

STATE EMPLOYMENT
RELATIONS BOARD

FACT FINDERS REPORT

2006 AUG 18 A 11: 44

IN THE MATTER OF FACT FINDING:

International Association of Firefighters (IAFF) Local 300

And

City of Chillicothe, Ohio

Case Number: 06-MED-05-0626

Before Fact Finder
N. Eugene Brundige

PRESENTED TO:

Edward E. Turner, Administrator
Bureau of Mediation
State Employment Relations Board
65 East State Street, 12th. Floor
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And

James L. Mann, Assistant Law Director
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And

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N. Eugene Brundige was selected by the parties to serve as Fact Finder in the above referenced cases and duly appointed by the State Employment Relations Board in compliance with Ohio Revised Code Section 4117.14 (C) (3) on June 2, 2006.

The parties informed the Fact Finder that time extensions would be filed. A hearing date of June 30, 2006 was established.

Both parties submitted the required pre-hearing statements in a timely manner.

The parties entered into a waiver of overnight delivery of the report.

Prior to the beginning of the hearing mediation was attempted. Several "packages" were considered that would resolve the negotiations and both parties worked hard to find common ground. After several hours it was decided that the parties were just too far apart on economic matters to reach an agreement.

The hearing was conducted.

At the beginning of the hearing one or both of the parties identified the following open issues.

- 1. Wages & Compensation (Article 8.1)**
- 2. Fire Inspectors/ Investigators and Hazmat Personnel (Article 8.3a)**
- 3. EMT Basic Pay (Article 8.3b)**
- 4. Medic Pay (Article 8.3c)**
- 5. Longevity Pay (Article 8.4)**
- 6. Hazardous Duty (Article 8.9)**
- 7. Matching Deferred Compensation (Article 8.10)**
- 8. Kelly Days (Article 9.1)**
- 9. Insurance (Article 15)**

10. Uniforms (Article 16.1)

11. Minimum Staffing (Article 23)

12. Minimum Staffing by Numbers (Article 26)

Due to the extensive amount of discussion and information presented during the mediation session, the parties stipulated that all information shared with the Fact Finder during the mediation session may be considered by the Fact Finder in the preparation of his report and recommendations.

The City was represented by James L. Mann, Assistant City Attorney; and Bill Smith who had served as the City's Chief Negotiator. Other representatives of the City included Bruce Vaughn, Fire Chief; and Nancy McNeely, Director of Human Resources.

The Firefighters were represented by Jeffrey Creed, one of the Negotiators and Chief Spokesperson during the Fact Finding Hearing. Also representing the Union were Josh Hyder, Local 300 President; Noel Akers, Local 300 Vice President; Tim Whitacre, Local 300 Negotiator and Dave Mullen, Local 300 Negotiator.

PRELIMINARY STATEMENT OF THE CITY:

The City provides the following background information. Chillicothe is located in Ross County. The County had a population of 21,796 according to the most recent census. The city lies within the Appalachian region of southeast Ohio and is located approximately forty miles south of Columbus.

The City notes that their economic position was particularly difficult in 2004. This was due in part to layoffs of a major employer (Horizon-Chillicothe Telephone.) and the existence of another employer (New Page) was uncertain.

The City underwent cutbacks and layoffs for the first time in recent history.

These cutbacks included the elimination of all non-emergency capital expenditures and a reduction to minimum manning within the Chillicothe Fire Department from twelve firefighters per shift to ten. Five firefighters were laid off.

The City described for the fact finder the various routes of litigation and political action taken by IAFF to reverse the staffing decisions of the City. They note all of these were unsuccessful.

The 2005 economic situation was still very difficult and while no more firefighters were laid off, positions remained unfilled and layoffs did occur in other City departments.

The City reports that it has concluded negotiations with two other bargaining units. AFSCME settled for a 2.3% increase in year one, 2.1% in year two and 2.6% in year three. FOP, through the Fact Finding Process, received a 3% increase in each of the three years of their contract.

The City reports that both units have also negotiated a new health care package that is substantially the same in both units.

The City acknowledges that the economic picture is somewhat improved through prudent cost controls and a possible upturn in the economy.

PRELIMINARY STATEMENT OF THE IAFF

The Union sees the economic picture of the City from a different perspective. They acknowledge the City had financial difficulties in 2001 and 2002. They argue that

since that time revenues have increases an average of 3.5% per year. They cite an increase of 5.8% in 2003, 1.6% in 2004, and 3.2% in 2005.

They point to positive economic signs such as the expansion of Kenworth Trucking Company and the Adena Regional Medical Center. They note that Glatfelter Paper has purchased the paper mills and that they plan to move their book publishing paper operation from Neenah, Wisconsin to Chillicothe.

The Union notes that they supported a change in charging those persons who have health insurance for EMS services in 2002. This change has added \$ 694,000 in revenue in 2004 and \$702,000 in 2005. They note the firefighters volunteered to stock supplies and drug boxes thus eliminating a charge from the hospital per run.

The IAFF feels the city can afford their demands.

EXTERNAL COMPARABLES

As is usually the case, the parties view comparables from very different perspectives.

The IAFF proposes to refer to cities with a population between 19,000 and 30,000 that are "stand alone" cities (no suburbs) and provide both fire and EMS services. The City uses comparables based on population across the state.

In the opinion of this Fact Finder there is an inherent difficulty in the limited definition of external comparables in the statute. As a result the practice of citing external comparables is usually an effort of selecting those jurisdictions which appear to support the position of the respective party.

This Fact Finder has noted in other recommendations that one of the factors that give meaning to external comparables is citing those jurisdictions that compete within the same labor pool. In this case there do not appear to be comparable jurisdictions that compete for the same employees.

Those comparables cited by both parties in this case are instructive and helpful but are far from conclusive in helping the Fact Finder formulate a recommendation.

CONSIDERATION OF OPEN ITEMS:

The parties agreed to consider the items in numerical order with the moving party going first in discussion of each item.

The Fact Finder will note the position of the respective parties, and will then offer discussion and recommendations, based upon the facts ascertained, for each issue.

WAGES & COMPENSATION: (Article 8.1)

Position of the Union:

IAFF proposes a 4% increase in each year of a three year agreement. They argue that even with this type of increase they will still remain significantly below comparable jurisdictions. The Union believes they are 11% or \$5,193 behind comparable cities in base pay. They note that Chillicothe Firefighters work 53 hours per week while firefighters in their comparable cities work an average of 51.8 hours.

The IAFF argues that 4% per years increases would allow them to “catch up” somewhat if they assume the other jurisdictions will receive a 3% per year adjustment. Even with this adjustment they calculate that Chillicothe Firefighters would remain \$3,975 behind their comparable cities.

The Union also argues that while the city talks about a desire for parity between the police and fire units, the police are actually significantly ahead. When the top salary of a police officer (with hazardous pay included) is compared to that of a firefighter, there is approximately a shortfall of \$2,000.

Position of the City:

The City believes their 3% per year offer is fair and is in line with that offered by the Cities they have chosen for their comparables.

The internal comparables are a great concern to the City. They note the FOP received 3% per year and AFSCME employees received between 2.1% and 2.8% increases over the life of their agreements.

The City notes the impact on employee morale if the IAFF were to receive significantly larger increases.

Discussion and Recommendation:

As noted earlier, the Fact Finder is not totally persuaded by the external comparables submitted by either party. There are simply too many unknown variables when looking at these numbers. There are regional economic differences that cannot be factored in, and size of communities is only one consideration of comparability.

The IAFF has made an effort to compare “apples to apples” by looking at stand alone cities that provide EMS services but even in their comparables there is not enough data to offset the internal comparables paid to other employees of the City of Chillicothe.

The question of parity is one that is argued in nearly every fact finding that involves either police or fire units but the situations are always somewhat different. I

doubt that exact parity will even be achieved in any jurisdiction between police and fire units.

It is a positive sign to note that the economic outlook of the City is on the upturn. I am sure all involved hope that this trend will continue.

But the speculation as to what may happen in the future growth or decline of area businesses is a matter for a future fact finder to consider after those situations actually occur.

Recommendation:

While I am aware that this recommendation will not allow the IAFF to make up their perceived “lost ground”, in light of the current financial situation and the settlements with the other bargaining units, I recommend the position of the City regarding wages. That amount being 3% adjustments in each of the three years of the agreement.

The language of the proposal of the City is incorporated into this agreement except that it appears the first sentence, as submitted, is in error. I have made a correction to reflect that apparent error.

Section 8.1 – Composition of the Pay Plan:

The fire department pay plan shall be effective April 1, 2006 to March 31, 2008 2009:

HOURLY SALARY RANGE

Class Title Safety-Fire Department		<u>HOURLY SALARY RANGE</u>					
Firefighter	Work Week	A	B	C	D	E	F
Effective April 1, 2006	40.00	17.28	18.23	19.17	20.09	21.20	22.16
	56.00	12.34	13.02	13.70	14.35	15.13	15.83

Effective	40.00	17.80	18.78	19.75	20.69	21.84	22.83
April 1, 2007	56.00	12.71	13.41	14.11	14.78	15.58	16.31
Effective	40.00	18.33	19.34	20.34	21.31	22.50	23.52
April 1, 2008	56.00	13.09	13.81	14.53	15.22	16.05	16.80

HOURLY SALARY RANGE

Class Title
Safety-Fire
Department

Fire Lieutenant Work

	<u>Week</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>	<u>F</u>
Effective	40.00	18.39	19.36	20.34	21.35	22.50	23.46
April 1, 2006	56.00	13.13	13.83	14.53	15.25	16.07	16.76
Effective	40.00	18.94	19.94	20.95	21.99	23.18	24.16
April 1, 2007	56.00	13.52	14.25	14.97	15.71	16.55	17.26
Effective	40.00	19.51	20.54	21.58	22.65	23.88	24.89
April 1, 2008	56.00	13.93	14.68	15.42	16.18	17.05	17.78

HOURLY SALARY RANGE

Class Title
Safety-Fire
Department

Fire Captain

	<u>Work Week</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>	<u>F</u>
Effective	40.00	19.67	20.71	21.83	22.87	24.12	25.09
April 1, 2006	56.00	14.06	14.80	15.58	16.34	17.23	17.92
Effective	40.00	20.26	21.33	22.49	23.56	24.84	25.84
April 1, 2007	56.00	14.48	15.24	16.05	16.83	17.75	18.46
Effective	40.00	20.87	21.97	23.17	24.27	25.59	26.62
April 1, 2008	56.00	14.91	15.70	16.53	17.34	18.28	19.01

FIRE INSPECTORS/INVESTIGATORS/HAZMAT STIPENDS: (Article 8.3a)

Position of the IAFF:

Fire Inspectors receive an additional stipend yearly in recognition of the training, certification and job duties required. IAFF believes Fire Investigators should also receive a

stipend in recognition of the additional training and certification necessary to do this specialized job.

The Union also believes that Hazmat Technicians should receive the stipend. They note that all Firefighters are trained to the Hazmat operational level but new employees coming into the City are required to be trained to the technician level.

Position of the City:

The City acknowledges that they pay a stipend for inspectors but believe that the basic compensation is adequate for Investigators and Hazmat Technicians.

Discussion and Recommendation:

It appears to this Fact Finder with the limited information presented that the job of Fire Investigator is one that is essential to the operation of the Department and requires specialized training and skills which would be roughly comparable to those of an Inspector.

While I have some sympathy with the situation of the Hazmat Technicians, I cannot justify a recommendation to add a stipend without knowing the level of additional training, the frequency with which hazmat technicians would be used, and the difference in duties from those of any other firefighter.

Consequently, I recommend the addition of the Fire Investigators at this time.

I recommend Article 8.3a be amended to read:

Section 8.3 Extra Remuneration

A member of the Fire Department assigned as a Fire Inspector or Fire Investigator shall receive on a pro rata per annum basis, based on years of service as a Fire Inspector or Fire Investigator at the Chillicothe Fire Department, the following scheduled amounts:

Years **Per**

	<u>Annum</u>
0-2 years	\$500.00
3-5 years	\$550.00
6-8 years	\$600.00
9-11 years	\$650.00
12-14 years	\$700.00
15 or more years	\$750.00

EMT BASIC PAY (Article 8.3b)

Position of the IAFF:

The Union argues that there are lots of demands on those who perform EMT Basic services. All members of the Department are required to have EMT Basic Training. They point to the comparables of the city and note that two of them do pay some type of basic pay.

Position of the City:

The City points out that the majority of the cities cited in the comparables they offered do not pay any kind of a stipend for Basic EMT Training and certification.

Discussion and Recommendation:

Items that affect all members of the Department are merely different ways of paying compensation to bargaining unit members. There is certainly nothing wrong with this type of benefit it that it may allow the parties to add money without affecting the base rate, if it is negotiated.

It is not something this Fact Finder can recommend in that the evidence shows clearly that most jurisdictions do not provide the benefit, and there is no data on which to judge what would be the appropriate amount if the benefit is included.

I RECOMMEND STATUS QUO. NO CHANGE IN THIS SECTION.

MEDIC PAY (Article 8.3c)

Position of the IAFF:

The Union noted that all new employees coming into the department will be required to gain Paramedic certification within four years of their hire. They note the importance of encouraging current bargaining unit members to maintain their certification in order to mentor and train these new employees.

They point to the comparables of both parties and note that the average paid at Chillicothe is at the low end of the amounts paid by other jurisdictions.

Position of the City:

The City notes its position that they do not wish to increase the Paramedic stipend and point to their comparables.

Discussion and Recommendation:

In this case the comparables offered by both parties are very instructive. Chillicothe is clearly on the low end of compensation for Paramedics.

In a Department where nearly 95% of the runs are medic runs, it would appear that this would be a high priority.

I am persuaded by the Union that an adjustment is needed in this section.

I recommend Article 8.3c read as follows:

- C. A qualified paramedic assigned by the City to perform paramedic duty shall be entitled to annual additional compensation, based on years of service as a paramedic at the Chillicothe Fire Department in the following amounts, payable per annum in a lump sum December 1 of each year on a prorated basis as to actual time certified as a paramedic:

<u>Years</u>	<u>Per Annum</u>
0-2 years	\$600.00
3-5 years	\$700.00
6-8 years	\$800.00
9-11 years	\$900.00
12-14 years	\$1,000.00
15 or more years	\$1,100.00

LONGEVITY PAY: (Article 8.4)

Position of the IAFF:

The Union believes that their desired increase is within the range of the jurisdictions cited in their comparables.

Position of the City:

The City argues that the comparables favor their position to maintain the longevity benefits at the current level.

They also note that a change in this benefit would differentiate them from the rate paid to the other two bargaining units. They urge the Fact Finder to maintain the uniformity of this benefit with other bargaining units.

Discussion and Recommendation:

I am persuaded by the argument to maintain a uniform level of benefit with other city employees. Also the comparables show that the current benefit is in line with that paid by other cited jurisdictions. **I RECOMMEND NO CHANGE.**

HAZARDOUS DUTY PAY: (Article 8.9)

Position of the IAFF:

Hazardous Duty Pay maxed out at \$4,800 which has been rolled into the base pay. The Police receive an amount of \$6,600 which is also rolled in the base, as do the Chief and Assistant Chief.

The Union acknowledges that the external comparables do not support this change but feel it would help them catch up some of their perceived shortfall.

Position of the City:

The City disagreed that the Chief received the \$6,600 benefit. They note that the Chief is a salaried employee.

The City argues that when one considers the hours of work there is parity between the two Departments.

It was noted that most of the comparable cities cited do not provide any type of hazardous duty pay benefit for firefighters.

Discussion and Recommendation:

The union is correct in it's observation that this benefit is merely a way to add money rather than being tied to a specific benefit. I have already considered that question when examining across the board wage increases.

While I have some sympathy to the parity considerations, the fact that the dollars have been rolled into base salary, make that argument hard to evaluate.

While I did not understand much of the argument surrounding the hours worked and the relevance of that to parity, I do agree that the situation in both departments is different.

When I look at external comparables there is no support for an increase in hazardous duty pay.

I RECOMMEND STATUS QUO.

MATCHING DEFERRED COMPENSATION: (Article 8.10 –proposed new section)

Position of the IAFF:

The Union proposes to add a benefit that is included in the AFSCME Contract. The only rationale offered was that the bargaining unit members would like to have it.

No comparables were offered.

Position of the City:

The City is opposed to adding this benefit.

The City noted that if this benefit were added there would need to be a change in selling back unused leaves. (The Union indicated they would be agreeable to excluding that practice.)

Discussion and Recommendation:

These unique arrangements are often agreed upon in the course of collective bargaining as creative ways to address specific needs. When they are added there is almost always a *quid pro quo* for such an addition.

They are representative of a practice wherein bargaining unit members comb through other contracts looking for goodies to add to their own. Sometimes the parties can mutually use them to solve problems.

They are not the kind of benefits that most Fact Finders will recommend. Neither will I. **I RECOMMEND THIS BENEFIT NOT BE ADDED**

KELLY DAYS: (Article 9.1)

Position of the IAFF:

The Union explained how Kelly Days work. They note Firefighters work 56 hours per week and receive a “Kelly Day” every 8 weeks which reduces the work week to 53 hours.

If the Firefighters were to be paid for the 56 hours they would receive 3 hours overtime each week. They calculate the current use of Kelly Days saves the City \$ 230,000 per year.

A review of the comparables submitted by the City shows an average work week of 52 hours per week while the data submitted by the Union averages 51. per week.

The Unions argue that the trend in Fire Departments is to reduce the work week.

Position of the City:

The City would have to add three firefighters to cover staffing. This would increase costs by \$179,807.28 per year.

Rebuttal by the Union:

The Union disputes the increased costs cited by the City but offered no evidence to support their assertion.

Discussion and Recommendation:

During its presentation the Union asserts that the trend is to reduce the work week. Such an assertion demands proof. The addition of Kelly days is, at best, a costly item to the City in a time when funds are limited.

The Union argues strongly that there is a concern about minimum staffing levels and yet this proposal would increase the difficulty of the City to maintain adequate staffing.

I RECOMMEND NO CHANGE IN THE KELLY DAY ARTICLE.

INSURANCE (Article 15)

Position of the City:

The City has always had a single insurance program for all employees. The benefits are very good and the deductibles are very reasonable.

The in-network deductibles are \$100 per individual and \$200 per family. The out of pocket maximum is \$150 per individual and \$300 per family. ¹

Prescriptions are increased \$5. for a generic, \$15 for formulary, and no increase in the non-formulary.

The City argues that they cannot provide a different Insurance benefit to IAFF than they have negotiated with the other units.

Position of the Union:

The Union has offered to make some concessions. They ask to continue AFSCME insurance for vision and prescription benefits.

They challenge the savings the City estimated.

The Union note there is a significant increase in costs to their members and note in light of their current financial standing it is very difficult to accept these changes.

¹ Some confusion surrounded this figure during the hearing. It appears that the actual Out of Pocket Maximum, as stated in the documents submitted and the collective bargaining agreements with AFSCME and FOP reflect the maximum as a combination of the \$100/200 deductible and the \$150/\$300 figure.

The Union asked that the Auditor supply a certified statement of actual payment and asked that the record be kept open for that purpose.

After discussion the Fact Finder ruled that he would keep the record open for seven days. During that time the City may send clarifying information from the City Auditor and/or the Insurance Broker with copies supplied to the Union. If the Fact Finder has not received such information within seven days, the record will be closed and the report will be based upon the information already received. (It should be noted, no clarifying information was received from the City.)

The Union noted that the AFSCME Agreement contains a “me too” clause which allows AFSCME to receive any greater benefit negotiated with any other bargaining unit.

Discussion and Recommendation:

The issue of the increasing costs of Health Care is on the table in almost every negotiating situation that reaches impasse. The challenge is great for the employer and for employees.

One reality faces those who negotiate. It is that the cost of Health Care will increase for both parties. Management cannot shoulder increases alone.

Likewise cost shifting cannot be so great as to unduly burden the employee.

A small employer like the City of Chillicothe cannot practically afford to offer different insurance plans to different bargaining units. Such an action would add even more costs to the employer and employees.

In this situation the decision to move from self insured to an insurance broker appears to be a sound one. While the parties may disagree about the actual amount of

money saved, it is apparent that the plan has been well thought out and will result in containing increasing costs to an extent.

I have included a recommendation to create a joint Healthcare committee. Since AFSCME already has such language, it would be most advantageous to have one committee composed of representatives of all the Bargaining Representatives. The final decision on the composition of the committee lies with the parties.

The proposed insurance plan, when compared to others that this Fact Finder has observed, is a reasonable one for the employees and the City.

The deductible is modest in today's economy. The same is true of the out of pocket maximums.

In essence I recommend the same plan as included in the AFSCME agreement. The Firefighters have participated in the AFSCME supplemental plan so I recommend that benefit be continued.

Because of the timing of the agreement, I recommend the plan become effective January 1, 2007.

The language to be included should be:

**ARTICLE 15, (This Article shall become effective January 1, 2007)
Section 15.1 -The City shall provide hospitalization and major medical coverage with a deductible of \$100.00 per person to a maximum of \$200.00 per family. Out of network deductibles shall be \$200 single/\$400 family.**

Office visit co-pay of \$15.00 for in network and paid at 70% for out of network.

Monthly contribution amount beginning January 1, 2007 shall be \$30.00 for single coverage, \$35.00 for dual coverage and \$40.00 for family coverage. Beginning January 1, 2008 the monthly contribution shall be \$35.00 single, \$40.00 dual and \$45.00 family. Beginning 1/1/2009

monthly contributions shall be \$40.00 single, \$50.00 dual and \$60.00 for family.

Healthcare expenses will be paid at 90% in network with a maximum out of pocket at \$250 single/\$500 family per year. Out of network expenses will be paid at 70% up to a maximum out of pocket expense of \$500 single/\$1,000 family per year.

The City shall continue to provide the AFSCME, Ohio Council 8 Health and Welfare Plan. The City shall pay the cost of such coverage not to exceed \$47.50 per employee.

In patient hospital in network paid at 90% after deductible and out of network hospital paid at 70% after deductible, until maximum out of pocket expense is made.

Emergency room co-pay of \$50.00 in network and 70% for out of network after deductible.

If both spouses work for the City, only one can carry the City's Health Insurance as the primary member. The most senior employee shall be the primary member and the other spouse will be covered as a dependent.

The Dental Plan will continue to be the same as the current plan as of 1/1/06.

The City agrees to the creation of a healthcare advisory committee comprised of management representatives and representatives from IAFF. The committee will meet bi-monthly and will only have advisory responsibility with the City. The purpose of the committee is to advise and suggest ways for the City to save money on healthcare. Final authority regarding the structure of the Healthcare plan continues to rest with the City. The Committee may include representatives of other Unions representing City employees.

UNIFORM ALLOWANCE (Article 16.1)

Position of the IAFF:

The Union argues that there has not been an increase in the Uniform allowance since the 1980's.

The external comparables cited by the Union average about \$700. The comparables cited by the City average over \$500.

The Union also notes a problem for new hires in that pro-ration is currently done on the calendar year. They propose the pro-ration be done on the actual year of service.

Position of the City:

The City merely stated they thought the current amounts adequate.

Discussion and Recommendation:

The job of a Fact Finder is to examine the facts and arguments presented by the parties and apply the statutory criteria in composing a recommendation.

On this article I must view that the facts presented by the Union regarding external comparables, stand largely un-rebutted by the City.

I am persuaded that there does need to be an adjustment. I have recommended two increases. (I have also removed the example from the language. While the example may be helpful to the parties in understanding the intent, there is no reason to clutter the collective bargaining agreement with it.)

I recommend the following language:

ARTICLE 16
Uniforms/Equipment
Proposed

Section 16.1

The City shall provide a new Fire Department employee with uniforms and equipment which shall include or be comparable to the following: 1 Class "A" uniform, 1 white dress shirt, 1 necktie, 1 garrison belt, 1 garrison hat, 1 pair shoes, 1 squad cap, 1 pair fire gloves, 1 flashlight, 1 work jacket with liner, 3 work pants, 3 work shirts, 2 night shirts, 1 helmet with liner, 1 fire coat with liner, 1 pair fire boots, 1 coat badge, 1 shirt badge, 1 hat badge, 2 name tags and all necessary patches, 1 bunker pants, 1

approved fire hood, and approved gloves. The City shall continue to provide ~~\$450.00~~ **\$450.00 for 2006, \$500.00 for 2007, \$550.00 for 2008**, replacement for the foregoing, and for other equipment requested by the Fire Chief and approved by the Administration. Receipts shall be provided to verify all purchases. No carry over or refunds are provided to those firefighters not using the ~~\$450.00~~ uniform/equipment allowance indicated above. In addition, said allowance may be used for bedding and specialty items (such as corrective lenses for breathing apparatus, squad glasses shields, training manuals and other fire and EMS related equipment) with the approval of the Fire Chief.

The City will repair or replace turnout gear (fire coat with liner, bunker pants, bunker boots and fire helmet), like item for like item, that is damaged or when deemed necessary by state, federal or other mandate. These replacements or repairs will be on the approval of the Fire Chief.

At 0800 the firefighters shall be dressed in either a Class "A" uniform or fatigues and ready to assume their duties. Firefighters shall be permitted to wear either civilian clothes, Class "A" uniform, or clean uncontaminated fatigues to and from work.

The City agrees to reimburse the firefighters upon the City's reimbursement for any payment received for the contamination or loss of items for which the employee must pay for from his clothing allowance.

Employees shall not receive uniform allowance while on injury leave, extended sick leave, or extended leave (in excess of 30 calendar days); however, the allowance will be prorated for the length of time actually worked. The Chief, in his discretion, may waive this provision in the event that an employee's protective clothing is damaged in the course of duty.

Pro-rata Uniform/Equipment allowance shall be granted for the year worked,
Section 16.2 Upon separation of employment from the Fire Department for reasons other than retirement, issued turnout gear and badges (shirt, coat, hat and Fire Department Identification) that are determined to be serviceable by the Fire Chief shall be returned to the department.

SAFETY MINIMUM STAFFING: (Article 23)

Position of the IAFF:

In section 23.5 the IAFF recommends adding Hazmat to the requirements for adequate training.

The IAFF referred to a study done in 2004 that recommended much higher levels of staffing than is currently in place.

One of the major concerns relates to the number of dedicated staff available to safely operate fire equipment when both squads are involved in runs.

The proposal is to write into the collective bargaining agreement guarantees regarding safe staffing levels.

The Union argues that the decision to bill for EMS services raises funds that could be earmarked to add additional staff. \$702,000 was billed for such services last year.

Position of the City:

The City strongly believes that the determination of staffing levels is a management right and they are unwilling to negotiate to include such restrictions in the collective bargaining agreement.

The City shares a concern to provide as much staffing as possible within available funds and points to the fact they have been filling vacant positions as they are able.

They argue that the GIS² Study is advisory in nature and is also limited by having adequate funding to pay for the necessary staff.

Discussion and Recommendation:

Matters of staffing are always worthy of careful consideration when dealing with safety forces. Having adequate staff relates to the safety of the employees and the public they serve.

² Geographic Information System (GIS) Fire Suppression and Emergency Medical Services Response Capabilities Analysis, *International Association of Firefighters, Washington D.C., May 11, 2004.*

This Fact Finder has a great deal of empathy for the position of the Union especially as it relates to having adequate staff to safely operate the fire equipment that is deployed.

However, a careful review of ORC 4117 reveals that staffing is a management right as enumerated in ORC 4117.08 (c) (6). The section reads, *"Unless a public employer agrees otherwise in a collective bargaining agreement, nothing in Chapter 4117 of the Revised Code impairs the right and responsibility of each public employer to: (6) Determine the adequacy of the workforce."*

This makes the matter of staffing a permissive subject of bargaining which means the employer may, but is not required to, bargain such language.

Most Fact Finders, even if they have the legal authority to do so, are hesitant to recommend inclusion of language relating to permissive subjects of bargaining.

I am of the same mind. I cannot recommend the changes sought by the Union in Article 23.9.

The ideas raised in Article 23.5 seem to make sense but the insertion of the new language appears to change the intent of the old language. Also, there was no evidence presented that there is currently a problem regarding such training and equipment.

I RECOMMEND NO CHANGES TO ARTICLE 23.

STAFFING BY NUMBERS (Article 26)

Position of the IAFF:

The IAFF presented evidence regarding run volume data in Chillicothe and comparable cities. The concerns and arguments are very similar to those expressed in the previous issue.

The suggestion was offered that if additional staffing were available, a third squad could be operated. It was proffered that a third squad would generate additional income.

Position of the City:

The City calculates that to meet the staffing level proposed by the Union would require the addition of five firefighters. The annual cost would be \$297,000.

Again the City argues that this is a management right they are not willing to give up.

Discussion and Recommendation:

The rationale expressed in the previous issue is applicable regarding Article 26 as well. I do believe the Committee role could be expanded.

I recommend the following:

Article 26: Minimum Firefighter Committee

Section 26.1 A minimum firefighter committee made up of the Fire Chief, Safety Director (or Mayor if no Safety Director appointed) and the Union President shall meet at least once a year to discuss appropriate minimum firefighter levels for each crew. **IF THE CITY ANTICIPATES REDUCING MINIMUM LEVELS BELOW THOSE CURRENTLY IN EFFECT, A SPECIAL MEETING OF THE COMMITTEE WILL BE CALLED WHEREIN THE ANTICIPATED REDUCTION IS DISCUSSED. THE UNION MAY PROPOSE ALTERNATIVES WHICH WILL BE GIVEN SERIOUS CONSIDERATION BY THE CITY.** The final decision over the number of employees on

each crew shall be made by the Safety Director (or Mayor if no Safety Director is appointed.)

MISCELLANEOUS MATTER

At the hearing the parties indicated that they had agreed upon the inclusion of a drug testing provision in the agreement but had not executed a tentative agreement.

While no testimony or presentation was offered beyond that agreement, I am recommending that provision be incorporated by reference into this report.

SUMMARY:

In this report I have attempted to consider and make recommendations regarding a significant number of complex issues. If errors are discovered or if any of the recommendations appear to the parties to be onerous to implement, I urge them to *mutually agree* (emphasis added) to alternate language consistent with the spirit of the recommendations.

After giving due consideration to the positions and arguments of the parties and to the criteria enumerated in SERB Rule 4117-9-05(J) the Fact Finder recommends the provisions as listed herein.

In addition, all agreements previously reached by and between the parties and tentatively agreed to, are hereby incorporated by reference into this Fact Finding Report, and should be included in the resulting Collective Bargaining Agreement.

Respectfully submitted and issued at London, Ohio this 17th day of August, 2006.


N. Eugene Brundige,
Fact Finder

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing **Fact Finders Report** was served by electronic mail and regular US mail upon James L. Mann, Assistant Law Director of the City of Chillicothe (Employer), 20 East Second Street, Chillicothe, Ohio 45601; and Jeffrey Creed, Negotiator and Spokesperson for Chillicothe Firefighters, IAFF Local 300 (Union), 54 East Water Street, Chillicothe, Ohio 45601; and by regular U.S. Mail upon Edward E. Turner/ Administrator, Bureau of Mediation, State Employment Relations Board, 65 East State Street, 12th Floor, Columbus, Ohio 43215-4213, this 17th Day of August, 2006.


N. Eugene Brundige,

Fact Finder