other tasks which the part-time firefighter may be doing during their off duty time. Premium pay for call out is not unusual within safety forces. Further, the Union is trying to coordinate their proposal to the amount of money that the members currently receive for a call out. The average amount per call out is about \$21 to \$22 per hour. Their current hourly rate is \$10.71. Thus, the Union’s proposal for 2 ½ times their hourly rate maintains what they are currently earning for call outs. The City’s proposal for one hour at regular time represents about a 50% cut. The Union notes that its proposal includes a provision that if the run lasts for more than 2 ½ hours, then the employee would be compensated at their regular rate of pay. The Union sees no reason to go backward and lose the average compensation it had before the collective bargaining process began.

The Union contests the City’s computation of 23 minutes average time for a call out because the City’s computation includes many EMS calls that are not handled by the Fire Department. For example, the City’s list includes seven “abdominal pain/injury” runs with an average time of 1.45 minutes. It includes six “emotionally disturbed person” runs with an average time of 1.48 minutes, and numerous other EMS events. Therefore, the City’s average of 23 minutes is not limited to Fire Department responsibility calls for which firefighters were compensated. The times listed are computer records showing time from “dispatch” until “available.” For the 56 “structure fires,” a call for which the Fire Department is definitely responsible, the average time shown is 67.8 minutes. Additionally, the City’s computer generated list does not include time spent by the firefighters back at the station following a call out. Thus, the average time on a call out for which the members are being compensated is more than the 23 minutes estimated by the City.

### **CITY’S ECONOMIC PROPOSAL – SECTION 18.03 – CALLOUT TIME & MONEY**

The City has proposed ERE call out at one hour at regular rate of pay. The City computes total

average call out time to be 22.68 (23) minutes. For the part-time firefighters who are ERE eligible, and reside within Franklin Township (with the farthest point being 5 3/4 miles away from the station house) the City's proposal includes time for driving, for which the City does not normally compensate. The City estimates that it takes about 10 minutes to drive one way, therefore the proposed one hour is more than sufficient to compensate a member for a call out.

### **UNION'S NON ECONOMIC PROPOSAL – SECTION 18.03 – TIME TO RESPOND**

Another open issue in Section 18.03 concerns the response time for call outs. Currently the full-time firefighters get 30 minutes to respond. The Union proposes 22 minutes for the part-time firefighters. The City's proposed 12 minutes to get to the station simply does not allow adequate time to respond for the members to qualify for a paid call out. The Union notes that if the call is at night, the members need to dress, get to their cars, and get to the station. The Union does not want to go backwards from the time it currently has to respond.

The members are hesitant to install emergency warning equipment on their personal vehicles due to the additional liability they will face. The Union notes that a number of its bargaining unit members live close to the station, and they can respond quickly (within the 12 minutes) without emergency warning equipment and the concomitant liability exposure. Others can choose to use the emergency warning equipment, however, it is a decision best left to the individual firefighters.

### **CITY'S NON ECONOMIC PROPOSAL – SECTION 18.03 – TIME TO RESPOND**

The City believes that if the average callout run is 23 minutes, with the 22 minute response time proposed by the Union, the call is essentially over. Further, the full-time firefighter response time of 30 minutes is based on a response radius of 20 miles. The part-time firefighters within Franklin Township (or even a radius of 5 3/4 miles, will not need 30 minutes to respond to a call out. The City needs a short response time because these are emergency primary response employees. The City's proposed 12 minutes is for a part-time firefighter to get to the station, put on their gear, and get on a Fire Department vehicle. In the case of a structure fire, it may take the fire apparatus vehicle 12 minutes or longer to get to the scene. Thus, 12 to get to the station, and another 12 minutes to arrive on the scene is not acceptable. The City is committed to reducing the time it takes to get its firefighters on the scene.

The City notes that it allows its firefighters to have POV emergency warning equipment to help them respond quickly. In fact, it is the City's preference that the firefighters have emergency lights and sirens on their personal vehicles. However, many do not.

In the past, the pay for part-time firefighters' call out has been as low as \$14.00 for a run, fluctuating per year depending on the number of employees and the number of runs.

### **CITY'S NON ECONOMIC PROPOSAL – SECTION 18.04 – HOLDOVER**

#### **BACKGROUND NOTE REGARDING SECTION 15.09:**

The City's proposal regarding Section 15.09 "Holdover" (Tab 6F of the City's Fact-finding materials) mirrors its ERE proposal in Section 18.04. The City felt it necessary to describe recall and holdover for both those bargaining unit members who are ERE eligible and for those who are not ERE eligible, in order to clarify for employees their rights and responsibilities. The City does not believe that the language is at issue (and the Union concurs) but rather, the time periods and compensation are issues. The provisions in Article 15 (holdover) should be the same as whatever is agreed to in connection with Article 18. The language itself is the same as 18.04, which provides:

Holdover: On-duty ERE designated employees who initially respond to a call, in which the call runs past their scheduled shift, shall not be eligible for ERE pay. Employees who are required to be on duty for an extended time beyond the scheduled shift shall be compensated in quarter (.25) hour increments at their regular hourly rate of pay. If an employee is on an incident due to holdover, Incident Command will make every effort to have that employee released as soon as possible at his or her request in a timely manner.

This section is for those employees who are ERE eligible, whereas Section 15.09 covers all others.

#### **UNION'S ECONOMIC PROPOSAL – SECTION 18.04 – HOLDOVER**

Section 18.04 holdover has an open issue. This applies to an employee who responds to a call that then runs past their scheduled shift. The Union concedes (to the City's proposal) that such an employee would not be eligible for ERE pay. The Union concedes (to the City's proposal) that such employees would be compensated at their regular rate of pay in quarter (.25) hour increments. However, the Union proposes that there be a minimum of one hour of pay. The minimum of one hour is to compensate for the inconvenience of being held over beyond the end of their regularly scheduled shift. This becomes more important for the part-time firefighters because holdovers can negatively impact them since they could have other jobs to which they need to report. The Union notes that the full-time firefighters receive time and one-half for hours they are held over.

#### **CITY'S ECONOMIC PROPOSAL – SECTION 18.04 – HOLDOVER**

The City's position is essentially the same arguments as made in relation to time and pay for call outs as concerns the average length of calls.

#### **RECOMMENDATIONS**

The Fact-finder believes that the open issues under Article 18 are best presented as a package, in which neither side gains all that they are seeking. The Fact-finder recommends that the Parties accept the City's proposal, with the various markings as presented on the second day of Fact-finding, (and that they accept the conforming language in Section 15.09) excepting as may be noted otherwise in the following specific recommendations:

**Section 18.03 – Time to Respond:** The Fact-finder is compelled to defer to the City's (Chief's) calculation of the time needed to best serve the emergency needs of the residents of the Fire Department's jurisdiction. It appears that most of the part-time firefighters live sufficiently close to the station to meet the 12 minute requirement proposed by the City. For those who live farther away, it appears that the solution may be that they install emergency response equipment on their personal vehicles.

For these reasons, the Fact-finder recommends that the Parties agree to the City's proposed 18.03 12 minute response time. However, the Fact-finder further recommends that the Parties, through their labor-management committee, commit to meeting soon to review and discuss member's concerns about additional liability associated with installing and using such equipment. For example, perhaps the City should consider reimbursing (in whole or in part) additional liability insurance costs caused by the installation and use of such equipment. Further, perhaps the City should consider sending such members for additional training regarding proper techniques for responding while using such equipment.

**Section 18.02 – 25% Off Duty Runs:** On one hand, the bargaining unit members were originally employed with the City’s practice of using six month time periods for computing compliance with the requirement that they respond to a minimum of 25% of the off duty calls. On the other hand, the City argues that members are slacking off during the first five months, and then rushing to comply during the sixth month, causing less than reliable turnouts for off duty calls. The City’s original proposal for moving to monitoring on a monthly basis would have definitely been unreasonable in light of the current 6-month practice. However, the City’s proposal for bi-monthly monitoring, with an additional bi-monthly period in which a member can correct any deficiency and come into compliance without being taken off of the schedule (total four months) is reasonable, and does not appear to constitute a serious threat to the part-time firefighters losing their current 12-hour shift schedules. However, the City’s offer of a 14-day annual “leave bank,” to be taken in seven-day increments, to cover vacations or other significant time periods when the member unavailable and cannot respond to calls, is not sufficient. The part-time firefighters work other full-time jobs. If they have been on those jobs for more than a few years, they likely will have more than two weeks of vacation per year. 21-days for an annual “leave bank” (to be taken in seven-day increments) will better accommodate the members’ legitimate reasons why they may be unable to respond to calls for extended time periods, and will soften the change from a total of six months to a total of four months.

For these reasons, the Fact-finder recommends that the Parties agree to the City’s proposal for 18.02 using bi-monthly monitoring; but also the recommendation is that the Parties agree to a 21-day annual leave bank (to be used in seven day increments) to recognize that members have extended time periods (such as for vacations) during which they cannot reasonably be expected to respond.

**Section 18.03 – Callout Time & Money:** The two immediately preceding recommendations essentially recognize the City’s interests in best serving the safety needs of its residents regarding the time for the members to respond to call outs, and the City’s need for a higher level of consistency in responses to call outs. The two immediately following recommendations recognize the needs of the bargaining unit members to be fairly compensated for dropping whatever they are doing (including sleeping at night) and responding quickly to the needs of the City’s residents, or holding over and jeopardizing their schedule with their full-time employer.

The Fact-finder agrees with the Union that the current [somewhat bizarre, and certainly unreliable] practice of paying members for off duty calls from an ever changing pool of funds, with ever changing numbers of members responding, should be remedied going forward with a collective bargaining agreement that includes a conventional method for computing compensation. The issue then becomes one of time and money. The Union proposes compensation at the rate of two hours at one and one-half times their regular rate of pay. The City proposes one hour at their regular rate of pay. (Full-time firefighters receive two hours at one and one-half times their regular rate of pay.)

On one hand, it is difficult to understand any substantial difference between the full-time firefighters and the part-time firefighters who respond to a call out. On the other hand, the full-time have been bargaining collectively and it is unknown what they may have given up in exchange for their provision. The Union estimates that bargaining unit members have received \$21 to \$22 per callout in the past. Using the City’s estimate of \$14.00 as the lowest amount they have received in the past per call out, indicates that something more than one hour at regular pay (\$10.71) is needed. Even for an initial contract, the need for some better parity is clearly apparent.

For these reasons, the Fact-finder recommends that the Parties agree to the City’s proposal for 18.03 except that the rate for the one hour of time should be at one and one-half times the employee’s regular rate of pay. Consistent with this recommendation, the Fact-finder further recommends that

the Parties agree that time beyond the initial one hour continue (in quarter hour increments) at time and one-half.

**Section 18.04 – Holdover:** The Union is proposing that holdover be a minimum of one hour – at the employee’s regular rate of pay. The City is proposing no minimum time period, but only that the employee be compensated at their regular rate of pay in quarter hour increments. The Union dropped its proposal for ERE pay. The Union dropped their proposal that the rate of pay be at one and one-half times the regular rate of pay. The Fact-finder finds the Union’s modified proposal to be very fair for an initial agreement.

For these reasons, the Fact-finder recommends that the Parties agree to the Union’s current proposal for a minimum of one hour (at regular rate of pay) for a holdover, and that time beyond the one hour continue in quarter hour increments at the regular rate of pay.

## **ISSUE 6      WAGES – ARTICLE 38**

### **UNION’S ECONOMIC PROPOSAL**

The Union proposes (effective 1-1-06) an increase of 5% to the current base rate of pay (\$10.71); a 5% increase for the second year of the contract; and, a 5% increase in the third year.

Additionally, the Union is proposing a shift differential (\$.50 per hour) for any regularly assigned shift commencing between the hours of 6:00 a.m. and 6:00 p.m.

The Union dropped its proposal for incentive pay should the Fire Department assume EMS responsibilities in the future. However, it finds the City’s proposal in Section 38.07 to be acceptable.

In response to the City’s proposal in Section 38.01 (A) and (B) to include “cadet” and “firefighter” within the agreement, the Union notes that those two levels are not relevant and are not appropriate to be included because those two positions will be held by employees who have not yet achieved 500 hours of service as a Firefighter 1 – which is necessary to be in the bargaining unit. The Union says that if the City intended these categories to represent an “entry rate,” the Union notes that it is not in a position to either negotiate nor enforce it because those positions are not in the bargaining unit.

The Union agrees that the language in Section 38.01 (C) and (D) is OK. The Union notes that the City’s proposal in Section 38.02 represents a 1% pay increase across the board for each of three years of a contract. This includes “grand fathering” members at the time of ratification at the City’s proposed “12 yrs. of service” level. However, for future members of the bargaining unit, the Union proposes that they arrive at their full rate after two years of service.

The Union notes that effective January 1, 2006, the full-time firefighters received an increase of 4.25%. It says its understanding is that the full-time firefighters received this as part of an ongoing adjustment to recognize that they were historically below where they should have been in comparison to other cities. The current contract for the full-time firefighters included significant increases of: 5.75% effective 1-1-04; 5.25% effective 1-1-05; and, 4.25% effective 1-1-06. The Union is seeking a similar dramatic adjustment, especially for the first year.

The Union notes that since 2004, the Fire Department has been operating from a fire levy, with positive year-end balances (carry overs) with 2005 being \$953,845, and an estimated 2006 balance

of \$764,618. Thus, this Department is not operating “on the fringe.” This Department has healthy balances due in large part to management and to the cost efficient services of the bargaining unit members. The Union acknowledges the City’s tentative plans to build a substation to better serve the community, including plans to move to a user fee program for services rendered to persons who do not reside within the jurisdiction of the Department. The Union also expressed its belief that when the levy was approved it was to be used for personnel costs, including a priority for paying a comparable wage, including the part-time firefighters who outnumber the full-time firefighters. The City derives a substantial financial benefit by using the part-time firefighters.

In summary, the Union sees two issues regarding wages: 1) the rate(s) for the across the board increases during the years of the contract; and, 2) that full pay be attained after two years of service, not 12 years.

### **CITY’S ECONOMIC PROPOSAL**

The City agrees that its proposed Section 38.01 (A) is not applicable. However, it asserts that (B) is applicable since it could include part-time firefighters. The City acknowledges that the wage issue is really the difference between the City’s offer of 1% per each year of a contract, and the Union’s offer of 5% per each year.

The City questions the Union’s proposal for a \$.50 per hour shift differential for the day shift. It notes that such differentials are typically for other than day shifts, and does not find a shift differential of any kind appropriate for this situation.

With respect to the carryover balances, the City confirmed its plans for a substation, and funding will be needed. Further, the percentage increase of 4.25% received by the full-time firefighters for 2006 is not indicative of increases throughout the City. For example, the police received a different percentage in 2006, and non unionized City employees received 3% for 2006. Thus, the full-time firefighters’ 4.25% for 2006, is not a standard to be applied to the part-time firefighters.

The City notes that it has not had difficulty attracting new employees to the City, and has not experienced turnover problems with part-time firefighters. In fact, the part-time firefighter staff has increased during the Chief’s tenure.

### **RECOMMENDATION**

The Fact-finder agrees with the Union that any comparables need to be unionized units. The Fact-finder agrees with the City that any comparables need to be demographically and geographically related to the City. Thus, as noted in the very beginning of this Report, unfortunately there are no valid, applicable comparables that can be used in this bargaining situation.

As noted in the beginning of this report, economics (including ability to pay) is not an issue in this Fact-finding situation. The City has sufficient assets and the financial capability in the immediate future years to responsibly handle an increase to the wages of the part-time firefighters. [Note: any implied issue of “roll-ups” is subsumed within the Parties’ framing and discussion of the issue in terms of what should the percentage be for wage increases during the term of the contract.]

The City’s offer of 1% per each year of the contract will not even cover conservatively projected rates of inflation, and would thereby cause real dollar losses to the employees. Likewise, the Union’s proposal for 5% per each year of the contract would vastly exceed (with no basis) what has been generally occurring within Ohio’s public employment sector, especially for a first collective bargaining agreement. Consideration of dramatic increases is best left for future renegotiations, after

the initial contract has had a sufficient shakedown period.

While this Fact-finder is not typically one to just split differences, it appears that it is the appropriate thing to do in this case. Splitting the difference to 3% is in no way generous or a windfall, as it will likely only protect the employees from inflation, and not result in any real wage gains.

For these reasons, the Fact-finder recommends that the Parties agree to accept 3% across the board wage increases for each year of the contract. The Fact-finder further recommends that there be no shift differential and that the categories of "Cadet" (Section 38.01 (A)) and "Firefighter" (Section 38.01 (B)) be removed. Finally, the Fact-finder recommends that the Parties accept the Union's position that new Firefighter 1s reach full pay after two years of service.

## **ISSUE 7      FITNESS FOR DUTY – ARTICLE 45**

### **CITY'S NON ECONOMIC PROPOSAL**

The City's proposal is under Tab 6N in the materials submitted for Fact-finding. It proposes to require the part-time firefighters conform to the same level of physical fitness as required for the full-time firefighters. Pursuant to the full-time firefighters' contract, the standards for physical fitness are in the development stage, with input from the full-time firefighters. Physical fitness will benefit the City, the City's residents, and the employees. The City notes that a recent 1994-2004 survey of "what kills firefighters" revealed that up to half of deaths of part-time firefighters are from heart attacks, while only 39% of deaths of full-time firefighters are from heart attacks.

The specifics are not yet set, and are still in development. The City would not contest a preliminary time period for the part-time firefighters to gear up to meet the standards. The full-time firefighters have had more than two years to prepare, knowing that they will need to meet the standards in November 2006. The City, however, is not proposing the same bonus for part-time firefighters as is provided for full-time firefighters who successfully pass the test in November 2006. The City views the \$1,000 bonus as having been part of the full-time firefighters' wage negotiations, and that it is not applicable to the current situation.

### **UNION'S NON ECONOMIC PROPOSAL**

The Union's concern is that it is being asked to agree to a "pig in a poke" since the standards have not been set. Additionally, the full-time employees had input, they had more than two years of their contract to condition themselves and to take practice tests from which baselines will likely be drawn. The Union suggests that this provision is not appropriate for this first contract. Rather, it prefers to wait until the fitness test and standards are in place, after the test and standards have been fine-tuned, then the Union will be in a position to bargain effectively in three years – at which time the part-time firefighters may willingly sign on. Further, the language in the provision in the full-time contract language includes the possibility of disciplinary action for failing to meet the (currently unknown) standards.

Additionally, the Union finds it insulting to be asked to conform to the same fitness program as the full-time firefighters without the same financial incentive offered to the full-time firefighters who meet the standards.

The Union does not contest the goal of physically fit part-time firefighters. It is the current nebulous

state of the program, and the lack of being offered the same financial incentive, that are problems for the Union.

## **RECOMMENDATION**

The Fact-finder cannot dispute the City's safety goal of having physically fit full-time and part-time firefighters. Delaying the inclusion of the part-time firefighters for a full three years, and then presumably beginning their induction into a fitness program, seems like a long, unnecessary delay, especially considering the physical nature of the job of firefighting. On the other hand, the full-time firefighters have had more than two years to work with the City to develop the test and standards, more than two years of practice tests, and more than two years to begin their personal preparation for passing the test in November 2006. (Note: their contract expires in October 2006.) Also, the Fact-finder can see no rational basis for providing an incentive bonus to full-time firefighters who successfully pass the test, but not offer the same incentive to the part-time firefighters.

For these reasons, the Fact-finder recommends that the Parties accept the City's proposal excepting:

- 1) that the part-time firefighters not be required to pass the fitness test until the last month of the Parties' contract;
- 2) that the part-time firefighters be given all of the same opportunities and benefits afforded the full-time firefighters in IAFF Section 45.01;
- 3) that the part-time firefighters be afforded all of the same opportunities for practice tests as in IAFF Section 45.02 (D) – excepting the time periods shall be during contract years 2007-2008, and 2008-2009; and,
- 4) that the same incentive bonus as provided to the full-time firefighters in the IAFF Section 45.02 (E) be provided for the part-time firefighters – for passing the test during the final month of this contract.

## **ISSUE 8      DURATION – ARTICLE 47**

### **CITY'S NON ECONOMIC PROPOSAL**

The City's proposal is under its Tab 60 in its Fact-finding materials. The City now proposes the effective date be on the first day of the month following the date of ratification by both parties. Since there is no prior contract, benefits gained under the contract should not be made retroactive, but rather begin on the effective date of the agreement. The City firmly believes the contract should extend for the full three years. It notes that considerable time has been invested negotiating the first contract, and there is no need to return to the bargaining table any sooner than necessary.

The City prefers that the agreement not continue year to year as proposed by the Union, but rather rely on SERB rules.

### **UNION'S NON ECONOMIC PROPOSAL**

The Union originally proposed that the agreement be retroactive to January 1, 2006. However, if wage increases are retroactive to January 1, then it is willing to begin a three year agreement starting June 1, 2006, through May 31, 2009.

## RECOMMENDATION

The Fact-finder recommends that the Parties agree to accept the City's proposal for a three-year contract beginning on the first day of the first calendar month following ratification by both Parties – excepting the Fact-finder recommends that the wage increase be effective as of the first day of the calendar month beginning three (3) months prior to the effective date of the contract, for example, if the effective date of the contract is July 1, 2006, then the wage increase would be effective as of April 1, 2006; and the Fact-finder recommends that the Parties agree that the contract continue year to year as proposed by the Union (being the same provision as found in the full-time contract).

## ADDITIONAL RECOMMENDATION

The Fact-finder recommends that the Parties agree that all tentative agreements reached by the Parties be part of the Parties collective bargaining agreement.

The tentative agreements furnished to the Fact-finder as part of the Parties' Fact-finding materials include all of the following, which are incorporated by reference. The City's copies of tentative agreements are included under Tab 5 of its Fact-finding submission; and the Union's copies are under the tab "Tentative Agreements" in its materials.

ARTICLE 1	PREAMBLE
ARTICLE 2	RECOGNITION
ARTICLE 3	UNION REPRESENTATION
ARTICLE 6	SENIORITY
ARTICLE 7	LAYOFF/RECALL
ARTICLE 8	PERSONNEL RECORDS (including circled attachment)
ARTICLE 10	ACCIDENT AND SICKNESS BENEFIT
ARTICLE 14	SAFETY AND HEALTH
ARTICLE 15*	(PROVISION)
ARTICLE 24	NONDISCRIMINATION
ARTICLE 25	PROBATIONARY PERIODS
ARTICLE 27	TRAINING AND EDUCATION
ARTICLE 28	BULLETIN BOARDS
ARTICLE 30	VOTING PROCEDURE
ARTICLE 31	UNION ACTIVITIES
ARTICLE 32	AGREEMENT PRINTING
ARTICLE 33	MISCELLANEOUS BENEFITS
ARTICLE 34	STRIKES AND LOCKOUTS
ARTICLE 35	WAVIER IN EMERGENCY
ARTICLE 36	SAVINGS CLAUSE
ARTICLE 41	HAZARDOUS MATERIALS
ARTICLE 42	TOTAL AGREEMENT, HEADINGS AND GENDERS
ARTICLE 43	EMBODIMENT
ARTICLE 44	DRUG AND ALCOHOL TESTING
APPENDIX	A
10 PANEL*	
ARTICLE 46	FAMILY MEDICAL LEAVE
ARTICLE 48	WORK RULES
ARTICLE 49	LABOR/MANAGEMENT MEETINGS

ARTICLE 50 CONTRACT CONSTRUCTION  
ARTICLE 53 DRIVER'S LICENSE AND INSURANCE  
CHECKS/NOTIFICATION

\* (Indicates material included in the Union's Tab "Tentative Agreements" but not under the City's Tab 5.)

The tentative agreements made during the Fact-finding process, copies being furnished to the Fact-finder during the Fact-finding hearings, include all of the following, which are incorporated by reference.

ARTICLE 4	MANAGEMENT RIGHTS
ARTICLE 9	LEAVE
ARTICLE 11	TRADING SHIFTS
ARTICLE 15	HOURS OF WORK, OVERTIME, AND SCHEDULING
ARTICLE 15	(PROVISION)
ARTICLE ??	RECALL
SECTION 15.04	[RE TRAINING]
ARTICLE 21	DISCIPLINE
ARTICLE 23	UNIFORMS
APPENDIX	SHIFT ASSIGNMENT
ARTICLE 52	OUTSIDE EMPLOYMENT

### SUMMARY OF FACT-FINDER'S RECOMMENDATIONS

#### ISSUE 1: UNION DUES AND FAIR SHARE FEE – ARTICLE 5

**Recommendation:** That the Parties agree to Article 5 as proposed by the Union, in its Tab "Fair Share Fee," that is, that there be checkoff deductions for dues and for fair share.

#### ISSUE 2: SICK LEAVE – ARTICLE 9

**Recommendation:** That the Parties agree to the City's proposal that there be no provision for sick leave, but that the bargaining unit members not lose leave previously accrued under the City's prior policy.

#### ISSUE 3: GRIEVANCE PROCEDURE [ARBITRATION] – ARTICLE 20

**Recommendation:** That the Parties agree to the language contained in the City's proposal – excepting for the City's proposed addition limiting review and modification by arbitrators. That is, the recommendation is that arbitrators not be limited in their review of disciplinary actions.

**ISSUE 4: HOLIDAYS – ARTICLE 26 AS PROPOSED BY THE UNION ; ARTICLE 15 AS PROPOSED BY THE CITY**

**Recommendation:** That the Parties agree to the language (including the 12 holidays listed therein) contained in the Union’s holiday proposal – excepting: 1) that the premium rate of pay (Section 26.04) be at time and one-half for working a holiday (not two times); and, 2) that the Union’s proposed Section 26.03 include an additional three (3) hours (not eight hours).

**ISSUE 5: EMERGENCY RESPONSE ELIGIBLE (ERE) – ARTICLE 18**

**Recommendation:** That the Parties accept the City’s proposal, with the various markings as presented on the second day of Fact-finding, excepting as may be noted otherwise in the following specific recommendations:

**Section 18.03 – Time to Respond** – That the Parties agree to the City’s proposed 18.03, 12-minute response time; and, that the Parties, through their labor-management committee, commit to meeting soon to review and discuss members’ concerns about additional liability associated with installing and using emergency response equipment on their POVs.

**Section 18.02 – 25% Off Duty Runs** – That the Parties agree to the City’s proposal for 18.02 using bi-monthly monitoring; but also that the Parties agree to a 21-day annual leave bank (to be used in seven day increments) to recognize that members have extended time periods (such as for vacations) during which they cannot reasonably be expected to respond.

**Section 18.03 – Callout Time & Money** – That the Parties agree to the City’s proposal for 18.03 except that the rate for the one hour of time should be at one and one-half times the employee’s regular rate of pay; and, that time beyond the initial one hour continue (in quarter hour increments) at time and one-half.

**Section 18.04 – Holdover** – That the Parties agree to the Union’s current proposal for a minimum of one hour (at regular rate of pay) for a holdover, and that time beyond the one hour continue in quarter hour increments at the regular rate of pay.

**ISSUE 6: WAGES – ARTICLE 38**

**Recommendation:** That the Parties agree to accept 3% across the board wage increases for each year of the contract; that there be no shift differential; that the categories of “Cadet” (Section 38.01 (A)) and “Firefighter” (Section 38.01 (B)) be removed; and, that new Firefighter 1s reach full pay after two years of service.

**ISSUE 7: FITNESS FOR DUTY – ARTICLE 45**

**Recommendation:** that the Parties accept the City’s proposal excepting:

- 1) that the part-time firefighters not be required to pass the fitness test until the last month of the Parties’ contract;
- 2) that the part-time firefighters be given all of the same opportunities and benefits afforded

the full-time firefighters in IAFF Section 45.01;

3) that the part-time firefighters be afforded all of the same opportunities for practice tests as in IAFF Section 45.02 (D) – excepting the time periods shall be during contract years 2007-2008, and 2008-2009; and,

4) that the same incentive bonus provided to the full-time firefighters in the IAFF Section 45.02 (E) be provided to the part-time firefighters – for passing the test during the final month of this contract.

## **ISSUE 8      DURATION – ARTICLE 47**

**Recommendation:** That the Parties agree to accept the City’s proposal for a three-year contract beginning on the first day of the first calendar month following ratification by both Parties – excepting that the wage increase be effective as of the first day of the calendar month beginning three (3) months prior to the effective date of the contract; and, that the contract continue year to year as proposed by the Union.

## **ADDITIONAL RECOMMENDATION**

That the Parties agree to accept all tentative agreements reached by the Parties.

*Note: the Fact-finder, in preparing this Report and making his Recommendations, considered the oral presentations made at the Fact-finding Hearing and supporting documentation submitted by the Parties, even though not referenced in this Report.*

**THE FOREGOING RECOMMENDATIONS ARE RESPECTFULLY SUBMITTED** to the Parties as a proposed settlement for their interest dispute concerning the terms and conditions of their collective bargaining agreement.

Fact-finder

  
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William M. Slonaker, Sr., JD, MBA, SPHR