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IN THE MATTER OF FACT FINDING

BETWEEN

NORTH OLMSTED FIREFIGHTERS IAFF, LOCAL 1267, AFL-CIO

AND

CITY OF NORTH OLMSTED

Case # 06-MED-09-0918

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INTRODUCTION

There are numerous issues and sub-issues that will be addressed below. It is clear from the six (6) days of mediation and fact-finding that the parties indeed have differing views on a variety of issues. The bargaining unit of approximately forty-five (45) employees, comprised of the ranks of full-time Firefighter, Lieutenant, and Captain, is represented by IAFF Local 1267, AFL-CIO. The Employer is the City of North Olmsted, located in Cuyahoga County with approximately 34,000 residents. Located in western Cuyahoga County, the City, which is approximately 11.5 square miles in size, is primarily a residential and commercial center. Within the borders of the City is a large retail complex that provides employment for several thousand employees.

The evidence demonstrates that during the last two contract periods the relationship between the parties has seriously deteriorated. Several bitterly contested matters that had their origin in negotiations and in succeeding understandings and or misunderstandings ended up in arbitration. Moreover, attending litigation over many of these same matters, which is still pending, has caused both parties to become extremely defensive and obstinate in dealing with one another. The fact finding process was also protracted and difficult. Many issues that would normally be resolved in negotiations were present in

fact-finding. A mediation/fact-finding effort and subsequent hearing was held on April 18, June 4, June 8, July 9, August 2, and August 20, 2007. Following fact-finding, the parties submitted briefs on all open issues.

The demeanor and conduct of the advocates and both bargaining teams, while impacted by the relatively recent history of controversy over specific issues, were exemplified by a high level of professional representation and a thorough presentation of issues. Clearly, the differences that exist between the parties do not impair their dedication in providing quality public service to the citizens of North Olmsted.

CRITERIA

OHIO REVISED CODE

In the finding of fact, the Ohio Revised Code, Section 4117.14 (C) (4) (E) establishes the criteria to be considered for fact-finders. For the purposes of review, the criteria are as follows:

1. Past collective bargaining agreements
2. Comparisons
3. The interest and welfare of the public and the ability of the employer to finance the settlement.
4. The lawful authority of the employer
5. Any stipulations of the parties
6. Any other factors not itemized above, which are normally or *traditionally used in disputes of this nature.*

These criteria are limited in their utility, given the lack of statutory direction in assigning each relative weight. Nevertheless, they provide the basis upon which the following recommendations are made.

OVERALL RATIONALE FOR RECOMMENDATIONS

Although perceptively better than in the earlier part of the decade, Ohio's economy remains uncertain as does the financial outlook for many Ohio public employers. The state of Ohio continues to struggle to find ways to fund the many obligations it shoulders such as Medicaid costs, education, job growth, and a myriad of other pressing economic demands. The state's economy is particularly fragile when compared to many other states. A major reason for this fragility lies in the significant loss of high paying jobs in many parts of Ohio during the last decade, particularly in northeast Ohio. During the past year announcements of plant closing and layoffs by the Ford Motor Company as well as General Motors and Chrysler promise to have both a direct impact upon households and a rippling secondary impact upon industries that supply local plants and businesses that benefit from customers who are employees in these plants. Much of this impact is yet to be felt and is likely to become more pervasive in 2009. These massive job losses will also reduce purchasing power of families and eventually the overall revenue stream to county government. Moreover, employees in these industries who live in municipalities such as North Olmsted, will eventually impact the City's revenue stream.

Compounding the problem of high paying job loss is the recent credit crunch and its impact upon housing values, which likely affect both sales tax revenue and eventually may reduce property tax revenues. Ohio's foreclosure

rate is double that of the national average and it holds the dubious distinction of leading all states in foreclosures. The overall limitations these issue place upon public employers in the County are not lost on the analysis of this fact finder. There is a bottom line to watch in all businesses, and government is no exception. While the economic realities in northeast Ohio must be considered, it is axiomatic that the delivery of quality service depends on recruiting and retaining quality employees. Central to maintaining a quality workforce is the maintenance of competitive wages, benefits, and a reasonable working environment.

Many issues presented in fact-finding quickly reached impasse and were not fully discussed by the parties. This situation presented the fact finder with the difficult task of having to assess issues based upon positions and points of view that have not been tested and challenged by the rigors of the collective bargaining process. Due to the sheer number of issues and sub-issues (e.g. under Issue 1 there are twenty-six (26) sub-issues, Issue 3, three (3) sub-issues, Issue 4, six (6) sub-issues, etc.), the positions of the parties on each issue can be found in the attached appendices. Within the context of the report the positions of the parties are taken verbatim from their briefs for purposes of accuracy.

The Union's and the Employer's proposals submitted in fact-finding are contained in Appendices A and B respectively. The current collective bargaining agreement is contained in Appendix C.

ISSUES

ISSUE 1: ARTICLE I: DEFINITIONS

Union Position

“It is the City’s position to delete twenty-six (26) of the thirty-six (36) definitions found in Article I of the parties’ CBA. The definitions that the City seeks to delete in their entirety are: Agreement, Association, Basic Hourly Rate of Pay for Line Personnel, Basic Hourly Rate of Pay for Staff Personnel, Board of Health, Captain, Civil Service Commission, Civil Service Rules and Regulations, Compensatory Time, Employee, Employer, Fair Share Fee, Fire Chief, Fire Department, Grievance, Grievance Procedure, Immediate Family, Lieutenant, Longevity, Overtime, Overtime Rate of Pay, Safety Director, Seniority, Shift Captain, State Employment Relations Board, and Treasurer.

The City seeks to move and modify other definitions found in Article I, including Grievance, Immediate Family, Longevity, Overtime, and Rate of Pay. In addition, the City seeks to modify other definitions in Article I including to Call-Back and Staff Personnel.

The City’s proposals on this article alone are so extensive that it is as if the City wanted the Fact-Finder to do the negotiations for it. Some of the City’s proposed changes are typographical changes that, had the City been willing to work with the Union, could have easily been accomplished. Other proposed changes are substantive changes which negate many of the rights that have been negotiated by the parties over the decades.

The Union is opposed to the City’s proposed changes to the Definitions Article of the CBA. The City’s proposal is one of many examples of the City’s failure to actually bargain. The City has presented its proposals on Article I as an attempt to “clean up” the contract language and removed redundant definitions. However, the City’s proposal is not as innocuous as presented. The City’s proposals are a combination of substantive and non-substantive changes. Some of the City’s substantive changes include the deletion of the definition “Grievance,” the deletion of the definition of “Immediate Family,” the deletion of the definition of “Longevity,” and the deletion of the term “Overtime.”

Aside from the issue of mixing substantive changes with changes that are relatively benign, the City’s extensive proposed changes to Article I of the CBA carries with it a potential onslaught of unintended consequences. The possibilities of adverse unintended consequences that arise from the City’s proposal are extremely high. The Union and the Arbitrator (and most likely even the City) are unable to foresee all of the consequences that might result from the extensive and sloppy changes that the City wants to make to Article I.

The Arbitrator should reject wholesale all of the City's proposed changes to Article I of the CBA. The City has failed to demonstrate any reason why all of these changes should be made. The possibilities of severe unintended consequences resulting from the changes are very high. Article I of the CBA has not caused any harm and there is no reason to destroy it.

Article I should remain as is."

Employer Position

"Nothing is more indicative of the Union's accomplishment in preventing the Employer from making any changes, than the "Definition" Article of the CBA. These pages have been used to confuse the issues when the Employer and Union are discussing various provisions of the CBA. For example, the definition of a "grievance" is not included in the "grievance procedure." The "overtime rate" is not included in "overtime." "Longevity" does not have an article as all other CBAs do. There are other numerous matters contained in this Article that should be in other articles in the CBA. The other definitions are not necessary and are a waste of time and space in the CBA. No other contract found in this county has a definitional section like this CBA. The Union has been unable to demonstrate that any other contract contains any provision similar to this. As a result, the Employer's position stands as proposed."

DISCUSSION

The Union takes the position that the Employer's proposal should be rejected in a wholesale fashion and that it is not the fact finder's job to make decisions regarding this article. The Union asserts that although some of the changes that represent procedural changes may be acceptable, other amendments to this language being proposed by the Employer represent substantive changes in the meaning of the language. The Employer asserts that there was an understanding between the parties prior to fact finding to remove redundancies in language and to place many of the definitions with the articles to which they apply. The Union did not agree with this assertion.

The Employer's argument that the definitions should be placed with each provision certainly represents a more conventional approach to this matter. In the experience of the fact finder, who regularly serves as an arbitrator, separate sections of definitions can at times create confusion with the language contained in the articles to which they refer. The Employer's point of placing the definitions in the applicable articles makes sense from a collective bargaining perspective and is supported by the statutory criteria referring to other factors traditionally used in collective bargaining. However, the Union's point is persuasive that this type of article, if summarily dismantled may have significant consequences. In order to modify or dispense with an article of this nature, the parties need to engage in meaningful negotiations. Although it is uncommon to find collective bargaining agreements (e.g. see Employer Ex. 1) that contain

separate sections of definitions, they have been used in other contracts. Providing the parties are comfortable with a separate section and they do not conflict with the proposed provisions, they serve a purpose. In the instant matter the parties are clearly at odds over specific definitions contained in this Article, and they disagree over the fundamental question of maintaining a separate article of this nature. However, during fact-finding both parties indicated some flexibility and willingness to address and or revise/dismantle Article 1, but simply did not have sufficient time to do so. It is suggested that the parties engage in *meaningful negotiations in refining and or dismantling and redistributing* this article when a successor agreement is negotiated. The only exception to the above is removal of the definition of overtime, which is a subject of the recommendation contained under Issue 4, Overtime.

RECOMMENDATIONS:

The definition of overtime shall be eliminated from this Article due to the fact it is a subject of a recommendation included under Issue 4, Overtime. The remaining provisions of Article I, Definitions shall remain current language (see Appendix C).

ISSUE 2: ARTICLE III: MANAGEMENT RIGHTS

Union Position

The City is proposing deleting Section 3.1 and 3.2 of the Management Rights Article. The City is also proposing amending Section 3.3 to state:

Unless the Employer has specifically agreed otherwise in this Agreement, the Employer retains the right to:

* * *

Furthermore, the City proposes deleting the last paragraph of Section 3.3 and replacing it with the following language:

In addition, the Association agrees that all of the functions, rights, powers, responsibilities and authority of the Employer, in regard to the operation of its work and business and the direction of its workforce, which the Employer has not specifically abridged, deleted, granted or modified by the express and specific written provisions of this Agreement are, and shall remain, exclusively those of the Employer and shall not be subject to the grievance procedure.

The Union is opposed to any changes to the Management Rights Article.

Again, the City is passing off its proposed changes as an editing of “surplus language” or an attempt to clean up the contract language. (City Proposal, p. 9). However, this is not an accurate representation of either the City’s intent or the consequences of the City’s proposed changes.

In the last two years, the City and the Union have been parties to five arbitrations. (See Union Binder 2, Tabs 2-6). The Union won all five of those arbitrations. The City is attempting to vacate three of those Awards. The Union won these arbitration cases, to some extent, due to the language in the Management Rights Article, which obligates the City to negotiate changes to mandatory subjects of bargaining. The City is attempting to essentially vacate those arbitration awards now, through this Fact-finder.

To eliminate the Union’s rights, as contained in this Article now, would deprive the Union of the time and money it spent and is still spending to defend the CBA. The Management Rights Article is a substantive portion of this contract and anything the City states to the contrary should be disregarded.

Employer Position

The Employer stands on its proposal to modify “Management Rights” Article to make it clearer that the management has retained the rights that it had prior to entering into the CBA. There are provisions in the Management Rights Article that have absolutely nothing to do with management rights. They are a repeat of certain provisions in the collective bargaining law. They have no bearing in this CBA. This Management Rights clause is very similar to the collective bargaining law’s management rights clause and is not as pro-management as many of the other management rights clauses in the CBAs of surrounding fire departments. Additionally, it is important that this Article be modified to demonstrate a change in rights, providing the fact finder agrees that past practices are no longer in control.

DISCUSSION

The Employer argues that its proposal is an effort to “conform our management rights to reasonable standards.” It is an attempt to get a “clean management rights article,” argues the Employer. In support of its position the Employer submitted Employer Exh. 2. Employer Exh. 2 represents examples of management language contained in collective bargaining agreements in effect in Westlake, Rocky River, Bay Village, North Ridgeville, Brook Park, Lakewood, and Fairview Park. The Union has a very different view of the Employer’s proposal. It contends that the Employer’s proposal goes well beyond the concept of “clean up” and represents a substantive change. Upon close examination of the contents of the Article 3, Management Rights, it appears it contains a conventional representation of management rights that is customarily found in contracts in the public sector. When compared to the FOP Officers and Patrolmen bargaining unit, while the format differs, the content

appears similar. Given the fact that safety force unit contracts are often closely compared with one another within the context of public sector bargaining (e.g. wages, benefits, etc.), it is not unreasonable to compare management rights clauses of these two units. Although different in format, both clauses appear to cover the same subject area and both conform to O.R.C. 4117. The facts regarding this issue support the position of the Union to maintain current language.

RECOMMENDATIONS:

Current language shall be maintained. (see Appendix C)

ISSUE 3: ARTICLE VII: GRIEVANCE PROCEDURE

Union Position

The City's position is to add the definition of grievance to this Article of the CBA. Previously, the grievance definition was found in the Definitions Article of the CBA. Furthermore, the City wants to delete the phrase "past practice" from Section 8.2 (A). The City also wants to have a permanent panel of arbitrators from whom to select for arbitration. However, the City wants those names left blank. In addition, the City wants to have the losing party pay for the arbitration, as opposed to the cost being equally shared by both parties. The Union is opposed to all of these changes.¹

The City is again arguing that its proposed modifications to the definition of "grievance" is not substantive and is just a change of location. However, the City's proposed change is substantive. Under the City's proposal, the definition of Grievance is narrowed from "a complaint, dispute or controversy arising from an alleged misapplication or misinterpretation of the provisions of this Agreement" to "A complaint by an employee (aggrieved party) that there has been a violation, misinterpretation or a misapplication of this Agreement." The City has failed to provide any evidence to justify this proposed change.

Access to the Grievance Procedure has proved to be critical to this Union. Narrowing access to the Grievance Procedure is clearly not warranted.

The City also proposes a substantive change in Section 8.2 (A), which involves the elimination of the past practice from the Grievance Procedure. In regards to the past practice, the City argues that the Union has used past practice to hinder the operations of the City. The Union argues that to remove the past practice language would be to take away much of what the Union

¹ There were a number of changes which were agreed to under Article VIII, Grievance Procedure, during the Fact-Finding hearing. Those include changes to Sections 8.2(C) and (D). The Union has agreed to uncapitalize the term "Employee". Under Section 8.3, Step 3, the Union has agreed to change ten (10) days in the last sentence to fifteen (15) days. The Union has also agreed to modifications in Step 4 (B) and (C).

has won and is still fighting for in the five arbitration cases, some of which the City is attempting to vacate. The City has continuously refused to honor this CBA, as is illustrated by the five arbitration cases that the City has lost. The Union should not be punished now by the removal of the past practice language from the contract.

The Union is opposed to a permanent panel of arbitrators for a variety of reasons. First, the Union cannot agree to something that is open-ended and uncertain, as the City is proposing. The City has been a difficult negotiating partner from the beginning and has also repeatedly failed to honor the contract. The City cannot now be trusted to work with the Union to pick arbitrators. Furthermore, there are a variety of logistical concerns involved in picking a standing panel of arbitrators. An arbitrator may move, retire or have an unavailable schedule. The current language which allows the parties to utilize at the Federal Mediation and Conciliation Service allows for the parties to mutually agree to an arbitrator. In addition, the parties are not precluded from selecting an arbitrator directly.

The Union also opposes the City's proposal to have the loser pay in arbitration cases. Aside from this proposal being slightly comical in light of the City's losing record, it is also impractical. On occasion, it is difficult to determine who "won" the arbitration. For instance, if the arbitration involved more than one issue and one party won one issue and the other party won the other issue, it would be difficult to determine who had won the arbitration and who would be liable to pay the arbitrator. This provision will cause unnecessary battles between a City and Union who already have an extensive history of fighting over what the Union believed to be settled contract provisions.

In sum, the Grievance Procedure Article is fine as it is. Any changes, aside from what the parties have already agreed to, should be rejected. The City has not provided a sufficient justification to make any of its changes to the Grievance Procedure Article of the CBA.

Employer Position

The definition of a "grievance" has been moved from the Definition Article to the Grievance Procedure and has been changed so that a grievance is defined as a violation or misinterpretation of the Agreement. Furthermore, in paragraph 8.2, the phrase "past practice" has been deleted because of the horrendous problems the City has experienced with this "past practice" clause.

In addition, the Employer has proposed a panel of arbitrators, which is much more efficient and appropriate for the grievance process. The fact finder is not requested to give names, but to rule on the efficiency of having an arbitration panel in the CBA. This Fact Finder has recommended this in the past and the Employer believes there is no good argument not to have an arbitration panel. Lastly, the Employer maintains its position that the party losing the grievance should pay for the cost of the arbitrator.

Proposals regarding time changes and the like have been agreed to between the Employer and the Union.

DISCUSSION

During negotiations and fact-finding, the parties agreed on minor modifications to Article VIII that mostly dealt with procedure and timeline adjustments or minor changes related to the use of the word "employee" in place of the word "member".

The Employer desires to reform the grievance procedure in terms of process, but is also seeking to eliminate an employee's ability to grieve a "past practice." The evidence submitted by the Employer (see Employer Exh. 4) indicates that many of the suburbs in western Cuyahoga County do not reference the term "past practice." These comparables favor the Employer's position. In terms of internal comparables, the two AFSCME units in the City do not include past practice in their definition of a grievance. The OPBA bargaining unit defines a grievance to include "unresolved questions or disputes regarding wages, hours, terms and conditions of employment ...applicable law... including, but not limited to unresolved questions or disputes concerning the Agreement." This is a broad definition of a grievance. The FOP's contract contains a definition of a grievance that is similar to that contained in the Firefighters' Agreement, yet it is confined to their Agreement and contains no reference to the term "past practice." While the Employer made a strong argument against the inclusion of past practice, most facts regarding problems with this phrase surrounds the payment of overtime. Very few incidents regarding other operational matters were placed into evidence.

It is well accepted that past practices, depending upon their specific nature may rise to a term or condition of employment. Yet, for the purposes of operational efficiency past practices should be known and properly assessed in terms of providing quality service at an affordable cost. This is particularly the case when new methods and technologies are introduced into the operations of a department that will impact "the old way of doing things." An undefined past practice, particularly one that impacts operations can engender a dysfunctional working relationship and unreasonable operational costs. However, it is also unreasonable for a union to agree to a blanket elimination of all past practices, particularly ones related to benefits providing they are not already addressed in the language of the collective bargaining agreement. This is indeed a contentious issue at the moment; however, it is also a fact that every time negotiations commence either party has the option of proposing that any or all practices can either be eliminated or incorporated into the language of the Agreement.

The Employer's proposed change to a permanent panel is not clearly supported by either external or internal comparables. The comparables from

the western suburbs in Cuyahoga County do not provide any definitive direction concerning this issue. Some of the comparables use AAA, one uses SERB, and the others have permanent panels (see Employer Exh. 3 F through L). Internal comparables also provide a contrasting picture. The FOP unit agreement makes reference to the FMCS; the OPBA unit agreement references the AAA, and the AFSCME bargaining unit references FMCS. The parties that currently use FMCS can either agree to choose a specific neutral outside of FMCS, or may tailor their request in a manner that establishes a more narrow criteria for selection (e.g. *National Academy members residing in Ohio*) in order to increase the chances of making a quality selection. The loser pay provision being proposed by the Employer is also an issue that is handled in a variety of ways. With the inclusion of North Olmsted, the western suburbs in Cuyahoga County that are generally referred to in this fact-finding are equally split over this issue. Some of these units have contracts that contain this provision, while others share the costs of arbitration. Internal comparables in North Olmsted show that the three units have loser pay provisions and one unit, FOP has a shared fee arrangement similar to the Firefighter unit. The bargaining history between the parties also lends support to maintaining a shared fee arrangement.

RECOMMENDATIONS:

Based upon the agreed upon changes by the parties and the above the following language is recommended (Article 7 is used, but it recognized that the parties may renumber this Article based upon complete agreement being reached on all issues)

Article VIII GRIEVANCE PROCEDURE

7.1 Current language (see Appendix C)

7.2 Current language

- A. When any of the aforementioned Grievance conditions arise, the Following procedures shall be strictly observed:

All Grievances shall be typewritten and filed on an Official Grievance Form. An Official Grievance Form shall be provided to the **employee** by the Association and shall contain the following information at the time the Grievance is presented:

The date the Grievance occurred.

The time the Grievance occurred.

A detailed description of the incident giving rise to the Grievance.

Article and Sections of the Agreement **or past practice specifically related to benefits that are not addressed by language of the Agreement, and which does not conflict with the specific rights of the Employer contained in Article III, Section 3.3 of the Agreement.**

Relief requested.

Name and signature of the **employee** and date signed by the **employee.**

Name and signature of the Steward and date signed by the Steward, if any.

- B. Current language
- C. A grievance may be filed by any **employee**. Where a group of **employees** desire to file a grievance involving a situation affecting more than one **(1) employee** in a similar manner, one **(1) employee** selected by such group shall process the grievance. Such grievance shall be defined as a group grievance. The names of each **employee**, on behalf of which the grievance is filed, shall be presented on, or appended to, the grievance form and submitted to the Shift Officer. The grievance procedure outlined in Section 7.3 shall be used throughout.
- D. The preparation and processing of Grievances by **employees** or the Association may, **with the Chief's or designee's approval**, be conducted on duty, providing it does not interfere with the operations of the Fire Department. Grievance hearings **may** be conducted while on duty when **practical** in accordance with the Fire Chief's and/or Safety Director's schedule.
- E. Current language, with the exception of the word **employee** replacing the word Employee in the first line of the section.
- F. Current language
- G. Current language
- H. Current language

Step 1 – Current language, with the exception of the word **employee** replacing the word Employee in the first and second paragraph of this provision.

Step 2 - Current language

Step 3 - Current language

Step 4 - Current language

(A) Current language

(B) The arbitrator **shall establish the hearing time and place, but it shall be, where feasible, within the jurisdiction of the City.**

(C) **Delete current C and make old D the new C.**

(D) **Old E** Maintain current language

7.4 Current language

7.5 Current language

ISSUE 4: ARTICLE X: OVERTIME

Union Position

The City has a multitude of proposals in regard to overtime. The Union has identified eight issues under the City's overtime proposals. Those eight issues are: (1) the capitalization of Overtime; (2) changing "Officer in Charge" to "Chief or Designee (Officer in Charge)"; (3) the abut time issue; (4) rate of Acting Officer overtime pay; (5) Redundancy – the issue of longevity pay located throughout the CBA; (6) overtime for line personnel, delete reference to longevity in rate; (7) delete the language where OT is paid on forty (40) hour rate; (8) delete Overtime paid for working twenty four (24) hours in a seventy two (72) hour period; and (9) delete language that provides that Staff Personnel have a set schedule when they work outside the normal schedule, so all the paid time off counts against them.

During the Fact-finding hearing, the City agreed to leave "Overtime" as a capitalized word. The parties also agreed to modify "Officer in Charge" to "Chief or designee (Officer in Charge)." The other six issues remain open.

In regard to the issue concerning the abut time (or issue number 3 listed above), the Union is opposed to the change. The City wants to add the language "providing such time paid does not abut the employee's regularly scheduled work day" to Section 12.2 of the Overtime Article. This proposed change constitutes a financial reduction which is not warranted and has not been negotiated. The minimums that were negotiated in the contract had been there for many, many years. There is no reason for reducing this change, particularly given the City's refusal to negotiate with the Union at arms length. The City's proposal to reduce Overtime should be rejected.

The fourth issue, dealing with the rate from the Acting Officer, was agreed upon during the hearing. (See tentative agreement reached on Section 19.3). As such, the deletions from Article XII is acceptable.

The fifth issue, one of redundancy, involves the City's attempt to delete references to *longevity in this Article and throughout the CBA*. This issue is discussed below in the Longevity section; however, the Arbitrator should reject all attempts throughout the contract to delete references to Longevity.

The remaining issues are all contained in the City's proposed additional section, framed as Section 12.7. This involves the deletion of language such that for all hours actually worked in excess of twenty-four (24) hours in a seventy-two (72) hour period, overtime will be paid. This language exists currently and is contained in the Article on Definitions under Overtime. The language was proposed to be moved and changed, such that reference to Overtime for time worked in excess of twenty-four (24) hours in a seventy-two (72) hour period would be deleted. In addition, the manner in which Overtime is earned for staff personnel would likewise be modified by this new language.

During the Fact-finding hearing, the City stated that it would revise its language in Section 12.7 and resubmit it, because the language did not reflect the verbal representations made during the hearing. Although many days of hearing followed from the time this promise was made, the City has failed to submit any revised language.

All of the City's complaints about Overtime relate back to the fact that the City has failed to fully staff the Fire Department. The City made a choice to not hire additional firefighters, because the City felt it would be cheaper to pay overtime than to hire additional firefighters. The City cannot make that choice and now come to the table and complain about excessive overtime costs.

The City has failed to provide any evidence to support its proposal that Overtime should be modified. As such, other than the tentative agreements set forth above, all of the proposed changes should be rejected.

Employer Position

There has been an agreement on many of the minor changes in Employer's overtime proposal. The remaining open ones start in 12.2 where the Employer proposes that the minimums are only paid when the time does not abut the employee's regularly scheduled workday. This is a common proposal found in most CBAs and clearly is appropriate here. The issue of "acting officer pay" that provides for extra pay when an employee is acting out of rank has been agreed to in paragraph 19.3.

Last, but most important, is the definition of the overtime rate. The City's proposal as modified during the hearing should read as follows: "Overtime for line personnel should be paid at the rate of one and one-half (1 ½) times the employee's basic hourly rate, calculated on a fifty and four-tenths (50.4) hour hourly workweek for all hours actually worked in excess of twenty-

four (24) hours in a seventy-two (72) hour period. Overtime for staff personnel shall be paid at the rate of one and one-half (1 ½) times the employee's basic hourly rate for all hours actually worked in excess of eighty (80) hours in any bi-weekly pay period." This provision should become effective on January 1, 2007.

The Employer's proposal to change the forty (40) hour overtime rate for line personnel to a fifty and four-tenths (50.4) hours overtime rate is one of the major issues in this dispute. As previously mentioned in the background information, the Employer believes that it had reduced the overtime rate from the forty (40) hour to fifty and four-tenths (50.4) hour calculation for all forms of shift fill, except for emergency call-ins. Unfortunately, the Fire Chief's erroneous agreement with the Union defined "emergency overtime" to include virtually all forms of shift fill. This definition includes shift fill for people who are scheduled to be absent or who call off on sick leave. The net effect is that there has been no meaningful change in overtime rate. It is this error by the Chief that caused the grievance and arbitration decision of which you have a copy. It has been provided as a Union exhibit. This decision has ordered the Employer to maintain the old forty (40) hour overtime rate.

Given the dispute over the allocation of forty (40) hour rate versus fifty and four-tenths (50.4) hour rate, the only common sense approach the Employer could take is the proposal to make the overtime calculation on a straight fifty and four-tenths (50.4) hour rate for all forms of overtime to end the confusion.

Research regarding overtime rates for Fire Fighters in the surrounding area indicate that virtually all of the fire departments pay the regular hour workweek for overtime, except for Brook Park. The only city that continues to use a forty (40) hour rate besides Brook Park is Bay Village. However, Bay Village only pays it for the initial two (2) hour call-in. All other time paid by Bay Village is on a fifty (50) hour rate. It is important to understand and note, that the Union supplied an exhibit only listing about a dozen departments throughout the whole county. These departments show employees receiving the forty (40) hour rate for overtime. Since there are between forty (40) or fifty (50) fire departments in the county, this obviously means that all the other cities in the area pay overtime at the employee's normal hourly rate, instead of a forty (40) hour rate.

It is the forty (40) hour calculation rate of overtime that is causing the Employer to spend four hundred fifty thousand (\$450,000.00) dollars last year and more this year in overtime compensation. It is this calculation that is resulting in the employees in the department averaging almost eighty thousand (\$80,000.00) dollars per year. Given the excessive of cost of overtime, when coupled with the amount of overtime being required due to other provisions in the CBA, there is no good argument not to reduce the overtime rate to the amount that was agreed to in the Mancini report for the hours' reduction. What has happened, is that the employees are receiving the agreed to hours reduction and are still being paid at the forty (40) hour overtime rate. This is just another example of how this particular bargaining unit, absolutely, will not make any concessions or adjustments to assist the Employer in running this Department.

DISCUSSION

According to the Employer the issue of excessive overtime (some \$450,000 a year, as identified by the Employer) is the most important issue in this dispute. The Union likewise argues that the issue of overtime is extremely important for obvious reasons. Accusations of misrepresentation and misunderstanding pervaded the dialogue of the parties during the lengthy discussion over this issue and are made manifest by ongoing arbitrations and court proceedings. The fact finder will not digress into a discussion of past accusations or misrepresentation of previous understandings. Enough neutrals have been asked to weigh in on this matter. However, past negotiations are by statute relevant and material to this dispute; therefore they will be addressed. Of course what is controlling is the application of the statutory criteria to the issues at hand. The City argues that when an hours reduction was negotiated from 51.7 hours to 50.4 hours and became effective (January 1, 2003), the Union got the benefit of more time off (approximately 3 additional tours, which the City claims is worth roughly \$1800), yet the City did not gain the benefit of lower overtime costs. However, the evidence demonstrates that much of the fault for this situation lies with members of administration. The Employer also argues that external western suburb comparables support its proposed changes (see Employer Exh. 5).

The Union argues that its comparables (see Union Exh. C) demonstrate that a majority of cities, including many of the western suburbs, pay overtime on the basis of 2080 hours and do not have a split rate. In addressing the history of the hours change (from 51.7 to 50.4) the Union asserts that the Union President, after tentative agreement was reached, went to the City's Law Director and received clarification on when the 40 hour (2080) rate applies and when the 50.4 (2620.8) rate applies. The Union asserts it was a huge issue with the Union prior to the ratification vote. The Union asserts there was no intention to deceive the Employer in any manner and it resents such accusations.

Whatever was agreed to by the parties approximately five years ago is less than clear from the facts introduced at the hearing. While bargaining history normally can be helpful to fact finders, this segment of the parties' negotiations history, due to the aforementioned long standing disagreements and litigation, has little impact in the instant proceeding. However, it appears clear from the facts that when the bargaining unit had its work hours reduced from 51.7 to 50.4 in 2003, employees gained the benefit of more time off for the same pay, and the City was supposed to have realized a cost savings (see p. 4 of Arbitrator Klien's decision). The Employer adamantly states this did not occur and evidence of the City's overtime costs appears to support this assertion. The facts also demonstrate that the concept of a split overtime rate, particularly as it relates to the concept of "call-ins" and or "call-outs," appears to be one of the major points of controversy (see p. 11 of Arbitrator Klien's decision). In contrast, the

term "holdover" applying to emergency work that takes a Firefighter past his or her shift, does not appear to be in dispute. The fundamental fact that the City expends several hundred thousand dollars in excessive overtime costs, much of which appears to be incurred for routine and not emergency overtime, is far more significant in the instant proceeding, than is dispute bargaining history. According to the Employer, this expenditure far exceeds what is spent by other bargaining units in the City, including the City's Police Department bargaining unit, which is very similar in size. This statement regarding vast disparity in overtime costs when compared to other City bargaining units was not refuted by the Union. A disparity in overtime costs in the delivery of safety services (police vs fire) that is of the magnitude being claimed by the City, clearly impacts the interest and welfare of the public and their rightful expectation that the City will provide safety services at a reasonable cost and in a manner that represents the same level of efficiency that exists in other comparable cities. If it is fair for a bargaining unit to insist it wants to be paid in a comparable fashion with other like bargaining units in comparable cities, and in addition seeks wage and benefit parity with a police bargaining unit, it is fair for an employer to want to be a level playing field with other cities when it comes to controlling overtime costs. The City's comparable data strongly support the elimination of excessive and extraordinary overtime costs and the substitution of overtime based upon an employee's normal hourly rate.

During the mediation/fact-finding the parties agreed upon some language changes that would leave Overtime as a capitalized word, and would modify the term, "Officer in Charge" to "Chief or designee (Officer in Charge)." The Union opposes changes in sections 12.2, 12.7 and any references to deleting longevity as unsupported by the facts. The Union also asserts that one of the major causes of overtime costs incurred by the City is its decision to under staff the department. The Union also argues that longevity should not be removed from the provision.

RECOMMENDATIONS:

ARTICLE XII OVERTIME

- 10.1 12.1** The Fire Chief will be the final authority in determining the need for overtime.
- 10.2 12.2** Overtime shall be paid in one-half (1/2) hour increments. With respect to **overtime** and Call Back, employees may be required to stay the entire time if in the discretion of the **Chief or designee** the same is

necessary. Employees shall receive a minimum of overtime compensation as listed below **providing such paid time does not abut the employee's regularly scheduled work day:**

Holdover – Minimum ½ Hour

Callback – Minimum Two (2) Hours

Paramedic Class - Minimum Two (2) Hours

Training - Minimum Two (2) Hours

Meetings - Minimum Two (2) Hours

Rocky River Municipal Court – Minimum Two (2) Hours

Common Pleas Court - Minimum Four (4) Hours

Juvenile Court - Minimum Four (4) Hours

Appearance at a Grand Jury – Minimum Four (4) Hours

Early Start for Training – Minimum of One (1) Hour

All Other Overtime - Minimum Two (2) Hours

10.3 Current language (see Appendix C)

10.4 Current language

10.5 Current language

10.6 Current language

10.7 **Effective January 1, 2008, all overtime for line personnel shall be paid at the rate of one and one-half (1½) times the employee's basic hourly rate, calculated on a fifty and four-tenths (50.4) hourly workweek, except for the single exception of emergency holdovers (emergency holdover is defined to mean when personnel are held over because they are on an emergency run, and their tour of duty has ended), which shall be paid at the forty (40) hour rate. Overtime for staff personnel shall be paid at the rate of one and one-half (1½) times the employees basic hourly rate for all hours actually worked in excess of eighty (80) hours in any bi-weekly pay period.**

ISSUE 5: ARTICLE XI: UNIFORM ALLOWANCE

Union Position

The Union proposes increasing the current Uniform Allowance from \$1250.00 to \$1500.00, retroactive to the beginning of the year. The Union does not propose any change in the language of the Uniform Allowance Article, just a change in the amount of the uniform allowance. The City is opposed to the increase.

Currently, the North Olmsted Firefighters are required to have Nomex uniforms. (Union Exhibit. N). Nomex is a fire retardant material used to make clothing. The Union is not opposed to having a clothing policy that requires Firefighters to purchase and wear Nomex; however, it is

important to note that Nomex is more expensive than regular material. Currently, a Nomex short sleeve shirt with the appropriate embroidery costs \$100, while a similar polyester shirt costs \$45.50. (See Union Exhibit Q for prices.) A Nomex long sleeve shirt costs a Firefighter \$118.50, while a similar polyester one costs \$47.50. Nomex pants cost \$135.00. Furthermore, unlike other clothing items, Nomex clothing items must be sent back to the manufacturer to be repaired.

Also, North Olmsted Firefighters have to pay the costs to replace and maintain their clothing. (Union Exhibit O). Firefighters must also supply and wash their own linens. (Union Exhibit P). This only adds to the firefighters' costs, which currently tally to over \$1,800 each year. (Union Exhibit M).

Currently, the Police in North Olmsted have a clothing allowance of \$1,300, which could change because they are currently in contract negotiations. (Union Exhibit S).

The Union's proposed increase is not out of line considering the increased cost of Nomex as compared to regular material, the added costs of linen, the added costs of maintaining and repairing their own clothing and the Nomex clothing in particular, and the higher clothing allowance for police, who do not have to wear Nomex.

Finally, on the last day of hearing, the City presented the Union with a memo stating that firefighters no longer are required to wear Nomex. This last minute attempt to justify its possession is disingenuous and should be rejected. All of the clothing purchased to date is Nomex. It is clearly a superior material for individuals who are involved in fire suppression. It is the fabric of choice for firefighters.

Based upon the forgoing, the Union's proposal to increase the clothing allowance should be accepted.

Employer Position

The uniform allowance presently paid to employees is greater than the average uniform allowance paid to firemen in the surrounding communities by a significant margin. Employer's Exhibit 19 demonstrates that the uniform allowance in Rocky River is eight hundred (\$800.00) dollars, Westlake is nine hundred (\$900.00) dollars, North Ridgeville is seven hundred fifty (\$750.00) dollars, Bay Village is eleven hundred (\$1,100.00) dollars, Brook Park is nine hundred (\$900.00) dollars, Fairview Park is thirteen hundred fifty (\$1,350.00) dollars, while North Olmsted is twelve hundred fifty (\$1,250.00) dollars. Accordingly, there is no justification for any increase in uniform allowance.

In addition, the Union has been attempting to make the case that they are required to wear nomex uniforms, which are more expensive than cotton uniforms. The Employer's position is that nomex is not a requirement for uniforms. The Employer has notified the Union in a memorandum specifically stating that nomex uniforms are not required as part of the uniform requirement. Accordingly, there is no basis for any increase in uniform allowance.

DISCUSSION

There is no question that the cost of purchasing and maintaining uniforms is expensive (see Union Exh. M through S). Most of the nearby comparable cities do not appear to require uniforms made of nomex (see Union Exh. R). During the fact-finding process the Employer clarified its position that like other western suburbs in Cuyahoga County, it will make the wearing of nomex clothing optional. However, it is noted that the FOP bargaining unit in the City has a clothing allowance of \$1300.00, that has not been changed since January of 2001(see Employer Exh. 3 F through L). For purposes of parity, it seems reasonable to keep these two safety units on par in terms of uniform allowance.

RECOMMENDATIONS:

ARTICLE XI

UNIFORM ALLOWANCE

- 11.1 All Employees shall maintain duty and dress uniforms as mandated by the Rules and Regulations.
- 11.2 All Fire Cadet/Paramedics, immediately upon appointment, shall be provided two (2) duty uniforms, one uniform cap, one (1) universal squad jacket and one (1) white shirt. All clothing provided and/or clothing allowance paid shall be surrendered to the Employer in the event the Employee fails to complete the probationary period.
- 11.3 Each Employee shall receive an annual cash uniform allowance in the amount of **\$1,300.00**. Such allowance shall be paid in the Employee's first paycheck of January each year providing they have twelve (12) months of service. Employees with less than twelve (12) months of service shall have such amount prorated.

11.4 Clothing allowance shall be prorated per month in the Employee's final year of employment.

ISSUE 6: ARTICLE XII: HOLIDAYS

Union Position

The City is proposing that Holidays should be reduced from seven to five and that the Personal day should be eliminated. The City also proposes that holidays be pro-rated at the rate of ½ a holiday per month. Furthermore, in the City's proposed Section 14.5, (which is actually Section 12.5), the City proposes to delete the language related to longevity. The City agreed at the Fact-finding hearing to remove its proposal to substitute "earned" for "paid" in Section 14.5 (12.5). The City is also trying to delete the holiday time currently provided to Staff Personnel.

The Union opposes all of these changes. The Union proposes that holidays be prorated for employees who are hired or separate from employment during the year. Furthermore, the Union proposes to allow Staff Personnel to change 5 of their holidays to floating holidays. Finally, the Union proposes that the language in the Holiday Article should be changed to clarify what should happen if a holiday falls on a day that the staff personnel is not scheduled to work. (Union Exhibit 1, Article XII, Sections 12.1 and 12.6).

The Union's proposal concerning prorating simply clarifies a long time misunderstanding on when and how to prorate holidays, which have always been prorated. The Union's proposed language changes to Section 12.1 are easy to understand and easy to administer. The Union's proposal to change half the holidays for Staff Personnel to floating holidays is simply a clarification of existing practice. (Union Binder 2, Tab 7). The Chief has issued a Time Off Guideline that allows the employees the option to schedule some holidays. The Union is not looking for an increase or a decrease of holidays in their proposal. The Union is simply clarifying what is already a practice and seeking clearer language on prorating.

On the other hand, the City's proposals amount to a substantial decrease in the amount of holidays and subsequently to a decrease in compensation for bargaining unit members. The City proposes to add "Prorating shall be at the rate of one-half (1/2) holiday per month." However, over the course of year, this only equals six holidays, and currently there are seven holidays. Meanwhile, the City has another proposal to reduce the number of holidays to five. The City's proposal does not make sense and is internally inconsistent. The City's proposal also eliminates the reference to longevity. This, too, amounts to a financial decrease.

The City is arguing that North Olmsted's time off is "grossly excessive" as compared to other employees working in the City of North Olmsted and in the surrounding cities. However, the Union's exhibits related to both Holidays and Vacations show that North Olmsted is well aligned with other comparable cities in regards to paid time off. The graphs in Union Exhibit 9 show that North Olmsted firefighters do not get substantially more time off or substantially less time off than their counterparts in comparable cities, including the West shore cities, the

WeShare cities, Johnson comparable cities, and the cities with a similar population to North Olmsted. (Union Exhibit 9).

For the forgoing reasons, the Union's proposed changes should be adopted and the City's proposed changes should be rejected.

Employer Position

The Employer stands on its position statement regarding the reduction of the number of holidays from seven (7) to five (5) and limiting forty (40) hour employees to a maximum total of ninety-six (96) hours of annual holiday time. This Article is similar to the Vacation Article and has resulted in the employees receiving far more holiday and vacation time than other surrounding communities. Additionally, employee working forty (40) hours are receiving more holiday time than all other employees of the Employer who work forty (40) hour weeks.

A review of the total hours worked in the surrounding communities (Employer Ex. 11) shows that these employees receive more time off in holiday time than the average of all the surrounding communities. These employees receive one hundred ninety-two (192) hours off in holiday time, while the average is one hundred fifty-six (156) hours. This is almost two (2) extra days (tours) in time off. Accordingly, the Employer's position should be awarded.

The Employer opposes the Union's change in holidays and requests the fact finder consider its proposal favorably. There is no reason to list the exact number of holidays each employee is supposed to get by month. Simple pro ration language solves the problem.

DISCUSSION

The Employer argues that holiday time and vacation time has not been reduced when hours were reduced in 2003. It contends the bargaining unit members get almost one-hundred (100) more hours of holiday time than does the police bargaining unit. The Union is seeking more flexibility regarding holiday usage by proposing floating time in lieu of fixed holidays. Its submission of Union Exh. 9 indicates that time off for bargaining unit members is comparable to other West shore communities, WeShare communities, and the comparables presented by the Employer. The facts do not support a change in this benefit for either party.

RECOMMENDATIONS:

Current language shall be maintained (see Appendix C)

ISSUE 7: ARTICLE XIII: VACATION

Union Position

The City is proposing reducing the amount of vacation time given to firefighters. The City proposes reducing the number of vacation time from five tours of duty to four tours of duty for firefighters with less than 5 years of service. The City also proposes reducing the number of tours off from ten to nine for firefighters with less than 15 years of service. For firefighters with less than 20 years of service, the City proposes reducing the number of tours of duty they have off from twelve to eleven. And finally, the City proposes reducing the tours of duty firefighters with more than 20 years of service have off from fifteen to thirteen. The Union is opposed to all of these changes.

Like holidays, the Union's vacation schedule is not out of line with the comparable cities. The Time Off charts found in Union Exhibit 6 illustrate that North Olmsted is well within the average amount of vacation time. The City's proposal to reduce vacations and to reduce holidays should be rejected by this Arbitrator. The CBA should remain as written.

Employer Position

As discussed in the Holiday Article, the vacation situation is similar. These employees, at twenty (20) years, receive three hundred sixty (360) hours off in vacation, while the average of the surrounding communities is two hundred ninety-seven (297) hours. This is more than a week's extra time compared to all the surrounding towns. If you couple this with the extra holiday time, these employees receive almost two (2) weeks off a year more than the average fire fighters in the surrounding communities.

This is one of the issues demonstrating that the employees have been clearly disingenuous. The argument made at the fact-finding hearing was that they use holiday time and vacation time to get the workweek reduced to forty-eight (48) hour workweek. This is preposterous. Principally, because four (4) years ago, this Employer negotiated a reduction from fifty-one and seven-tenths (51.7) hours to fifty and four-tenths (50.4) hours in return for the overtime change. Now, the Union is saying that is really not the deal. The deal they were seeking was a forty-eight (48) hour workweek. This is disingenuous. To agree to a fifty and four-tenths (50.4) hour workweek, while actually plotting to get a forty-eight (48) hour workweek through the back door, is clearly inappropriate.

A good demonstration is comparing this CBA to Westlake's CBA. Westlake works forty-eight (48) hours, while these employees work fifty and four-tenths (50.4) hours. However, when you compare the total time off as shown in Employer's Exhibit 11, the total hours worked for employees in Westlake is almost identical to that of these employees. In other words, the employees of the City of North Olmsted, by virtue of receiving excessive holiday and vacation time, end up working a forty-eight (48) hour workweek like the City of Westlake, while its CBA provides that they are supposed to work a fifty and four-tenths (50.4) hour workweek. This is disingenuous and these leave times should be corrected and reduced accordingly.

DISCUSSION

The facts do not support a change in this benefit based upon the rationale applied in the previously addressed issue of holidays .

RECOMMENDATIONS:

Current Language shall be maintained. (see Appendix C)

ISSUE 8: ARTICLE XIV: SICK LEAVE

Union Position

The City has numerous proposals in regards to sick leave. First, the City proposes inserting language that mirrors the Ohio Revised Code language on sick leave. Second, the City proposes reducing the sick leave bonus provided when employees do not use sick leave. Third, the City proposes changes to the language that governs when employees are required to provide a doctor's report, when an employee can be considered on unauthorized leave, and when leave can be considered to be an abuse or patterned use of sick leave. Fourth, the City proposes changing language regarding when an employee can return to work after using sick leave. Fifth, the City is proposing modifications to the sick leave bank. Sixth, the City is proposing limitations on the definition of "immediate family" for purposes of sick leave usage.

Again, the extensive proposals in this single article are evidence of the City's failure to bargain. Rather than negotiate at arms length with the Union, the City presents numerous proposals to the Fact-finder with the hope that the Fact-finder will do the negotiations for it.

The City's failure to negotiate should not be rewarded. All of these proposed changes should be rejected. Each of the proposed changes, however, will be addressed below.

(1) Reference to State Law

The City is proposing inserting the current definition of sick leave accrual rate under state law. Currently, the CBA references that sick leave should be accrued according to the State of Ohio minimums. The current contract mirrors state law and if state law were to change, the contract would continue to mirror state law. Under the City's proposal, if state law were to change, then the contract would no longer mirror that law. The City has not provided an adequate reason to change this provision. The proposed change could also lead to confusion in the future. As such, it should be rejected.

(2) Reduction in Comp Time for Not Using Sick Leave

The City is proposing reducing the amount of comp time, or sick leave bonus, an employee can receive. It is proposing a reduction from 26 hours to 12 hours for line employees

and 20 hours to 10 hours for staff employees. The City is claiming the comp time is a “grossly excessive benefit,” while at the same time claiming there is sick leave abuse. However, the sick leave bonus is an incentive not to use or abuse sick leave. If, as the City alleges, employees are abusing sick leave, then it should want to maintain incentives for employees who do not use sick leave.

The City has not provided a good reason why it is attempting to reduce this bonus. In fact, the City’s position is counter to its accusation of sick leave abuse.

Accordingly, the City’s position should be rejected.

(3) Doctor’s Note, Changes to Sections 7, 8 and 9

The City is proposing changing Sections 7, 8, and 9 of the Sick Leave Article in order to get “better control of sick leave use.” (Employer’s Position Statement). In order to do this, the City is proposing reducing the amount of time that a firefighter may be off before the Chief can request a physician’s slip from two consecutive tours of duty to one tour of duty. For firefighters who work forty hours a week, the proposed reduction is from five consecutive work days to three work days. Furthermore, the City proposes changing the requirement of a doctor’s note from a permissive request on the part of the Chief to a mandatory requirement, which could be waived by the Chief.

The City has failed to show any reason why any of its sick leave proposals are necessary in Sections 7, 8, and 9. Fire Chief Klecan testified that he has not been enforcing the sick leave provision as related to the doctor’s notes, as currently written. The entire bargaining unit should not be punished for the failure of the City to enforce the contract.

At the hearing, the City presented a number of exhibits related to individual firefighters’ sick leave usage. Presumably, the City is trying to illustrate that these employees abused sick leave prior to their retirement. This is ludicrous for a number of reasons. First, none of the City’s proposals would change this situation at all. The City already has, at its disposal, adequate protections against sick leave abuse. The Chief can, if he so chooses, request doctor’s slips from employees who miss a certain amount of work. As mentioned above, the Chief has already testified that he has failed to enforce the CBA concerning sick leave. Furthermore, these exhibits illustrating sick leave usage fail to accurately portray the full story of each firefighter. As testified to by both the Chief and the bargaining unit members on the negotiation team, all of the employees who the City has implicitly accused of abusing sick leave had either personal issues, often a disability, or family emergencies, such as a sick spouse, that caused them to miss a number of days. For instance, Firefighter Mark K.² retired on disability after a major knee surgery. Firefighter David M. took a disability retirement. In addition, his wife had terminal cancer. Firefighter Ted S. also retired on disability. Firefighter Ronald S. was injured when he fell down a ladder during training in 2003. He also had several Worker Compensation claims and eventually left the Department on a disability retirement. He had previously been Firefighter of the Year in the State of Ohio. Firefighter John D. retired on disability. He suffered from both

² The Union has not included last names in order to protect the privacy of the firefighters.

heart and back problems and had a terminally ill parent. Firefighter Daniel W. was the 2003 Firefighter of the Year. He also, due to joint problems, retired on disability. Firefighter Eugene H. had prostate cancer and now has discovered a spot on his lung. (See City Exhibit 15).

The City's presentation of these exhibits is insulting, a violation of the individuals' privacy and completely irrelevant to this fact-finding and the City's proposed changes to the sick leave provisions. The Fact-finder should disregard the City's exhibits illustrating the usage of sick leave by individual firefighters, except as an illustration of the importance of sick leave in instances of family and personal sickness and injury.

The City also presented other exhibits showing the sick leave used by the firefighters. (City Exhibits 12-15). These exhibits are inconsistent and incomprehensible. The Union is unable to understand many of these exhibits. Numbers that should be similar in certain exhibits are extremely different. For instance, looking at City Exhibit 14, firefighters with the exact same start date, which is noted in the handwritten date after the firefighter's name, have a different amount of accrued sick leave hours. The amount of accrued hours, between two people who should have similar hours, varies in some cases by hundreds of hours. Firefighter O'Donnell and Firefighter Kirkpatrick both began working on January 1, 1997; however, Firefighter O'Donnell has 1,078 hours of accrued sick leave, while Firefighter Kirkpatrick has 185 hours of accrued sick leave. This is obviously an incorrect number, but it is impossible to tell how the number is incorrect. The same is the case for Firefighters Pinkie, France and Callahan who all started working on August 5, 1991. The City's exhibits regarding sick pay usage are impossible to make sense of and the Fire Chief did not provide a credible explanation to explain the many discrepancies throughout the documents. Therefore, the City's exhibits regarding sick pay should be disregarded.

The City is also proposing that "any abuse or patterned use of sick leave shall be just and sufficient cause for disciplinary action." However, the City has failed to provide any definition at all on what would constitute "patterned use". This is a sloppy proposal and opens the door to much confusion and probably future arbitrations.

As such, the City's proposals should be rejected.

(4) Return to Work

The City is proposing, in Section 10 of the Sick Leave Article, that before an employee can return to work after an absence due to personal illness or injury, that the employee must be examined by a physician. The City has not illustrated an adequate reason for this change and there are serious details missing from the provisions, such as: Which doctor should the employee go to? Will the employee be paid for this visit?

This is another example of the City's failure to bargain and failure to provide adequate reasons for the changes it wants to the CBA.

(5) Sick Leave Bank

The City is also proposing a change to the operation of the sick leave bank. The City is proposing to reduce the vote of the Union from the number of members on the Union's Executive Board to one Union vote. This would mean that the City has the majority vote. This vote affects whether or not a person who has used sick leave would have to pay back the sick bank prior to his retirement with funds from his separation check. By majority vote, this requirement can be waived. The City also wants to change one of the City's votes from the Assistant Chief to the Safety Director.

The City has not provided any reason for this proposed change. There has not been an abuse of the sick leave bank and it has been functioning properly since its inception. The time in the sick leave bank is contributed by the firefighters; therefore, it only makes sense that the firefighters should have the majority of votes in regards to waiver. Furthermore, the Union feels that the Employer's votes should come from the Chief and the Assistant Chief rather than the Safety Director. The Assistant Chief, as opposed to the Safety Director, is familiar with the individual firefighters who may use the sick bank.

The Union has a proposal in regards to the Sick Leave Bank. The Union proposes that the amount of accumulated time in the sick leave bank should be unlimited and, furthermore, that the amount of time an employee can contribute should also be unlimited. There is no reason to limit the amount of sick time that employees can contribute to the sick leave bank. Many employees have a lot of sick time and would like to donate more hours to the sick leave bank.

The Union's other proposal for the sick leave provision of the contract is to simply remove the cap of 1,000 hours of unused sick leave that can be paid to an employee or his estate in the event of disability, retirement or death. Removing this cap would be an incentive for employees to not use sick leave and rather accrue it for retirement.

(6) Definition of Immediate Family

The City is also proposing a change in the definition of immediate family. Immediate family is currently defined in the Definitions Article of the CBA. It is defined as "parent; parents of spouse; spouse and children of the Employee as well as other relatives living with the Employee if the Employee is acting as a parent or guardian." (Union Exhibit 3, p. 7, Article I). The City wants to change the definition of immediate family to be "employee's spouse, children (i.e. dependant residing in the same household), parents residing with the employee, or minor over whom the employee is legal guardian" in instance of illness or injury. For instances of death, the City wants to have a separate definition of immediate family, which would include "employee's parents, spouse, child, brother, sister, parents-in-law, grandparents, or a minor over whom the employee is the legal guardian, grandparents of spouse and grandchildren." Under the City's definition of immediate family in cases of injury or illness, sick parents who do not leave with the employee are excluded as are, for instance, children in college or a minor child at a boarding school, because residence with the parent is required.

The City claims that it is merely clarifying the immediate family language. However, the language defining immediate family does not need to be clarified. The City has failed to show

one example of a situation where the parties have had a problem because of the current definition of immediate family. In fact, the City's proposed definition of sick leave is less clear and more convoluted than the current language. The City has failed to illustrate any reason to change this definition; therefore, it should remain as it is.

The City has not provided an adequate reason for adopting any of its many sick leave proposals. The City is not enforcing the current contract as written and has failed to show any evidence of sick leave abuse on the part of employees. Therefore, the City's proposal should be rejected, while the Union's simple changes to the Sick Leave Article should be adopted.

Employer Position

The Employer stands on its proposal and the position enunciated in its position statement. The Employer wishes to reduce the amount of sick leave bonus covered in paragraph 16.2, from twenty-six (26) hours to twelve (12) hours, every six (6) months and from twenty (20) hours to eight (8) hours, for every six (6) months for forty (40) hour employees, since these bonuses have not reduced sick leave abuse. Additionally, and most importantly, the Employer proposes to change the sick leave language as shown in paragraphs 16.7, 16.8, 16.9, 16.10 and 16.11 to help reduce the unbelievable increase in the utilization of sick leave.

This Department has stayed at approximately the same size in the number of employees since 1996. There has been some variation at times when the Department may have had between forty-seven (47) to forty-nine (49) employees, but there have been no major changes. However, during the last ten (10) years, from 1996 to 2006, the amount of sick leave hours used by the same number of employees has increased from one thousand four hundred seventy (1,470) hours to seven thousand one hundred seventy-six (7,176) hours per year. This is a three hundred eighty (380%) percent increase. This is almost four (4) times the amount utilized in 1996, with the same number of employees. It is not necessary to argue whether any particular employee or employees are abusing sick leave or not. The overall total increase is astounding. No same size workforce can increase the utilization of sick leave without there having been a material and fundamental shift in the employee's approach towards the utilization of sick leave. It is, in common sense, impossible for forty-five (45) employees to become four (4) times more sickly over ten (10) years. Hence, the proposed language changes are crucial in regards to the Employer ever eliminating the excessive overtime and absenteeism problems the Employer is experiencing with this bargaining unit.

The Union is proposing to eliminate the cap on sick leave buyout on retirement. It also proposes to eliminate the fifty (50%) percent payment rate so that it becomes one hundred (100%) percent. This is absolutely preposterous. No employer in the area pays one hundred (100%) percent of the total accrued sick leave. It is conceivable that an employee, who does not abuse sick leave, may accrue over three thousand (3,000) hours in his career with the Employer. That would mean, under the Union's proposal, the employee would be able to get a payment for three thousand (3,000) hours, which is over a year's salary. No other bargaining unit in the City has this provision. In fact, no other bargaining unit has even proposed it because it is so ridiculous. Accordingly, this proposal must be rejected by the Employer.

DISCUSSION

During the fact-finding hearing, Chief Klecan admitted he did not do as much as he could about curbing any alleged sick leave abuse by individuals. Moreover, the Chief admitted he has no definitive proof of sick leave abuse. Why the Chief has not been more aggressive in requesting medical excuses is not clear, particularly if he believes there is extensive sick leave abuse among ten to fifteen employees as he testified in the fact-finding hearing. In addition, the Union introduced evidence and testimony to suggest that some employees or their family members have had serious illnesses or have had disabling conditions that would have skewed the data on sick leave use. Moreover, the Union raised some valid criticisms of the data contained in Employer Exh. 12 through 15, which raises questions as to their accuracy. The facts support a more vigorous enforcement of existing language and do not support a change in language at this time.

RECOMMENDATIONS:

Current language shall be maintained. (See Appendix C)

ISSUE 9: ARTICLE XVI: WORK RELATED ILLNESS

Union Position

The parties have a Tentative Agreement in regards to the language in 16.1(a).

Employer Position

This has been tentatively agreed to between the Employer and the Union.

DISCUSSION

The parties reached tentative agreement on this issue in fact-finding.

RECOMMENDATIONS:

The parties' tentative agreement is recommended:

The first sentence of Article 16.1 (a) should state:

In the event that full time sworn Employee of The North Olmsted Fire Department should become ill due to contact with a life threatening illness (e.g. HIV, Meningitis, Tuberculosis or other equally threatening illness) while on duty, and such illness has so incapacitated the Employee that he temporarily is unable to work, the Fire Chief shall

investigate and determine whether the illness is work related and of a temporary nature.

The remainder of the Article shall remain current language.

ISSUE 10: ARTICLE XVII: SALARIES

Union Position

The parties have a Tentative Agreement in regard to both Acting in the Capacity of a Higher Rank and direct deposit. It is as follows:

Acting in the Capacity of a Higher Rank- Any Fire Fighters or Officers assigned to act in the capacity of a superior Officer shall receive the pay of the rank assumed for all hours acting in such capacity.

The Tentative Agreement on Direct Deposit, which will be added to the wages section, reads as follows:

All forms of compensation shall be paid by electronic deposit to commence at the Employer's convenience, but not less than thirty (30) days after the execution of this Agreement.

The Union is proposing a 5% wage increase each year. The wage increase would begin on the first year of the contract, which would be retroactive to January 2007. The second 5% wage increase would begin on January 1, 2008. The third wage increase would begin on January 1, 2009. The Union is also proposing increasing the Fire Prevention Premium from \$1,200.00 a year to \$2,500.00 a year.

The City is proposing a 2% wage increase which would be effective on the date of execution of this contract. The City is seeking a contract that would expire December 31, 2007. The City's proposed wage increase, if awarded, will result in a wage increase for a matter of weeks. At the time of filing this brief, the parties are at least **10 months** into the year. The date of execution of the contract may not even occur during 2007. As a result, the City's proposal should be rejected.

The Union has prepared exhibits that illustrate the relative ranking of North Olmsted with comparable cities in the event the Union was granted only a 2% wage increase. In light of the City's proposal not even going into effect until execution of the contract, the City would be ranked even lower on the comparables, because it is essentially a wage freeze for 2007. Union Exhibit 17 shows North Olmsted's comparable rankings with a 2% wage increase, a 3% wage increase, a 4% wage increase and a 5% wage increase. If the firefighters are given a 2% wage increase, retroactive to January 1, 2007, they drop in the ranking from 24 to 28.

Union Exhibit 18 shows the wage increase that other cities in the region have received for the last ten years. As one can see, there are many 3% increases and 4% increases, and very few

2% wage increases. Since the Union's graph was made, Fairview Park has settled their CBA and negotiated a wage increase of 2% for 2006, 3% for 2007 and 2.5% for 2008.

Union Exhibit 19 compares the total compensation of the Regional Comparables, West shore Comparables and the Johnson Comparables for the year 2006. (Maps of the Comparables can be found in Union Exhibit 5). North Olmsted, in all three of the comparables, ranks in the middle, and is neither the lowest compensated nor the highest compensated.

Union Exhibit 20 illustrates the total effect of all of the City's proposals on the Firefighters. If all of the City's proposals were awarded, the Firefighters would have a total decrease in compensation of between 3.6% and 7.68%, depending on the year and the length of time the firefighter has been working. If the City's health insurance proposal is factored in, the decrease in compensation is even greater, between 9.06% and 13.01%. (Union Exhibit 22). The City is proposing a concessionary contract, which should be squarely rejected.

The testimony at the hearing by Carrie Copfer, the Finance Director in the City, as well as the City's exhibits, demonstrate that the City has the financial means to grant the firefighters' proposals and that the extreme concessions proposed by the City are not fiscally necessary.

Over the last seven years, the City has had a balance of over a million dollars, sometimes with amounts closer to two million dollars. (City Exhibit 24). However, the City is conservatively estimating a balance of about \$13,000 for the end of 2007. Ms. Copfer testified that this was a very conservative estimate and she will most likely see a fund balance amount much closer to the previous year's balance, which was \$1.8 million.

Union Exhibit 24 illustrates that the top administration officials in the City, including the Mayor, Law Director and the Director of Finance, are getting raises of 2.25% for the next 3 years. The City has also created three new positions in the last year, including a part-time law clerk and part-time assistant law director. Clearly, the City is able to afford to hire new positions and is able to pay a healthy salary to the City's administration.

The City introduced a variety of exhibits concerning the financial status of the City. The City's exhibits, which are Wikipedia printouts, should be disregarded and carry no weight in this arbitration. (City Exhibits 34-41). The City is apparently trying to illustrate that there should be *some correlation between the median wages of its residents and the wages of its safety forces*. Aside from the credibility factor of a printout from Wikipedia, which anybody with internet access can alter, the use of average community salaries is completely unrelated to the incomes of firefighters in that community.

Weekend Bonus

The City is also proposing eliminating the weekend bonus, which is contained in Section 17.5 of Article XVII. The City claims that this is a "preposterous" benefit. However, this benefit was added to the contract as a way of compensating the firefighters for the shift

differential that police officers receive for working night and early morning shifts. The weekend bonus has been in every contract since 1993. (Union Exhibit 28). The weekend bonus is a component of wages and is unique to North Olmsted. It was added as a way to have parity with the police officers who were making more money. The City, at the time the weekend bonus was added, did not want to give a straight wage increase because of the anticipated response from the City's other bargaining units. The weekend bonus is a part of the firefighters' salary and has been for fourteen years. Any reduction in the weekend bonus is a reduction in the wages of firefighters.

The City also attempted to eliminate the weekend bonus during the last round of negotiations. Fact-finder Graham rejected that attempt and stated as follows:

The weekend bonus isn't long standing. It came into the Agreement for a reason:
To equilibrate compensation of police and firefighters.

(City Exhibit 7, page 28).

Accordingly, the weekend bonus should be maintained.

Fire Prevention Premium

The Union, as mentioned above, is also proposing an increase to the Fire Prevention Premium. The Union is proposing this because firefighters are currently losing money when they rotate into Fire Prevention, because they are losing the weekend bonus. Currently, this provision would only apply to one person working in the North Olmsted Fire Department.

Employer Position

The Employer initially made a proposal to change the pay for acting in the capacity of a higher rank. The Union and Employer agreed to a new provision. This new language is, "any fire fighters or officers assigned to act in the capacity of a superior officer, shall receive the pay of the rank assumed for all hours acting in such capacity." Another proposal of the Employer was to have pay electronically deposited to the employees' account. This was tentative agreed to as follows: "All forms of compensation shall be paid by electronic deposit to commence at the Employer's convenience, but not less than thirty (30) days after the execution of this Agreement."

The most important proposal made by the Employer in this article is the deletion of the weekend bonus. This bonus provides two and one-quarter (2 ¼) hours pay to any employee who works on Saturdays or Sundays, and is absolutely outrageous. No other fire department surveyed either in the area, or in this State, pays this type of a bonus. It is completely unheard of. Depending upon whose numbers you use; the Employer's of one thousand seven hundred (\$1,700.00) dollars in a year, or the Union's, one thousand three hundred (\$1,300.00) dollars in a year, because some weekends are missed by employees, the payment is unnecessary and ridiculous.

The Union states this benefit was added to their CBA because the police receive a shift differential; and, they do not. This is another area where the firemen are being disingenuous. The average for policemen being calculated between employees who receive it and do not, is approximately nine hundred (\$900.00) dollars per year, while the weekend bonus for firemen is approximately one thousand seven hundred (\$1,700.00) dollars per year. If the reason they wanted the weekend bonus was to equal the police shift differential, then the number of hours paid for in the weekend bonus should be one-half (½) of what it is now, so it would equal the police shift differential. Regardless of what argument the Union makes, this is not a benefit that is found in any surrounding or state-wide fire contract. Accordingly, it is clearly outside the realm of reasonableness and should be eliminated.

The Union proposes five (5%) percent increases each year for three (3) years. This is clearly excessive, given the CPI's average less than three (3%) percent for the last six (6) years. The employees have been held essentially harmless on everything relating to medical care or any other major personnel costs. Furthermore, the employees have been granted raises in excess of three (3%) percent, when benefits, step movement, and longevity are included, which puts these employees several percentage points ahead of the CPI.

Additionally, the average settlement for contracts is in the area of three (3%) percent, depending upon the benefits either given or reduced through negotiations. As such, the Employer proposes an increase of two (2%) percent, given the fact that the Union cost the Employer the equivalent of a two (2%) percent wage increase on healthcare premium contributions last year. This position is supported not only by the CPI, but by comparison of all the other settlements in the area. (Employer Exhibit 19) Compared to the employees' total compensation of the surrounding areas, it is easy to see that North Olmsted pays, on the average, two thousand (\$2,000.00) dollars to three thousand (\$3,000.00) dollars more than the average of these cities. The only City that is close to North Olmsted is Brook Park, and Brook Park actually pays the identical salary as North Olmsted, at sixty-five thousand one hundred ninety-three (\$65,193.0) dollars compared to North Olmsted, sixty-five thousand sixty three (\$65,063.00) dollars. The Union has made no case for such an excessive wage increase, while the Employer has made a good case, that it should get a less than an average wage increase due to the exceedingly high computation payments being made to this bargaining unit at this time and the Employer's limited revenue.

Not only are these employees highly paid compared to surrounding cities, when it comes to economic health, is not anywhere near as healthy as the surrounding cities. As previously mentioned, this City's income has only increased approximately twelve (12%) percent over six (6) years, for an average increase of two (2%) percent per year. It has lived off the cannibalization of its workforce. That is, paying more money to fewer people. The City is a built-out City with little possibility of increased economic development. Furthermore, the problems of the Ford Motor Plant at Brook Park, spill over into North Olmsted. While Brook Park receives the greatest amount of income tax from the employees at the Ford Plant, North Olmsted receives a fairly significant amount due to a number of Ford employees living in North Olmsted. Hence, given the loss of the jobs in the immediate area as witnessed by various newspaper articles and the fact that Ford is reducing its staff in Brook Park, indicates that the economic outlook for North Olmsted is not rosy.

Accordingly, the employee's wage increase should not exceed two (2%) percent each year for 2007 and 2008. Furthermore, the wage increase for 2007 should commence upon the signing of the CBA and not be retroactive to January, 2007.

This proposal is utterly preposterous. The Union seeks to more than double it from one thousand two hundred (\$1,200.00) dollars to two thousand five hundred (\$2,500.00) dollars per year. There is no basis to support this kind of increase. The Union has proposed no reasonable statistics to support this kind of an increase and, therefore, it should be denied.

DISCUSSION

Given other recommended changes in this fact-finding report, particularly regarding overtime calculations and health care premiums, the facts support an increase that reflect the going rate and maintain the relative position of the bargaining unit vis-à-vis its comparable municipalities. The bargaining history of salary increases dating back to 1998 clearly indicates an average increase of 3% per year. The average increase for 2007 provided in Union Exh. 18 indicates that an increase in the lower 3% range remains common. The data contained in Union Exh. 18 also demonstrate that while the bargaining unit has received 3% increases every year with the exception of the last contract period (when the increases were 0%, 4.5%, 4.5%), the average increase was slightly higher (mid to lower 3% range). The salaries of the bargaining unit are in the mid-range of external western suburb comparable cities and appear to have remained so for several years. The CPI-U for the last twelve months, from November of 2006 to November of 2007 was 4.3% (source U.S. BLS, prior to seasonal adjustments). Wage adjustments typically are made one year after the cost of living is documented. The recommendations contained in this report provide significant cost saving relief to the Employer in the major areas of overtime and health care. At the same time these recommendations will reduce overtime pay and will shift costs of health care to the bargaining unit. Therefore, a recommended salary increase that offsets some of these shifts and is consistent with historical increases is appropriate in order to maintain the bargaining unit's relative position among comparable western Cuyahoga County municipalities.

RECOMMENDATIONS:

The following increases are recommended:

Effective January 1, 2007:	3.0% retroactive to January 1, 2007
Effective January 1, 2008	4.0%

All other language shall remain current.

ISSUE 11: ARTICLE XVIII: PARAMEDIC PAY

Union Position

The Union is proposing that Paramedic Pay be 3.25% of the salary of the Firefighter- 5th Year, as specified in the salary section of the CBA. Currently, the Paramedic Pay is a flat rate of \$1,400. The Union is proposing that the rate be a percentage, so that it would be tied to wages.

The comparables on Paramedic Pay can be found in Union Exhibit E. Among all of the comparables, which include the West shore Cities, the WeShare Cities, Cities with a population of plus or minus fifteen percent of North Olmsted, Regional Cities and Cities that Gary Johnson chose to use as comparables in 2004 (“Johnson Comparables”), North Olmsted ranks neither first nor last, and is often in the middle. Union Exhibit F is the data used to create Union Exhibit E.

The current Paramedic Protocols can be found in Binder 2, Tab 1. These protocols have increased significantly over time. The current duties of paramedics, as of April 2007, can be found at Union Exhibit G. Considering the increase in duties and knowledge, it is only fair that the amount in Paramedic Pay should be increased and that such pay be tied to the wages of firefighters.

Employer Position

The situation is similar for paramedic pay as for fire prevention. The Union’s proposal regarding paramedic pay flies in the face of the statistics provided in Employer Exhibit 19, which shows the payment for paramedic pay in the surrounding area. These employees are far ahead of all the other cities in the area in paramedic pay and, therefore, there is no basis, whatsoever, to have it increased.

DISCUSSION

Based upon the data provided in Employer Exh. 19, it appears that the bargaining unit is well positioned regarding paramedic pay. However, during the fact-finding hearing the Union added several corrections to this exhibit. Even after those adjustments are made the paramedic pay when considered in the context of all compensation, remains competitive among western Cuyahoga County suburbs. The facts do not support a change in this benefit.

RECOMMENDATIONS:

Current language shall be maintained. (see Appendix C)

ISSUE 12: LONGEVITY

Union Position

The City is proposing a complete change to the Longevity provision. The City wants to change the longevity payments from a percentage of an employee's wages to a flat amount. Currently, Longevity is found in the Definitions Article of the CBA. Longevity has been a part of the CBA between the parties since the 1987 contract. (Union Exhibit 31). It is a component of wages. If the City is awarded its proposal to change longevity, it would mean that a number of firefighters would have to pay money back to the City for longevity that has already been paid out this year. These firefighters are listed in Union Exhibit A. The City has not made any proposal about how such a pay back would be dealt with.

The City claims that North Olmsted's CBA is one of just a few that provide longevity benefits in percentages. However, the North Olmsted police have a similar longevity provision in their contract. (Union Exhibit B). The City's own comparables show that Rocky River also has a longevity percentage. (City Exhibit 33). The City's comparables concerning longevity also have an inaccurate number for the City of Lakewood. The correct numbers for Lakewood are identical to the numbers for Fairview Park.

In addition to reducing longevity, the City would like to remove reference to longevity throughout the contract. The City denies that this would mean that those firefighters do not get longevity on their overtime; however, considering the City's history of failure to honor the contract, it is unlikely that this is the case.

The Arbitrator should leave the Longevity as it is in the Definitions Article of the contract and as mentioned throughout the contract.

Employer Position

The Employer stands on its position set forth in its position statement. All other bargaining units in the City, with the exception of the police (dispatchers, service department, clerks, etc.), have all had their longevity modified to the fixed dollar amount. The Employer is seeking to grandfather the existing employees at their present hourly rate so that no one loses any money. All new employees will fall under the new schedule and existing employee will receive the amount of the new schedule when the new schedule provides more than they are presently receiving.

Percentage longevity schedules are very rare. The reason for this, is that longevity is normally a reward for length of service and has nothing to do with the type of a job the employee has. Percentage longevity, if spread city-wide, causes the rich to get richer and the poor to get poorer. Employees with a sixty thousand (\$60,000.00) dollar salary make twice the longevity of a secretary making thirty thousand (\$30,000.00) dollars a year. Longevity is not related to their job, it is only related to one year out of their life. There is no way a year out of fire fighters life is worth twice that of a secretary's.

Furthermore, the percentage longevity scale presently existing, is excessive in the amount of payment. This schedule gives any employee with five (5) years of service a four (4%) percent longevity payment. Based on a sixty thousand (\$60,000.00) dollar annual wage, an employee who has five (5) years of service, only one (1) year after reaching the top salary schedule, receives a longevity bonus of two thousand four hundred (\$2,400.00) dollars. The average longevity paid to surrounding fire fighters, or anyone else after five (5) years, is, at the most, five hundred (\$500.00) dollars. This longevity scale gives a person with five (5) years of seniority, approximately five (5) times greater than that paid the average fire fighter in the area. Additionally, the payment of seven (7%) percent after twenty (20) years results in the average fire fighter receiving four thousand two hundred (\$4,200.00) dollars, based on a sixty thousand (\$60,000.00) dollar salary. This is approximately double the longevity paid to other fire fighters in the surrounding area, which is approximately two thousand (\$2,000.00) dollars per year. As a result, the Employer should prevail in freezing the longevity rate for these employees.

DISCUSSION

The Employer made a strong case for changing this benefit to a flat dollar amount, particularly as it relates to other internal comparables. The Union counters the Employer's argument by demonstrating that in overall compensation the bargaining ranks in the middle, regardless of the external comparables used (see Union Exh. 5). Given the changes recommended in this report, particularly regarding overtime and health care, the facts do not justify a change in this benefit at this time.

RECOMMENDATIONS:

Current language shall be maintained. (see Appendix C)

ISSUE 13: ARTICLE XIX: HEALTH BENEFITS

Union Position

One of the most critical issues presented by the City is its attempt to make major substantive changes, which reduce the level of benefits provided to bargaining unit members and increase the cost for health benefits substantially. As will be shown, the City's position on health insurance is not justified by the evidence and should be rejected. As such, the Fact-finder should recommend no change in language for this article.

It should also be noted that the City's position statement is sloppy and does not accurately reflect the City's verbal representation of its position. At the hearing, the City verbally stated that it intended to reduce benefits from a 100% plan to an 80/20 plan with a

\$200/\$400 deductible and co-insurance up to \$1000 (single coverage) or \$2000 (family coverage). The City also wants to increase the co-pay for prescription drug coverage from \$7.00 for generic to \$10.00, and from \$15.00 for brand name to \$20.00 for formulary and \$30.00 for non-formulary.

The City also intends to charge bargaining unit members an increase from \$54.00 per month to 10% of the premium, retroactive to January 1, 2007. The premium listed in City Exhibit 44 shows Option 1 to be \$1415.34/month for a family plan, and \$416.75/month for a single plan. However, this is 10% of the hospitalization, which includes the aggregate stop loss of 110% rather than 100%.

In looking at the amount listed for the 2006 calendar year (City Exhibit 44), and comparing it to the health care cost listed in City Exhibit 42, the CMM I and Drug I rates listed were reduced from 110% to 100%. For 2007, the City is attempting to charge the employees 10% of the entire 110%, which is greater than the cost of the insurance to the City.³ In addition, because the City is attempting to charge the additional amount retroactively, and the IRS does not allow the benefit of Section 125 plans to be honored retroactively, all additional charges will be collected from post-tax rather than pre-tax dollars for all bargaining unit members.

In addition, the City claims that it wishes to include vision insurance, with the same requirement that employees pay 10% of the premium, but will continue to provide dental benefits at no cost to employees. Vision is to be optional and dental is to be mandatory. Neither of these positions is reflected in City's language presented, and the City has failed to amend its language, as promised.

Finally, the City claims that it will be offering only one plan to all bargaining unit members. That position is likewise not reflected in the City's language. The City's language states, instead, that it maintains the exclusive right to modify health insurance during the terms of the collective bargaining agreement.

In addition to all the problems with respect to the City's draft of the language, the evidence does not justify the elimination of the health care committee or the modification of insurance benefits.

Bargaining committee member Ted Vance testified that there have been two times, historically, during which employees took ownership of healthcare. In both instances, the results were cost saving to all parties. The first time was a rebate procedure which was in place from approximately 1988 until 1995. Under that procedure, employees paid a percentage of the premium which increased over the years from 7% initially to 13%. However, there were specific goals established with respect to cost. If the health care costs, in the aggregate, did not reach certain thresholds, employees received a rebate for all or part of their contribution toward the

³ In 2006, Option 1 was \$1125.29. This figure was obtained from using the \$1072.42 amount (See City Exhibit 42) and reducing it from 110% to 100%, to \$974.93. The City then added \$84.65 for the MMO medical stop loss premium including Rx and AGG and the \$65.71 for the administrative fee for a total amount of \$1125.29. However, in 2007 the reduction was not calculated. In other words, the City is trying to charge employees more than 10% of their cost. It was unclear during the hearing if this was due to sloppiness or intentional deceit.

premium. According to firefighter Vance, employees received an entire rebate on the premium every year except two years, when the City experienced a couple significant charges. In those two years, employees received a partial rebate.

After 1995, the City refused to allow bargaining unit members to have input into insurance, and the cost of coverage started to rise again.

For example, beginning in 2000, the City introduced an additional health care option, in violation of the language and the collective bargaining agreement and over the Union's objections. At the time, the additional option only cost the City \$0.69 for single coverage and \$1.63 for family coverage, per month. However, the Union filed a grievance because the additional health care option violated the CBA. The grievance was ultimately sustained and the City promised not to introduce additional plans without the Union's approval. However, the plan was not eliminated.

Union Exhibit K establishes the increased costs to the City of this Option 1 plan over the years. In 2005, the Option 1 plan costs the City an additional \$26.99 per month for single coverage and \$72.87 per month for family coverage.

Another example is the fact that the Union sought to modify dental benefits to the AFSCME plan, which cost the City less money, even though the City paid 100% of the premium. In addition, the Union has historically negotiated with Union Eye Care for vision benefits, which remained the same until 2006, when the City excluded the Union from the negotiations with Union Eye Care, resulting in an increase in the premium for the first time.

This action can only be seen as arrogance on the part of the current administration, when history clearly shows that the Union's participation in health insurance has always resulted in a win-win result.

In the negotiations that preceded the 2004-2006 CBA, the *City proposed* the creation of a health care committee so the parties could have better control of health insurance. The language was drafted by the City, proposed by the City, and submitted during Fact-finding. During the Fact-finding hearing, the parties began with mediation, under the guidance of Fact-finder Harry Graham. Both parties were represented by counsel. (See Employer Exhibit 7). It was during the mediation that preceded the actual hearing that the Union agreed to the City's proposed health care committee.

Under the language agreed to, the committee was to consist of 14 employees represented from seven bargaining units, plus two representatives from the non-bargaining unit employees. In addition, the Employer was to have two advisors or facilitators to assist the committee regarding health care issues.

Union Exhibit H are excerpts from the various 2004-2006 collective bargaining agreements, as well as a copy of City Ordinance 2005-19, thereby establishing the procedure for the two non-bargaining representatives and listing the individuals that were to be represented.

These included all non-bargaining unit employees, from clerical employees up to the elected officials, including the Mayor.

Under the City's language, the committee was to review the City's health care plans and adopt new or revised plans that were competitive in the health care market and would achieve the goals of "promoting cost containment within the plan and minimizing premium contributions by employees." In order to fulfill its mission, the committee was to consider office co-pays, prescription drug rates, deductibles, maximum out-of-pocket expenses, wellness programs and such other plan attributes and other related matters that would achieve the goals set forth.

The health care committee began to work in early 2005. It operated under the guidance Mr. Kevin Bang, a consultant with Master Consulting Group. The committee met many times, elected a chair and began to review the City's health care plans and explore modifications. Each committee member discussed potential problems or recommended changes from their respective constituents and brought those recommended changes or problems back to the committee for discussion and review. The parties looked at a variety of options, including health savings accounts, stop loss thresholds, spousal surcharges and office co-pays. The committee eventually agreed to modify the health care plan and implement a number of changes. These included reducing the number of plans available from four plans to two plans. The new plans increased the co-pay for prescription drugs from \$3.00 for generic and \$7.00 for brand name to \$7.00 for generic, \$15.00 for brand name and \$30.00 for non-formulary. They also included a mandatory mail order provision. The life time maximum was increased from one million dollars to unlimited. Chiropractor visits were increased from 12 to 18 per year. Hearing aids were modified such that one could receive one every year rather than every four years. The stop loss threshold was raised from \$50,000.00 to \$75,000.00. In addition, the new health plan included an opt-out bonus, under which employees who opted out of medical and prescription benefits received a bonus of \$600.00 paid in monthly installments.

When the changes were implemented, it resulted in significant savings to both parties. City Exhibit 42 shows that the cost for the plans were reduced significantly after the changes were implemented.

Mr. Brag testified that it was not his recommendation that many of these savings result in a lowering of the employees' co-pay, rather than be transmitted back to the City. He wanted to see all the savings realized by the City, not by the individuals. However, the committee believed that its authority was to promote cost containment within the plan and to minimize premium contributions by employees. As a result, the goals of the plan, as set forth specifically in the City's language, provided that savings should result in a decrease in co-pays.

It is important to note that, under the current contract language, the employer has the ability to go to binding arbitration in the event there is a disagreement with respect to whether a new plan was created which meets the stated goals. The City never objected to the goals or even suggested that the committee proceed to arbitration for failure to meet the goals. On the contrary, the City was pleased with the results. Even Mr. Bang testified that the committee "accomplished a lot of great things."

In the fall, 2005, the committee met a couple more times in order to review the savings which had been achieved, to date, from the plan revisions. The committee did not want to go through an entire modification in plan design again until they were able to review data with respect to the savings achieved from the modifications already made. At that time, there had been only six months of experience. The language that was negotiated into the labor contract provided that, after the initial changes were implemented, the committee was to meet thereafter at least every other year, commencing in the year 2006, to consider additional revisions. At the time, it was only 2005.

In the fall, 2006, Firefighter Boatman attempted to bring the committee back together to look at the savings which had been realized and begin the process again of examining various plan design changes and whether they could result in cost savings. However, at the time, the City was beginning negotiations with the various bargaining units and refused to allow the committee to meet. Instead, the City put forth the proposal to eliminate the committee all together, reduce benefits levels unilaterally, increase co-pays three fold, and cut the Union out entirely from the process. No rational explanation has ever been provided, other than the fact that the savings were not significant enough and the savings that had been realized resulted in a decrease in the employee contributions. However, the City did not dispute the fact that this was the goal of the committee, as set forth in the City's language. The City has never attempted to revise the language for the insurance committee to meet certain needs. Instead, the City had taken the position that any modification in the structure or goals of the committee should be accomplished by destroying the committee entirely and taking all responsibility for health care, once again, away from employees.

In addition, while the City is seeking to eliminate all input from employees, the City is simultaneously requesting a reduction in benefit levels and an increase in premium contributions by employees. The City wants it both ways. The City wants to take away all input from the union, even when the goals of the committee were met successfully, reduce health insurance benefits, and increase co-pays substantially.

The City should not be allowed to accomplish this goal.

Furthermore, reviewing the comparable data from other cities shows that the proposal to change the 100% plan to a 80/20 plan and to require employees to pay 10% of the premium, is unreasonable in light of the insurance paid by other jurisdictions.

Union Exhibit I shows that the City's proposed plan would increase the total out-of-pocket cost from a maximum of \$648.00 for a family and \$216.00 for a single person to \$4,098.36 for a family and \$1,829.04 for single coverage. This is a 632% increase for family coverage and an 847% increase for single coverage. Where is the justification?

Many cities maintain 100% coverage, comparable to the coverage currently provided in North Olmsted. These include Brook Park, Fairview Park, Garfield Heights, Lakewood, Middleburg Heights, North Royalton, Olmsted Township, Rocky River and Shaker Heights. In addition, those cities that either have a 90/10 or 80/20 plan, have much lower co-pays than the \$1000/\$2000 proposed in North Olmsted. Berea, for example, requires employees to pay 10%

up to a maximum of \$300(single)/\$400 (family). North Ridgeville requires employees to pay 10% up to \$400/\$800 dollars. Rocky River requires employees to pay 10% up to \$400/\$800. Strongsville requires a 10% contribution up to \$500/\$800. Westlake requires a 20% contribution, but only up to \$200/\$300.

In other words, although some cities require employees to pay 10% or 20% of the cost of the coverage, after meeting a deductible, the maximum co-pays are stopped at a much lower threshold than the \$1000/\$2000 proposed by North Olmsted.

The City claims that the premium costs in North Olmsted have rising significantly and are higher than surrounding municipalities. It is interesting to note that these increases in premiums have occurred only *after* the employees in North Olmsted have been cut out of the process. Prior to that time, employees had involvement in the delivery of health insurance, understood the process, and were able to provide feedback. It was during those years that the City experienced savings.

When an insurance committee is working, bargaining unit member have confidence in the process because they can ask questions of their committee member who can get them answers. They feel involved in the process and become better health care consumers.

If the language remains the same, the City will be required to work with the employees, rather than against them, in evaluating the current health care plan and looking for changes. The alternative, which is to eliminate any employee feedback from the process and force the employees to accept lower benefits at higher costs, is simply wrong.

Accordingly, the Union's position on health care should be adopted.

Employer Position

The Employer stands on the changes in healthcare benefits proposed in its position statement. In no other area, has this Union been more disingenuous than in this healthcare package. The problem is three-fold. The first is the overly extensive coverage provided by this plan in the benefits employees receive. The second issue is the percentage of premium payments the employees are making; and, the third is the insurance committee, which caused the Employer to be saddled with an outrageously rich health plan with only minimum premium contributions by employees.

None of the exhibits supplied by the Union can overturn the Employer's position that the plan is exceedingly rich. It is a one hundred (100%) percent plan with first dollar coverage for practically everything and is exceedingly rare. The Employer is paying approximately one thousand four hundred (\$1,400.00) dollars a month in family healthcare premiums. This is on the average of three hundred seventy-seven (\$377.00) dollars per month more than the average cities pay in the surrounding area. All of this is due to the richness of the plan and the resultant excessive utilization of the plan's benefits by employees. The Employer is proposing a traditional 80/20 plan with two hundred (\$200.00) dollar and four hundred (\$400.00) dollar

deductibles with maximum out-of-pocket payments of one thousand (\$1,000.00) dollars or two thousand (\$2,000.00) dollars for a family, along with an increase in the drug card co-pays. This is a mainstream plan that is presently in effect in numerous cities in the area, as testified to by the healthcare consultant, Mr. Kevin Bang from Master Consulting Group.

Since 2005, the Employer has seen the cost in its basic plan, excluding the stop-loss premium and administrative fees increase from nine hundred forty-nine (\$949.00) dollars to one thousand two hundred fifty-three (\$1,253.00) dollars per month for a family plan. (Employer Ex. 42) This year, 2007, the Employer is experiencing an increase of fifteen and eight-tenths (15.8%) percent in premium. (Employer Ex. 46) If the plan design changes proposed by the Employer were put into effect, this premium increase would have been approximately five (5%) percent. Hence, a savings of ten (10%) percent to the Employer with no additional premium cost to the employees from this plan design change.

The Employer's initial position was that the healthcare plan should be changed effective January 1, 2007. However, due to the lateness of these proceedings, the Employer is adjusting its position to the extent that healthcare plan design changes as proposed, should become effective January 1, 2008, but, the Employer's position that the employee pay ten (10%) percent of the premium should be adjusted retroactive actively to January 1, 2007.

Under the existing CBA in 2005, employees were paying thirteen (13%) percent of the premium. The insurance committee met, made a few minor changes in the plan, principally increasing the deductible for stop loss insurance. The plan was sent out for bid. Upon the bid returns, virtually all of the premium savings realized by the Employer, due to the stop loss coverage reduction increasing the Employer's risk and the fact that there was competition between several bidders, which was used to reduce the employee's share of the premium. Hence, the employees' contribution in March, 2005, which was one hundred forty-four (\$144.00) dollars per month, was reduced to forty-eight (\$48.00) dollars per month starting April 1, 2005. This is approximately a one hundred (\$100.00) dollar per month reduction in employee contributions, or one thousand two hundred (\$1,200.00) dollars per year, and equates to a wage increase of two (2%) percent.

The health insurance consultant, Mr. Bang, who was advising this committee, testified that he tried to convince the Union not to do this, as they absorbed virtually all the Employer's savings to their own benefit. While the bids resulted in a six (6%) percent or seven (7%) percent premium reduction, the employees reduced their premium contribution by almost sixty (60%) percent to seventy (70%) percent. Mr. Bang testified that the employees did not want to hear his suggestion, and made these changes over his objections. This is another area where the Union has been less than honorable.

The above paragraph and its experience regarding the committee's premium distribution, supports the Employer's contention that the insurance committee should be abolished. The insurance committee has done nothing for the Employer, except cost it more money. Any time changes were made, it was either to increase the Employer's liability (stop-loss) or to reduce the employees' contribution towards the healthcare plan. After the bids were received in April, 2005, the subsequent increases in premiums have been astounding, both eight months later in

January, 2006 and in January, 2007. The committee was reconvened to address an increase in employees' contribution rate, due to the significant increase in premiums the Employer was suffering in 2006. The only thing the committee did, was to raise the employees' contribution rate for a family plan a mere six (\$6.00) dollars per month from forty-eight (\$48.00) dollars to fifty-four (\$54.00) dollars. Hence, the Employer is actually paying approximately one hundred (\$100.00) dollars more per month for employees than it would have if the insurance committee had not existed.

If the insurance committee had not ordered the change in premium, employees would be paying thirteen (13%) percent at the present moment. As a result, the Employer is proposing to a ten (10%) percent premium contribution and a change in the plan. The proposed plan's premium will go down over one hundred (\$100.00) dollars per month and the employees' share, while going up at ten (10%) percent, would end up being less than they were paying in January, 2005.

Since Mr. Bang, a neutral offsite consultant, testified that the committee acted in "very strange ways" and did not handle the insurance situation appropriately, it has been clearly shown that the committee should be abolished. As such, the Employer stands on its original position of: 1) changing the plan as proposed; 2) having the employees contribute ten (10%) percent of the premium; and, 3) the abolition of the insurance committee.

DISCUSSION

Second only to the issue of overtime, healthcare coverage was the most contentious issue considered by the parties during the fact-finding hearing. It is clear from the facts that health care costs for the City, as was the case for overtime, are a major concern. Employer Exh. 46 illustrates the cost increases experienced by the City effective 1/1/2007. The testimony of Kevin Bang, health insurance consultant, was particularly persuasive. He clearly indicated what the City is facing in terms of increased costs if benefit levels and cost sharing remain the same. Because 2007 is complete with regard to health care premiums, recommendations can only reasonably be made prospectively. The Employer's desire to dismantle the health care committee is in stark contrast to its position in 2004. The facts indicate this was an Employer initiated idea, however, one in which the structure eventually belied the intent, according to the Employer. From the experience of the neutral, health care committees can be effective in controlling costs, if they are willing to make the difficult decisions in reducing costs for both the Employer and the employees. According to the Employer, the health care committee took much better care of employees than it did to save the City any costs. The Union disagrees and states the health care committee came up with win-win solutions. The Union accurately points out that the existence of the health care committee was a City proposal that was agreed upon during mediation in 2004 through the able assistance of Harry Graham. In the experience of the fact-finder, properly structured and governed health care committees can be very effective. For example, the state of Ohio has effectively utilized health care committees for several years and has repeatedly

avoided protracted bargaining over this issue. However, a properly re-structured health care committee will take time to conduct its business. In the interim, health care coverage must be provided and the Employer's proposal, based upon comparables, is not an unreasonable solution until a newly structured health care committee can make thoughtful and balanced recommendations. Due to the time of this report, it is unclear whether the Employer has modified its health care plan for 2008. However, the intent of this recommendation is to recommend at a minimum the plan contained in Appendix D of this report. If the 2008 plan represents an improvement, then that plan should be in place January 1, 2008.

RECOMMENDATIONS:

- 1. During the first year of the Agreement, January 1, 2007 through December 31, 2007 the current language and the health care coverage shall remain in place.**
- 2. Effective January 1, 2008 a new Article XXII shall replace the current language and it shall read:**

ARTICLE XXII

HEALTH BENEFITS

22.1 The employer shall provide either individual or family medical insurance at the employee's option for each full-time employee (see Appendix D for plan).

22.2 Effective January 1, 2008 and through the duration of this agreement, employee(s) participating within either an individual or family plan shall contribute an amount equal to ten percent (10%) of the plan premium or expected costs of such medical and vision plan and the Employer shall contribute ninety percent (90%) of such costs. The employee contribution shall be withheld via payroll deduction not later than the first pay period each month.

22.3 The City will offer a PPO plan that provides for annual deductibles, co-pays, and co-insurance as set forth in the City's Plan design for 2008 provided said plan contains deductibles, co-pays, co-insurance benefits that are no less than those contained in Appendix D.

22.4 Employees shall participate in the AFSCME Benefit Plan at the present level of benefits.

**Vision – Option Plan #1 (vision plan which was in effect August 1, 1994
Vision – Option Plan #2 (vision plan similar to that offered through Union Eye Care)**

22.5 Expected cost of premium is defined as the cost of all medical, hospital, prescription drug and related fees including, but not limited to, administrative fees.

22.6 The Employer reserves the right to establish plans, enrollment periods and regulations.

22.7 All changes affecting the plan, providers' enrollment periods, regulations shall be considered and subject to recommendation by the health care committee in accordance with Section 22.10.

22.8 All employees shall receive twenty-five thousand (\$25,000) dollars in group term life insurance, paid for by the Employer.

22.9 The City shall cause to be implemented the current Health Care Plan as a qualified Plan under Section 125 of the Internal Revenue Code.

22.10 Effective January 1, 2008 a new health care advisory team (HCAAT) shall be formed and shall meet for the purpose of creating or revising the current health care coverage/plans for employees of the City. The HCAAT shall consist of 16 employees who must be selected from the following employee groups:

One (1) employee from Corrections, One (1) employee from Dispatch, Two (2) employees from Clerical/Technical, two (2) employees from Service, two (2) employees from Fire, Two (2) employees from Police, two (2) employees from NOMBL, two (2) non bargaining unit employees, and two (2) employees from Administration. The Employer shall provide advisors or facilitators to assist the HCAAT regarding health care.

The HCAAT shall be required to review the City's current health care plans for medical, dental, and vision benefits, and shall recommend to the City Council new or revised plans that are competitive in the health care market, and that will achieve the goals of promoting cost containment within the plan and minimize premium contributions by employees. In fulfilling its mission, the HCAAT shall consider office co pays, prescription drug rates, deductibles, maximum out of pocket costs, wellness programs, and such other plan attributes and other related matters that will achieve the goals set forth above.

Within six (6) months following its first meeting, the HCAAT shall vote to recommend proposed new or revised health care plans that meet the goals set forth above. If a majority of all members of the HCAAT approve such recommendation it shall be forwarded to City Council for its

approval. City Council shall retain the final authority to act on the HCAT's recommendations.

ISSUE 14: ARTICLE XXXVII: SAFE MINIMUM STAFFING

Union Position

The Safe Minimum Staffing committee was one of the provisions that was agreed to during mediation before Fact-finder Graham, which preceded the hearing for the 2004-06 CBA. That committee was agreed to under the direction of Dr. Graham, and when both parties were represented by counsel. In the language that was agreed upon, the committee consists of seven members, 3 representatives of the IAFF and 4 representatives of management. The committee was to begin meeting within 60 days following the signing of the CBA and meet monthly thereafter until completion. The goal of the committee was to develop an implementation plan on how to raise the daily minimum safe staffing levels of line personnel and to attempt to implement such plan as soon as possible. City Exhibit 63 shows that the committee began meeting in February, 2005, after the CBA was executed. Meetings were then held approximately every month thereafter until August, 2006, when the City stopped meeting and negotiations for the current CBA began.

When the current negotiations began, the City proposed to eliminate the committee, and unilaterally refused to continue attending the meetings. Even though the committee had only been meeting for approximately 1 ½ years, it had not been successful in developing an implementation plan on how to raise the daily minimum Safe Staffing Levels of line personnel.

At the present time, the need to maintain the language in the CBA still exists. There is much talk on the issue of regionalism. At the present time, there is a study being conducted at Cleveland State University with respect to regionalism as it pertains to fire departments in this area. As indicated during the hearing, the Union does not object to putting future meetings on hold, pending the outcome of that study. However, the Union does object to deleting the committee from the CBA because, once the study is completed, there may be reason for the Safe Minimum Staffing Committee to begin meeting again.

Accordingly, the Union requests that the language be maintained with the understanding that future meeting will be placed on hold pending the outcome of the CSU study.

Employer Position

This is another provision in the CBA, which the Union uses to try and tie the Employer's hands from operating the Department in an efficient manner. It also demonstrates how disingenuous and restrictive the Union is in regarding its dealing with the Employer. The Employer submitted a memorandum from the Safety Director, to the Union's President (Employer Ex. 62) wherein the Safety Director complained that nothing was being accomplished by the committee. Due to the illness of the Assistant Fire Chief, nothing was going to occur and

requested the Union to allow the Employer to make a reasonable substitute appointment. This, the Union refused to do. It should be obvious to the Fact Finder that the Union is being totally disingenuous when it and its counsel stated numerous times during the fact-finding hearing, "that all the Employer has to do is approach us (Union) and we will try to work things out." "We just want to negotiate over the matter."

The net effect is, this Union never changes or agrees to anything that is beneficial to the Employer. Its responses are, "well, we cannot change the contract now," "you'll have to change the contract during the negotiations," "we think the contract is okay the way it is," and nothing happens. Employer Exhibit 62 is the number one example of the Union's position regarding making any changes at any time. All the Employer wanted to do was to substitute a different person so there would be a full committee, but the Union refused.

Not only is the Union disingenuous in this matter, but there are no other cities in this area that have a "safe staffing minimum" committee and, based on that alone, this committee should be abolished.

DISCUSSION

The evidence demonstrates that the matter of regionalism is under study by Cleveland State University. Moreover, the language has only been in the Agreement since the last round of negotiations and was agreed upon under the able direction of Harry Graham. The facts do not support a change at this time.

RECOMMENDATIONS:

Current language to be maintained. (see Appendix C)

ISSUE 15, 16, 17, 18:

ARTICLE XXI: SUCCESSORS
ARTICLE XXXVIII: DURATION OF AGREEMENT
ARTICLE : TOTAL AGREEMENT
ARTICLE : OBLIGATION TO NEGOTIATE

Union Position

During the last two sets of negotiations, the parties proceeded to Fact-finding on a variety of issues, all of which were economic. City Exhibit 6 is the Findings and Recommendations

from Fact-Finder James Mancini, which preceded the 2002-2003 CBA. City Exhibit 7 is the Finding and Recommendations from Fact-Finder Harry Graham for the 2004-2006 CBA. Reviewing both Recommendations, it is clear that, while the parties did not reach an agreement, the primary issues addressed were economic.

These negotiations have been substantively different in that the City has attempted, unsuccessfully, to change numerous policies and provisions regarding overtime, call back and other issues without negotiations. In all five cases, the union has proceeded to arbitration and has won. (See Arbitration Awards of Jonathan Klein, Stephen Hayford, Carrie Donald, James Ferree and Alan Miles Ruben; Union Exhibits 2-6 in Binder 2). The City has appealed the Klein Award, the Hayford Award and the Donald Award to Court and those appeals are pending.

This demonstrates two things. First, the City has tried, unsuccessfully, to unilaterally change a number of policies and procedures and has been unsuccessful in this attempt. Second, the City has been frustrated with the Union's ability to enforce its rights through the grievance and arbitration procedure.

Rather than deal directly with the issues addressed in these cases, the City has attempted to change the language in the CBA upon which the Union relied in successfully arbitrating these various issues. The City should not be successful in this attempt. In addition, there are six specific issues raised in the language above. Some are critical to the Union's ability to continue to defend its rights and some are less critical.

Article XXI, Successors, has been in the CBA for many, many years. The City claims that it is unenforceable. During the Fact-finding hearing, the City's attorney stated that he would provide the Union's attorney with the specific section of the Ohio Revised Code which he was referring. As of the filing of this brief, he has failed in fulfilling this obligation. It appears, however, that the only possible provision is Chapter 4113, Section 4113.30 of the O.R.C. (statute attached). If that is the statute referenced by the City's attorney, it states very clearly in Section (D) (1) that the entire provision does not apply to any public employer. The Union's attorney was unable to find any other possible reference in the Ohio Revised Code which would address the legality of the Article on Successors.

Attached hereto is a copy *City of Salem*, Case Number 05-ULP-08-0435 (ALJ PO 7-21-06), *Aff'd w/o op.* (SERB 9-28-06). In that case, the employer attempted to unilaterally repudiate the terms of the collective bargaining agreement with the firefighters and to abolish the bargaining unit in order to create a joint fire district with a neighboring township. SERB held this to be an unfair labor practice because, while the City has the statutory authority to join with its neighboring township in the creation of a joint fire district, it did not have the authority to unilaterally implement that decision, abolish the current fire department and terminate its bargaining relationship with its Union.

Under the *Salem* decision, it is clear that any modifications in a bargaining relationship must be negotiated with the Union. The current language in Article XXI merely reinforces this. In the language, the CBA is to be binding upon successors and assigns. Under the *Salem* decision, this means that the City could not repudiate the CBA but must address modifications in

the wages, hours and terms and other conditions of employment directly with the Union. Normally, if an employer wants a Union to bargain away certain rights, it must negotiate this. In this case, there is no offer to negotiate the language.

In addition, if the City is correct that the language is unenforceable, the new language titled Conformity to Law, will address this. (See Conformity to Law Tentative Agreement, Union Exhibit 2). As such, the City's attempt to delete the Successors Article should be rejected.

The Duration Article encompasses a number of things. First and foremost is the Union's request for a three year CBA, and the City's request for a one year CBA. This issue has previously been addressed and will not be repeated here. With respect to the language in the Duration Article, the Union proposes no change. The City proposes the elimination of Section 42.2 which guarantees that, for the duration of the Agreement, all wages, benefits and working conditions shall stay in effect as presently covered under the Agreement unless changed in accordance with Article XXXI. Under Article XXXI, the parties agreed to continue in full force and effect all the terms and conditions of the CBA and to bargain in good faith for a successors CBA. The City, on the other hand, wants to unilaterally modify any condition without negotiations.

The five arbitrations decisions contained in Binder 2 are evidence that these are not hypothetical threats. This Union has struggled, albeit successfully, to defend its rights and the rights of its membership to be treated fairly. If this Fact-finder eliminates Section 42.2, these struggles will have been in vein. The City, which has walked all over the rights of this Union repeatedly, will not only continue to do so, but will do so with even more vigor.

For the same reasons, the addition of Section 42.3, as proposed by the City, would be fatal to all five arbitration decisions, three of which have been appealed by the City to the Court of Common Pleas. Issues of overtime, call-back and scheduling should be negotiated directly with the Union. The City should not refuse to address the issues directly, and then try to convince a Fact-finder to add language which negates all prior agreements.

The same result would be reached if the Fact-finder recommended the inclusion of the City's proposed Section 41.1, Total Agreement. That language would allow the City to negate any rule, regulation, benefit or practice previously and presently in effect and to modify and discontinue, at its sole discretion, any rule, regulation, benefit and practice without being subject to the grievance or appeal procedure. This includes all mandatory subjects of bargaining, including unilateral changes in wages, hours and working conditions.

This employer has shown clear intent to do just that. Inclusion of this new language would render all five of the Union's prior arbitral victories to be hollow. It would take a bad relationship and devastate it because, not only would the employer take away any semblance of dignity from the Union, it would do it with pride. This should not be allowed to occur.

The City's proposed Obligation to Negotiate is not nearly so bad. In fact, the Union's proposal entitled Prevailing Rights has comparable language. The proposed language would not negate any of the five victories won by the Union or future victories, should the City decide to

unilaterally change a policy or practice. The proposed Obligation to Negotiate language stands in stark contrast to the devastation which would occur if the Fact-Finder recommended Total Agreement, the elimination of Section 42.2 under Duration or the new proposed language under 42.3.

The Union respectfully requests that Article XXI Successors be maintained without change; Article 42, Duration, be modified to reflect a three year agreement (January 1, 2007 through December 31, 2009); Section 42.2 be maintained; proposed new Section 42.3 be rejected; and proposed Article 43, Total Agreement, be rejected. If that is provided, and only if that is provided, the Union would not object to the inclusion of the Obligation to Negotiate Article.

Employer Position

Article XLII – “Duration”: The Employer originally proposed a one (1) year agreement. It has now become apparent, due to the lateness of these proceedings, that a one (1) year contract is unrealistic. Hence, the Employer is modifying its position to a two (2) year agreement. This agreement should run from January 1, 2007 to December 31, 2008. The Union proposes a three (3) year agreement. The City believes a two (2) year agreement is now appropriate, as its financial future is undecided given the Ford problems and the very real possibility that the Ford complex may be closed.

Aside from the effective date of the CBA, the major changes proposed relate to the deletion of 42.2, which, in essence, is a “prevailing right past practice” clause and a substitution of a new 42.3, which voids all memorandums and understandings that were previously entered into between the Association and any Fire Chief, Safety Director or Mayor, or any other employee prior to the beginning of this CBA, unless re-signed by the Mayor.

As the Fact Finder heard during the hearing, previous chiefs have entered into policies and procedures with the Union. These policies vary from the one existing chief signed regarding the definition of emergency overtime, to provisions about when additional employees will be called in for overtime when there are ambulance runs. For example, one (1) policy states that if employees are out on a run for more than an hour or an hour and one-half and the minimum number of employees is down from ten (10) to seven (7), the Employer must call employees in on overtime to fill in while the ambulance is out of the station. The net effect of this rule is that in most occasions, by the time the Employer calls someone in, the employees are on their way back from their call. As a result, the Employer now pays three (3) individuals, two (2) hours of overtime at the forty (40) hour rate for doing nothing except walking through the front door. The Employer attempted to eliminate or modify this requirement. Even though this requirement is not mentioned anywhere in the CBA, the Union grieved it. The Union won the grievance based on “past practice” and its “prevailing rights” clause. The Fact Finder may recall the undersigned pointing this out during the hearing and its excessive cost in overtime. Mr. Boatman stated it only costs fifty thousand (\$50,000.00) dollars per year, which to Mr. Boatman appears to be nothing. In using Mr. Boatman’s calculations, the Employer could save fifty thousand (\$50,000.00) dollars if it changed its policy, but it has been prohibited from doing so, due to the

Union's aggressiveness and the language presently contained in the CBA relating to past practices, etc.

Accordingly, the Employer has made its proposal to void all of these memos. This is a fundamental necessity to the Employer ever regaining control of this Fire Department. The Employer submitted a fact-finding report from Summit County Children Services where the instant Fact Finder found the language in the CBA was prohibiting the Employer from being efficient and ordered the inclusion of several articles proposed by the Employer. (Employer Ex. 66) The Employer's Exhibit 64, a fact-finding report from James Mancini with the Summit County Children Services, recommends a cancellation of all previously entered into memos and agreements by the executive director that were not ratified or approved by the Board. This was done because he realized that the Employer was being prohibited from making reasonable changes in the operation of its business. Hence, it is absolutely crucial that this proposal of the Employer be awarded in this particular area. Making these changes, when coupled with changes proposed in Total Agreement, will eliminate the outrageous restrictions presently being placed on the Employer and allow it to efficiently run the Fire Department.

This is not to say that the Union is without recourse. The CBA, even with the changes proposed by the Employer, still has a very pro labor collective bargaining agreement. Virtually all the practices, procedures and benefits have been detailed throughout the articles in this Agreement. Lastly, there are no contracts in the surrounding area that have the "prevailing rights" clauses and "past practices" clause to the extent of this CBA. As such, this proposal should clearly be awarded to the Employer.

The Union proposes a three (3) year agreement. The City believes a two (2) year agreement is now appropriate, as its financial future is undecided given the Ford problems and the very real possibility that the Ford complex may be closed.

Article - "Total Agreement": The Employer stands on its proposal regarding Total Agreement, as it proposed in its position statement. It should be clear from the testimony regarding the various arbitration decisions the Employer has lost, the Employer is unable to affect any meaningful changes in the Fire Department. It has been clearly demonstrated that this section has to be included in the CBA.

While the Union makes a big deal over how it will limit its rights, all it will do is stop the Union from stopping the Employer from running its operation in an efficient manner. As the Fact Finder stated in Employer Exhibit 66, at page 28, "The language proposed by the Employer is language common in CBAs, both in the public and private sectors." This is entirely accurate. In fact, this exact language is contained in numerous other cities in the area. It is included in the labor contracts in Bay Village, North Ridgeville, Fairview Park and Westlake. (Employer Ex. 65) It is tentatively agreed to between AFSCME for its contract between itself and the Employer for the Service and the Clerical Departments. (Employer Ex. 69) Therefore, the Employer believes it has proved this provision should be included in the new CBA.

Article "Obligation to Negotiate": The Employer stands on its proposal regarding "obligation to negotiate" for all the reasons cited under the previous "duration" article, as it

relates to “prevailing rights” and “total agreement” articles. In addition, a review of Employer Exhibits 68 and 69, will show that there is an Obligation to Negotiate clause in Bay Village, Fairview Park, Westlake, Lakewood, North Ridgeville contracts and has been tentatively agreed to by AFSCME representing the largest group of North Olmsted City employees.

DISCUSSION

Successors: The article on Successors has remained in the Agreement for several contract periods. The Employer argues it is unenforceable and therefore should be deleted. The Union vehemently disagrees with the Employer over this point. There is insufficient data to justify undoing years of bargaining history concerning this issue. Although there is little comparative data demonstrating the commonplace existence of such a provision, the Union's reference to the City of Salem case (see Appendix A, p. 40) and SERB's ruling is sufficient. The legality of this should be resolved in another forum.

Duration: The parties have had a history of bargaining of negotiating agreements that have been multi-year contracts, with the majority running for three (3) years (see Union Exh. 9 through 16). The instant round of negotiations has occupied most of what would have been the first year of the Agreement. Yet, what sets this round of negotiations apart from the others is the apparent lack of serious engagement by the parties in negotiations. In addition, there are many unresolved matters which the parties need to address, and there is economic uncertainty on the horizon with the projected closure of auto plants in 2009. Therefore, a recommendation for a two (2) year agreement is being proposed. The Employer's proposal to alter the language contained in Section 42.2 is an attempt to gain more operational control, which is not an unreasonable or unusual request. Parties should enter into a contract with a full awareness of its terms and its limits.

Total Agreement and Obligation to Negotiate: The Employer's proposal represents standard language that is common in collective bargaining agreements. However, it is notably absent from the internal comparables (the FOP Police Officers and Patrolmen's collective bargaining agreements, the FOP Corrections Officers collective bargaining agreement, the OPBA Dispatchers bargaining unit collective bargaining agreement, and from units represented by AFSCME). The Employer's argument to place it in the Firefighter's unit would have been more persuasive if these important comparables reflected the same language.

RECOMMENDATIONS:

ARTICLE XXI: SUCCESSORS

Current language shall be maintained. (see Appendix C)

ARTICLE XXXVIII: DURATION OF AGREEMENT

42.1 This Agreement shall be effective January 1, 2007 and shall remain in full force and effect until December 31, 2008, and it shall automatically be renewed from year to year thereafter, unless either party shall have notified the other in writing in accordance with Article XXXI.

42.2 All letters of understanding, memorandums of understanding, policies, and agreements previously entered into between the Association and the Fire Chief, Safety Director, Mayor or any other employee of the Employer prior to November 1, 2006, unless resigned by the Mayor prior to December 31, 2006, expire on December 31, 2006 and are null and void.

ARTICLE : TOTAL AGREEMENT

No new language

ARTICLE : OBLIGATION TO NEGOTIATE

No new language

Appendix A

FAULKNER, MUSKOVITZ & PHILLIPS, LLP

ATTORNEYS AT LAW

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SUSANNAH MUSKOVITZ

E-Mail: Muskovitz@fmplaw.com

April 16, 2004

VIA FACSIMILE (330) 676-1199

Robert G. Stein
265 West Main Street, Suite 102
Kent, Ohio 44240

RE: North Olmsted Firefighters, IAFF Local 1267
and City of North Olmsted
SERB Case No. 06-MED-09-0918

Dear Mr. Stein:

Please accept this letter as the Pre-Hearing Statement of the International Association of Fire Fighters, IAFF Local 1267, AFL-CIO, pursuant to ORC Section 4117.14(C) (3) (a) and O.A.C. Section 4117-9-05 (F).

1. The Party is the International Association of Fire Fighters, IAFF Local 1267, AFL-CIO. I am the Union's principle representative. My address and phone number are listed above.
2. The bargaining unit consists of all full-time Firefighters, Lieutenants, and Captains on the North Olmsted Fire Department. There are approximately forty-five (45) members of the bargaining unit.
3. A copy of the current collective bargaining agreement will be provided to you during the Fact Finding Hearing.
4. Attached hereto is a statement defining all unresolved issues and summarizing the position of the Union with regard to each unresolved issue. The Union's position on any issue which is not listed is either (1) that the language should be consistent with the tentative agreements reached or (2) that the language should remain unchanged from the current collective bargaining agreement.

In addition, the Union is requesting that all tentative agreements reached be incorporated into your Recommended Award by reference. That way, when the parties vote on the Recommended Award, they will be voting on the entire package, including the tentative agreements. A copy of those tentative agreements will be provided during the fact finding hearing.

Brotherhood of Railroad Trainmen Building



FAULKNER, MUSKOVITZ & PHILLIPS, LLP

Robert G. Stein
April 16, 2007
Page 2

If you have any questions regarding the above, please let me know. If not, I will see you on April 18, 2007 beginning at 10:00 a.m.

Very truly yours,

FAULKNER, MUSKOVITZ & PHILLIPS, LLP

Susannah Muskovitz

SM:lmk/11419

cc: Gary C. Johnson, Esq. (via facsimile)
David Boatman, President, North Olmsted Firefighters, Local 1267

NORTH OLMSTED FIREFIGHTERS, IAFF LOCAL 1267
AND CITY OF NORTH OLMSTED
SERB CASE NO. 06-MED-09-0918

UNION'S POSITION AT FACT-FINDING

1. Flex time for staff personnel – The Union proposes that staff personnel, who work 40 hours per week, to be able to flex their time so that their schedule can be an average of 40 hours per week, or 80 hours every two (2) weeks. For specific language changes, see Article I, Basic Hourly Rate of Pay for Staff Personnel, Overtime, Staff Personnel; Article XXIV, Hours of Work, Section 24.2 (attached).
2. Uniform Allowance – Increase uniform allowance from \$1,250.00 to \$1,500.00 retroactive to January 1, 2007. See Article XI (attached).
3. Holidays – Prorate holidays for employees who are hired or separate from employment during the year, on an equitable basis. See Article XII, Section 12.1 (attached).
4. Holidays – Allow staff personnel to change 5 of their holidays to floating holidays. Add language addressing what happens when a holiday falls on a day the staff personnel employee is not scheduled to work. See Article XII, Section 12.6 (attached).
5. Vacation – Make clerical changes to Article XIII, Sections 13.9(A)(6) and (C)(1) (attached).
6. Sick Leave – Remove the cap from the sick leave paid to employees upon disability, retirement or death. See Article XIV, Section 14.3 (attached).
7. Sick Leave – Remove the cap from the sick leave bank and the amount of sick leave employees may contribute to the sick leave bank. See Article XIV, Section 14.8 (attached).
8. Work Related Illness/Injury – The Union believes that the parties have a tentative agreement on modifications to Article XVI, Section 16.1(a) (attached). However, the parties have not signed the agreement, so in the event the City disagrees that there is a tentative agreement, the language is presented as an open issue.
9. Salaries – The Union proposes a 5% increase each year, effective January 1, 2007, 2008 and 2008. See Article XVII, Section 17.2 (attached).

10. Fire Prevention Premium – The Union proposes an increase from \$1,200.00 to \$2,500.00, effective January 1, 2007. See Article XVII, Section 17.3 (attached).
11. OIC Pay – The Union proposes language that requires an officer or acting officer to be assigned to each squad or engine/ladder at each station. In addition, the Union proposes that if the OIC is not paid at the 40 hour rate, that the OIC be paid at the wage rate of the higher classification. See Article XVII, Section 17.4 (attached).
12. Paramedic Pay – The Union proposes a modification from \$1,400.00 to 3.25% of the salary of a Fire Fighter 5th year. See Article XVIII, Section 18.1 (attached).
13. Safe Minimum Staffing – The Union proposes a specific appropriation for an independent risk assessment to assist the Safe Minimum Staffing committee in developing and implementing a plan on raising the daily minimum safe staffing levels. See Article XXXVII (attached).
14. Duration – The Union proposes a three (3) year contract, retroactive to January 1, 2007, expiring December 31, 2009. See Article XXXVIII, Section 38.1 (attached).
15. Prevailing Rights – The Union proposes a new article entitled Prevailing Rights (attached).

ARTICLE I

DEFINITIONS

In this agreement, whenever the contents indicate, the singular or plural number and the masculine, feminine or neuter gender, shall be deemed to include the other, the terms "he", "his" and "him" shall refer to an Employee (as herein defined), and the capitalized terms shall have the following meanings:

Agreement: This agreement including all amendments thereto.

Aggrieved Party: Any Employee or Employees within the Association filing a grievance.

Association: Local 1267 I.A.F.F.

Basic Hourly Rate of Pay for Line Personnel: For personnel that work a 51.7 hour work week, that rate of pay equal to the total annual salary of an Employee divided by 2688.4 hours. Effective January 1, 2003 for personnel that work a 50.4 hour work week, that rate of pay equal to the total annual salary of an Employee divided by 2620.8 hours.

Basic Hourly rate of Pay for Staff Personnel: For personnel that work ~~2080~~^{now} 40 hours work per week, that rate of pay equal to the total annual salary of an Employee divided by 2080 hours.

Board of Health: The Cuyahoga County Board of Health.

Call Back: The time an Employee is called back to work and which is commonly understood by the Employer and the Association as call back time.

Captain: An individual having the rank of Captain in the Fire Department.

<u>Civil Service Commission:</u>	The Civil Service Commission as is commonly recognized in the City of North Olmsted, State of Ohio.
<u>Civil Service Rules and Regulations:</u>	Rules and regulations as outlined by the Civil Service Commission from time to time.
<u>Compensatory Time:</u>	Time off in lieu of pay.
<u>Employee:</u>	Any full-time member of the Fire Department occupying the position of Fire Cadet/Paramedic, Fire Fighter, Lieutenant, or Captain.
<u>Employer:</u>	City of North Olmsted, Ohio.
<u>Fair Share Fee:</u>	Fee in lieu of dues, deducted from those full-time Employees of the Fire Department who are not members of the Association.
<u>Fire Cadet/Paramedic:</u>	An individual hired as an Employee of the Fire Department who, at the inception of employment, holds certification as a paramedic from the State of Ohio.
<u>Fire Chief:</u>	The individual having the position of Fire Chief or his designee as appointed from time to time in the Fire Department.
<u>Fire Department:</u>	The City of North Olmsted, Ohio, Fire Department.
<u>Fire Fighter:</u>	A Fire Fighter who has completed one (1) year of service with the City of North Olmsted performing work of this bargaining unit.

2nd year

3rd year

A Fire Fighter who has completed two (2) years of service with the City of North Olmsted performing work of this bargaining unit.

4th year

A Fire Fighter who has completed three (3) years of service with the City of North Olmsted performing work of this bargaining unit.

5th year

A Fire Fighter who has completed four (4) years of service with the City of North Olmsted performing work of this bargaining unit.

Grievance:

A complaint, dispute or controversy arising from an alleged misapplication or misinterpretation of the provisions of this Agreement.

Grievance Procedure:

The procedure outlined in Article VII of this Agreement.

Immediate Family:

In the case of illness, Immediate Family shall be parent; parents of spouse; spouse and children of the Employee as well as other relatives living with the Employee if the Employee is acting as parent or guardian.

Lieutenant:

An individual having the rank of Lieutenant in the Fire Department.

Light Duty:

That work assigned to an Employee during time when an Employee is acting under disability or poor health.

Line Personnel:

Individuals working a 24-hour shift in a 72-hour period who are not Staff Personnel.

Longevity:

Compensation based on continuous loyal service to the Employer. Longevity shall be computed on the

base salary and be: 4% after 5 years of continuous service, 5% after 10 years of continuous service, 6 % after 15 years of continuous service, 7% after 20 years of continuous service.

Normal Work Schedule:

One (1) twenty-four (24) consecutive hour shift followed by forty-eight (48) hours off duty, However, for reasons of shift transfer, training, Light Duty or emergency disaster, the Fire Chief may change an Employee's work shifts to meet the Employer's needs that are affected by a shift transfer, training, Light Duty or emergency disaster.

Overtime:

Any time worked in excess of forty (40) hours per week ~~or in excess of the daily work schedule agreed to by the Employee and the Employer for Staff Personnel or as specified in Article X.~~ or in excess of the daily work schedule agreed to by the Employee and the Employer for Staff Personnel or as specified in Article X. In the case of Line Personnel, any time worked in excess of twenty-four hours in a seventy-two hour period or as specified in Article X.

Overtime Rate of Pay:

The rate of pay equal to one and one-half (1-1/2) times the Basic Hourly Rate of Pay including Longevity compensation if applicable. During the year 2002, overtime rate of pay only shall be calculated by dividing the annual rate by 2080 hours. Effective January 1, 2003, overtime is to be calculated based upon a 50.4 hour work week except for emergency call-ins and emergency hold-overs which shall be paid at the 40 hour rate.

Paramedic Certification:

That certification as awarded by the State of Ohio in accordance with the Ohio Revised Code.

Safety Director:

The individual occupying the position of Safety Director of the Employer from time to time.

Seniority:

A position determined by continuous service in the North Olmsted Fire Department from the date of employment. Continuous service shall be broken only in resignation, discharge, retirement, or leave of absence for personal reasons. Employees with the same employment date shall be assigned seniority in the order of their ranking on the Civil Service eligibility list.

Shift Captain:

The individual designated as such or his designee.

Staff Personnel:

Staff Personnel permanently assigned to an average forty (40) hour week and understood to be such personnel by the Employer and the Association. Individuals assigned to light duty are not considered to be permanently assigned to a forty (40) hour work week.

State Employment Relations Board:

The State Employment Relations Board of the State of Ohio.

Treasurer:

The individual occupying the position of Treasurer of the Association from time to time.

Week:

Sunday through Saturday

ARTICLE XXIV

HOURS OF WORK

- 24.1 Beginning January 1, 1993 and continuing through December 31, 2002, the basic work week for Employees assigned to platoon duty shall be an average of 51.7 hours. Beginning January 1, 2003, the basic work week for Line Personnel assigned to platoon duty shall be an average of 50.4 hours.
- 24.2 Employees assigned to Fire Prevention duty shall work ~~_____ of forty hours per week per _____~~
- 24.3 Twenty-four hour shifts shall commence at 0800 hours in accordance with the Normal Work Schedule.
- 24.4 In order to facilitate the work week of 51.7 hours effective January 1, 1993, Employees shall be entitled to additional time off with pay, known as Kelley Days. All Kelley Days shall be taken during the year of entitlement, shall not accrue from year to year, and shall be selected by the Employer. In order to facilitate the work week of 50.4 hours effective January 1, 2003, Line Personnel shall be entitled to additional time off with pay, known as Kelley Days. All Kelley Days shall be taken during the year of entitlement, shall not accrue from year to year, and shall be selected by the Employer.
- 24.5 The Employer shall annually provide each Employee with a thirteen (13) shift cycle schedule commencing on January 1, 1993, and indicate the thirteen (13) shift cycles in which the Employer has scheduled his Kelley Days.
- 24.6 The Employer shall annually provide each Employee with a ten (10) shift cycle schedule commencing on January 1, 2003, and indicate the ten (10) shift cycles in which the Employer has scheduled his Kelley Days.
- 24.7 To alleviate scheduling problems, Kelley Days shall be taken as scheduled. Kelley Days shall be scheduled by January 1 of each year, and shall not be rescheduled for any reason without approval of the Fire Chief.

- 24.8 Any change in shift assignment other than for Light Duty shall, except in an emergency, require the Chief to provide seven (7) days written notice to any affected employee indicating the beginning and expected end, if any, of such change.
- 24.9 Employees shall have the right to exchange hours when, in the opinion of the Shift Officer, such changes do not interfere with Fire Department operations. All such changes are subject to the approval of the Fire Chief or his designee. No Overtime shall be allowed and no additional cost is to be incurred by the Employer due to such changes unless shift change was approved prior to any class being scheduled.

ARTICLE XI

UNIFORM ALLOWANCE

- 11.1 All Employees shall maintain duty and dress uniforms as mandated by the Rules and Regulations.
- 11.2 All Fire Cadet/Paramedics, immediately upon appointment, shall be provided two (2) duty uniforms, one uniform cap, one (1) universal squad jacket and one (1) white shirt. All clothing provided and/or clothing allowance paid shall be surrendered to the Employer in the event the Employee fails to complete the probationary period.
- 11.3 Each Employee shall receive an annual cash uniform allowance in the amount of ~~\$1,250.00~~ **\$1,500.00**. Such allowance shall be paid in the Employee's first paycheck of January each year providing they have twelve (12) months of service. Employees with less than twelve (12) months of service shall have such amount prorated.
- 11.4 Clothing allowance shall be prorated per month in the Employee's final year of employment.

ARTICLE XII

HOLIDAYS

12.1 On January 1st of each year, Employees shall be entitled to seven, twenty-four hour Holidays plus 1 (one) additional 24 (twenty-four) hour Personal day to be used at the Employees discretion. The Personal day shall be subject to approval of the Fire Chief or his designee and shall be made in accordance with the rules governing any other time off request under the Holiday provision. However, should an Employee retire or otherwise terminate employment for any reason other than death or disability, Holidays shall be prorated for the year, and any Holidays taken beyond the prorated allowance will be debited from amounts due said Employee which are related to wages.

Employees hired on or between the following dates shall be entitled to that number of Holidays as specified below during their first year of employment.

January 1 through February 19	entitled to 7 Holidays
February 20 through April 12	entitled to 6 Holidays
April 13 through June 3	entitled to 5 Holidays
June 4 through July 25	entitled to 4 Holidays
July 26 through September 26	entitled to 3 Holidays
September 27 through November 18	entitled to 2 Holidays
November 19 through December 31	entitled to 1 Holidays

Employees that separate from employment, except for death or disability, on or between the following dates shall be entitled to that number of Holidays as specified below during their last year of employment.

January 1 through February 19	entitled to 1 Holidays
February 20 through April 12	entitled to 2 Holidays
April 13 through June 3	entitled to 3 Holidays
June 4 through July 25	entitled to 4 Holidays
July 26 through September 26	entitled to 5 Holidays
September 27 through November 18	entitled to 6 Holidays
November 19 through December 31	entitled to 7 Holidays

12.2 Selection of Holidays shall be made by the Employee and be subject to the approval of the Fire Chief or his designee.

- 12.3 Employees shall be permitted to select Holidays so in the sole opinion of the Fire Chief, the Fire Department will be appropriately staffed to protect the City of North Olmsted.
- 12.4 Holidays may be selected at any time prior to the desired date. However, such selection shall not be approved more than three months prior to the selected date. In the event more requests are submitted for a specific day than the schedule can accommodate, an Employee's seniority and selection date shall be the deciding factor.
- 12.5 Each Employee who works a shift beginning at 0800 hours on New Year's Day, President's Day, Good Friday, Easter, Memorial Day, Fourth of July, Labor Day, Veteran's Day, Thanksgiving, and Christmas shall be compensated at time and a half pay plus longevity if applicable for all hours worked. All comp time will be paid at the Basic Hourly Rate of Pay for Line Personnel plus longevity if applicable.
- 12.6 Staff Personnel shall be entitled to **6 floating personal use days** and the following Holidays: New Year's Day, ~~President's Day, Good Friday,~~ Memorial Day, Fourth of July, Labor Day, ~~Veteran's Day,~~ Thanksgiving Day, Christmas Day, ~~one-half day Christmas Eve, and one-half day New Year's Eve day, the Employee's Birthday and a floating personal use day.~~ In the event a holiday falls on a day a employee is not scheduled to work, the employee shall then be entitled to take off either the previous regularly scheduled work day or the next regularly scheduled day at the employees discretion. *If holiday falls on Saturday then holiday is celebrated on previously scheduled workday*
- 12.7 The Fire Chief or his designee shall have the right to cancel a Holiday in the event of an emergency situation. An Employee shall have the right to cancel any Holidays no later than sixty (60) hours prior to the scheduled Holiday, except as described in Section 12.10.
- 12.8 Seniority shall prevail on Holiday requests first by rank, then by date of promotion, then by years of service:
- A. On the same day.
- B. All requests prior to three months of the date selected shall be considered same day requests.
- 12.9 Selection date shall apply to those requests submitted between scheduled shifts within three months of the selected day.

- 12.10 In the event an Employee is off duty due to an on-duty injury, or illness of more than five shifts, he shall be permitted to cancel any Holiday previously scheduled during that time.
- 12.11 All requests for Holidays shall be acted upon before the end of the shift on which they are submitted, except as in Section 12.4. This applies to request received prior to 1400 hours.

ARTICLE XIII

VACATION SCHEDULE

13.1 All Line Personnel of the Fire Department shall receive a vacation at the Basic Hourly Rate of Pay plus Longevity, provided that they have been employed for at least one year. The amount of vacation time earned shall be as follows:

<u>Length of Service</u>	<u>Shifts</u>	<u>Year of Employment _____ to be taken</u>
After one (1) year	Five (5)	Second (2 nd)
After two (2) years	Five (5)	Third (3 rd)
After three (3) years	Five (5)	Fourth (4 th)
After four (4) years	Five (5)	Fifth (5 th)
After five (5) years	Seven (7)	Sixth (6 th)
After six (6) years	Seven (7)	Seventh (7 th)
After seven (7) years	Seven (7)	Eighth (8 th)
After eight (8) years	Seven (7)	Ninth (9 th)
After nine (9) years	Seven (7)	Tenth (10 th)
After ten (10) years	Ten (10)	Eleventh (11 th)
After eleven (11) years	Ten (10)	Twelfth (12 th)
After twelve (12) years	Ten (10)	Thirteenth (13 th)
After thirteen (13) years	Ten (10)	Fourteenth (14 th)
After fourteen (14) years	Ten (10)	Fifteenth (15 th)
After fifteen (15) years	Twelve (12)	Sixteenth (16 th)
After sixteen (16) years	Twelve (12)	Seventeenth (17 th)
After seventeen (17) years	Twelve (12)	Eighteenth (18 th)
After eighteen (18) years	Twelve (12)	Nineteenth (19 th)
After nineteen (19) years	Twelve (12)	Twentieth (20 th)
After twenty (20) years	Fifteen (15)	Twenty-first (21 st)
After twenty-one (21) years	Fifteen (15)	Twenty-second (22 nd)
After twenty-two (22) years	Fifteen (15)	Twenty-third (23 rd)
After twenty-three (23) years	Fifteen (15)	Twenty-fourth (24 th)

13.2 All Staff Personnel of the Fire Department shall receive a vacation at the Basic Hourly Rate of Pay plus Longevity, provided that they have been employed for at least one year. The amount of vacation time earned shall be as follows:

<u>Length of Service</u>	<u>Hours</u>	<u>Year of Employment to be taken</u>
After one (1) year	Eighty (80)	Second (2 nd)
After two (2) years	Eighty (80)	Third (3 rd)
After three (3) years	Eighty (80)	Fourth (4 th)
After four (4) years	Eighty (80)	Fifth (5 th)
After five (5) years	One-hundred Twenty (120)	Sixth (6 th)
After six (6) years	One-hundred Twenty (120)	Seventh (7 th)
After seven (7) years	One-hundred Twenty (120)	Eighth (8 th)
After eight (8) years	One-hundred Twenty (120)	Ninth (9 th)
After nine (9) years	One-hundred Twenty (120)	Tenth (10 th)
After ten (10) years	One-hundred sixty (160)	Eleventh (11 th)
After eleven (11) years	One-hundred sixty (160)	Twelfth (12 th)
After twelve (12) years	One-hundred sixty (160)	Thirteenth (13 th)
After thirteen (13) years	One-hundred sixty (160)	Fourteenth (14 th)
After fourteen (14) years	One-hundred sixty (160)	Fifteenth (15 th)
After fifteen (15) years	Two-hundred (200)	Sixteenth (16 th)
After sixteen (16) years	Two-hundred (200)	Seventeenth (17 th)
After seventeen (17) years	Two-hundred (200)	Eighteenth (18 th)
After eighteen (18) years	Two-hundred (200)	Nineteenth (19 th)
After nineteen (19) years	Two-hundred (200)	Twentieth (20 th)
After twenty (20) years	Two-hundred forty (240)	Twenty-first (21 st)
After twenty-one (21) years	Two-hundred forty (240)	Twenty-second (22 nd)
After twenty-two (22) years	Two-hundred forty (240)	Twenty-third (23 rd)
After twenty-three (23) years	Two-hundred forty (240)	Twenty-fourth (24 th)
After twenty-four (24) years	Two-hundred forty (240)	Twenty-fifth (25 th)

13.3 The procedure for the selection of vacation time is described in Section 13.8 below. However, if extenuating circumstances arise the Employee involved may request the Fire Chief or his designee to approve such vacation out of sequence. In situations whereby the Fire Chief or his designee approves or denies vacation out of sequence, such action shall not be subject to the Grievance Procedure.

- 13.4 Employees shall be permitted to cancel scheduled vacation time no later than sixty (60) hours prior to the scheduled time.
- 13.5 In the event of a disaster (as determined by the Fire Chief or his designee) vacations may be cancelled by the Fire Chief or his designee.
- 13.6 Upon retirement or death, an Employee or his estate shall be paid for all accrued vacation, at the Basic Hourly Rate of Pay plus Longevity at the time of such retirement or death.
- 13.7 For Employees hired after January 1, 1996, years of service with another public sector employer shall not be credited for years of service towards vacation time as an Employee of the City of North Olmsted.
- 13.8 Employees shall be permitted to request that earned vacation leave be accumulated in accordance with the provisions in this Section. Employees shall be permitted to request that a portion of vacation leave be accumulated or be paid at their Basic Hourly Rate of Pay plus Longevity. In no event shall an Employee be permitted to accumulate vacation leave or be paid at their Basic Hourly Rate of Pay plus Longevity in excess of one-half the amount of vacation earned in the prior year. Employees who are entitled to an odd number of shifts vacation, and choose to accumulate or be paid in accordance with this Article, shall only be permitted to accumulate or be paid the lesser of one-half (example – an Employee is entitled to 7 shifts, he must use 4 shifts and be eligible to accumulate or be paid for 3 shifts). In no event shall an Employee be permitted to carryover into the subsequent year more vacation than one-half of the vacation earned in the prior year or be paid for more than one-half of the vacation earned in the prior year. In no event shall an Employee be permitted to accumulate a total aggregate vacation leave amount in excess of two (2) times the amount earned in the prior year.
- 13.9 Seniority shall prevail for vacation picks first by rank, then by date of promotion, then by years of service. Employees shall select usage of earned vacation time as follows:
- A. General Rules:
1. Shift Captains shall provide each Employee a selection day assignment by rank and then seniority, no later than October 15th of each year.
 2. Should an Employee be scheduled off duty on his selection date, the Employee shall submit his selection request before his last duty day.

3. Vacation selection shall not bump previously approved vacations; and third round vacation picks shall not bump approved holidays.
4. Each Employee shall have seventy-two (72) hours to complete his selection. Failure to complete his selection within the time frame provided shall cause the Employee to lose his selection and any bumping rights for that portion of the selection procedure.
5. Employees may choose up to two (2) weeks vacation time in the first and second round of vacation selection.
6. Vacation selections shall be made in whole weeks, which may include a Kelley Day except as in 13.89C(2).
7. An Employee may elect to pass on his selection in any round. In doing so, he forfeits selection order and bumping rights for that round.

B. First and second round selection:

1. First round selection shall begin on November 1 of each year.
2. Second round selection shall begin immediately upon completion of the first round.

C. Third round selections:

1. Third round selections shall begin immediately following the completion of the second round of selections as in 13.89A (1) through (4).
2. During the third round of selections individual days may be selected in any order and number up to the limit on the books for the current year.
3. Employees may select usage of accumulated vacation after all his current vacation time has been selected or sold with the approval of the Fire Chief or his designee.

4. An Employee who selects usage of accumulated vacation in accordance with 13.89C(3) shall lose his right to cancel any vacation in that calendar year.

13.10 After the third (3rd) round of vacation selection, any remaining vacation time an employee may have may be selected and approved at any time during the calendar year providing a vacation slot is available.

13.11 In the event that an Employee is off duty due to on-duty injury, or illness of more than five (5) shifts, he shall be permitted to cancel any vacation previously scheduled during that time.

13.12 All requests for vacations shall be acted upon before the end of the shift on which they are submitted, provided they are submitted prior to 1400 hours.

ARTICLE XIV

SICK LEAVE

- 14.1 Sick leave shall be earned in accordance with the Ohio State minimum requirements and accumulation shall be unlimited.
- 14.2 *Line Personnel shall have the option to receive twenty six (26) hours compensatory time or twenty six (26) hours pay at the Basic Hourly Rate of Pay for Line Personnel plus Longevity for each six consecutive months of unused Sick Leave. Staff Personnel shall have the option to receive twenty (20) hours compensatory time or twenty (20) hours pay at the Basic Hourly Rate of Pay for Staff Personnel plus Longevity for each six consecutive months of unused sick leave. Selection of such time off shall be subject to the approval of the Fire Chief or his designee.*
- 14.3 An Employee or his estate shall be paid for unused, accumulated Sick Leave at the time of disability, retirement or death. Payment shall be based upon the Basic Hourly Rate of Pay for his "work week" at the time of disability, retirement or death plus Longevity and the amount shall be ~~one half of the unused Sick Leave with a maximum payment of 1000 hours~~ **unlimited**.
- 14.4 Any Employee who transfers from one department within the City of North Olmsted to another shall be credited with the unused balance of Sick Leave accumulated.
- 14.5 Sick Leave may be taken for any of the following reasons:
- A. Illness or injury to the employee.
 - B. Illness or injury of a member of the Employee's immediate family.
 - C. Medical, dental, or optical examination or treatment of the Employee, where the treatment may not be scheduled during non-working hours.
 - D. Exposure to contagious disease where quarantined by the Board of Health or communicable to other Employees.
 - E. Pregnancy of the Employee where complications exist or childbirth by Employee's spouse.
- 14.6 The Employer shall require an Employee to furnish a standard form identifying the reason for the use of sick leave as per 14.5 and signed by the Employee.
- 14.7 If medical attention is required, the Employee shall be required to furnish a statement from a licensed physician or psychologist notifying the Employer that the Employee was unable to

perform his duties. Any firefighter who is sick or disabled for more than two (2) consecutive tours of duty or forty (40) hour Employee who is sick or disabled for five (5) consecutive working days may be required to secure and submit a physician's release certifying that they are fit to return to work. This release must be submitted to the Employee's Officer in Charge before the Employee will be permitted to return to work.

- 14.8 Employees shall be permitted to contribute sick leave hours to a sick leave bank for use by any Employee who has exhausted all of his own sick leave under the following conditions:
- A. The Sick Leave bank shall have an **unlimited** maximum balance of ~~fifteen hundred (1500)~~ **hours**.
 - B. Employees that have suffered any illness or injury in the scope of their employment and have exhausted the benefits of Article XVI or were not covered by the provisions of Article XVI may draw from the sick leave bank after their own sick leave bank has been exhausted.
 - C. Employees that have suffered any illness or injury to themselves or their immediate family outside of the scope of their employment may draw from the sick leave bank only after the Employee has exhausted all of their own sick leave bank, vacation and holidays.
 - D. Any Employee that contributes sick leave hours to the sick leave bank shall not lose any sick leave bonus as granted by section 14.2.
 - E. ~~Ne~~ Any Employees shall be permitted to contribute ~~more than one hundred (100)~~ **unlimited** sick hours during his term of employment.
 - F. Employees who have used hours from the sick leave bank shall be required to repay the sick leave bank 1 hour for every 2 hours used. Employees shall be required to repay a minimum of 2 hours per pay period. Should an employee not be able to repay the sick leave bank prior to his separation from service then the sick leave bank shall be credited from his separation check. Such requirement of repayment may be waived by a majority vote of the Executive Board of Local 1267, the Chief and Assistant Chief.
- 14.9 The Employer may require any Employee requesting paid sick leave to furnish substantiating evidence or a statement from his/her attending physician certifying that absence from work was required due to one of the reasons set forth in 14.5. Such certification must be presented whenever sick leave is requested for more than two (2) consecutive tours of duty for Employees who work an average of 50.4 hours per week and for five (5) consecutive working days for Employees on a forty (40) hour work week.

ARTICLE XVI

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revised
7/9/07.

WORK RELATED ILLNESS/INJURY

16.1 The parties hereto recognize and agree that the duties of the Employee of the Division of Fire are such that said Employees are exposed to disease and injury as a result of their assigned duties. It is the intention of the parties to provide to said Employees, salary continuation benefits when an Employee contracts an illness as hereinafter specified. Likewise, it is the intention of the parties to provide to said Employee, salary continuation benefits when an Employee is injured while responding to an emergency call, returning from an emergency call, operating at or during an emergency call or training that replicates emergency situations. It is not intended that salary continuation benefits be granted to employees who incur routine injuries in the performance of their duties in non-emergency situations.

16.1(a) In the event that a full time sworn Employee of The North Olmsted Fire Department should become ill due to contact with ^{while on duty} AIDS, Hepatitis, Tuberculosis, ^{or} Meningitis ^{or} ^{equally} ~~and other~~ ^{similar} illnesses, and such illness has so incapacitated the Employee that he temporarily is unable to work, the Fire Chief shall investigate and determine whether the illness is work related and of a temporary nature. The Fire Chief shall then forward his finding to the Safety Director who shall determine the nature and extent of the illness and how contracted, including the circumstances thereof. If after consideration of the totality of the facts, the Safety Director determines that said disease was contracted during employment and is of a temporary nature requiring medical leave, the Safety Director may authorize the full payment of the employees regular salary for a period of ninety days.

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DB with 6-1
12-07

16.1(b) If an Employee is injured while engaged in an emergency response, an injury investigation shall be conducted by the Injury Investigation Committee (The Fire Chief, an individual chosen by the Union and one individual designated by the Safety Director). Said Committee shall investigate the facts and circumstances surrounding said injury and forward a report to the Safety Director. The Safety Director shall determine if the injury is work related and of a temporary nature. The Safety Director shall also determine the nature and extent of the injury and the cause thereof, including the surrounding circumstances. If after consideration of the totality of the facts determined from the investigation report and any independent determination of the Safety Director the Safety Director determines that it is appropriate to award said employee his regular pay he shall so order that payment be made for a period not exceeding ninety days.

16.1(c) If after ninety days either an illness or injury still temporarily incapacitates the employee, the Safety Director shall recommend to Council whether to continue salary. Council shall forthwith review the matter and by a majority vote determine whether the employee shall continue to receive full salary during recuperation.

- 16.2 Any full-time Employee of the Fire Department who qualifies for benefits under this Section shall be required to pay over to the City any amount received from the Bureau of Workers' Compensation as supplemental wages. Further, if at any time the City determines, on the basis of medical evidence, that the Employee is permanently disabled and will no longer be able to carry on his duties, then the City may terminate payments and insist that the Employee go on a pension program.
- 16.3 Any Employee who qualifies for the benefits under this Section shall not have his accumulated sick time reduced because of a qualified accidental injury or illness which occurred while in the line of duty.
- 16.4 In the event an Employee has been injured or exposed to a toxic substance or to an infectious disease in the course or scope of his employment, and is sent to the hospital for testing, treatment, and/or preventive measures, and Worker's Compensation subsequently determines that there was no injury sustained, shall have all bills pertaining to the Employee's testing, treatment, and/or preventive measures be the responsibility of the City of North Olmsted.
- 16.5 Any Employee of the North Olmsted Fire Department who has not qualified for any of the benefits of this article but has sustained an illness/injury in the scope of his employment and used his own sick leave may opt to turn over to the City of North Olmsted any amount received from the Bureau of Worker's Compensation. Any amount turned over to the Employer shall be credited to the Employee's Sick Leave Bank on a dollar for dollar basis.

ARTICLE XVII

SALARIES

17.1 A schedule of salaries shall form a part of, and be subject to, all provisions of this Agreement.

17.2 Salary schedule for Employees:

A. Effective January 1, ~~2004~~ 2007 through December 31, ~~2004~~ 2007

(Represents a ~~0.05~~% increase from ~~2003~~2006)

Cadet/Paramedic – 1 st year	\$43,767.09 Annually	\$1,683.35 Bi-weekly
Fire Fighter – 2 nd year	\$47,247.29 Annually	\$1,817.20 Bi-weekly
Fire Fighter – 3 rd year	\$50,729.68 Annually	\$1,951.14 Bi-weekly
Fire Fighter - 4 th year	\$54,209.88 Annually	\$2,085.00 Bi-weekly
Fire Fighter - 5 th year	\$59,674.20 Annually	\$2,295.16 Bi-weekly
Lieutenant -	\$67,431.85 Annually	\$2,593.53 Bi-weekly
Captain -	\$74,512.20 Annually	\$2,865.85 Bi-weekly

B. Effective January 1, ~~2005~~ 2008 through December 31, ~~2005~~ 2008

(Represents a 4.55% increase from ~~2004~~2007)

Cadet/Paramedic – 1 st year	\$45,955.44 Annually	\$1,767.52 Bi-weekly
Fire Fighter – 2 nd year	\$49,609.65 Annually	\$1,908.06 Bi-weekly
Fire Fighter – 3 rd year	\$53,266.16 Annually	\$2,048.70 Bi-weekly
Fire Fighter - 4 th year	\$56,920.37 Annually	\$2,189.25 Bi-weekly
Fire Fighter - 5 th year	\$62,657.91 Annually	\$2,409.92 Bi-weekly
Lieutenant -	\$70,803.44 Annually	\$2,723.21 Bi-weekly
Captain -	\$78,237.81 Annually	\$3,009.15 Bi-weekly

C. Effective January 1, ~~2006~~ 2009 through December 31, ~~2006~~ 2009

(Represents a 4.55% increase from ~~2005~~2008)

Cadet/Paramedic – 1 st year	\$48,253.21 Annually	\$1,855.89 Bi-weekly
Fire Fighter – 2 nd year	\$52,090.13 Annually	\$2,003.47 Bi-weekly
Fire Fighter – 3 rd year	\$55,929.47 Annually	\$2,151.13 Bi-weekly
Fire Fighter - 4 th year	\$59,766.39 Annually	\$2,298.71 Bi-weekly

Fire Fighter - 5 th year	\$65,790.81 Annually	\$2,530.42 Bi-weekly
Lieutenant -	\$74,343.61 Annually	\$2,859.37 Bi-weekly
Captain -	\$82,149.70 Annually	\$3,159.60 Bi-weekly

- 17.3 Fire Prevention Premium – All Fire Prevention Officers/Inspectors shall receive ~~\$1,200.00~~ \$2,500.00 per year plus Longevity if applicable. Said payment shall be paid bi-weekly in the Employee's regular payroll check for performance of said duty.
- 17.4 Acting In The Capacity of A Higher Rank – Any Fire Fighters or Officers assigned to act in the capacity of a superior Officer shall receive an additional one-half (1/2) hour of overtime pay for each eight (8) hours he is required to act out of rank. At 0800 hours each day, an officer or acting officer shall be assigned to each Squad and Engine/Ladder at each station.

If at anytime it is determined through grievance arbitration or court order that overtime will not be paid at the 40 hour overtime rate of pay then the language in this section shall be altered to allow Acting In The Capacity of A Higher Rank pay to be paid at rate equal to the position an employee is acting out of rank.

- 17.5 Weekend Bonus - Employees scheduled to work on Saturdays or Sundays shall receive an additional two and one quarter (2 1/4) hours pay at the Basic Hourly Rate of Pay for Line Personnel plus Longevity.

ARTICLE XVIII

PARAMEDIC PAY

- 18.1 ~~In the contract years 2004 and 2005, Employees that are certified by the State of Ohio as a paramedic shall be paid a bonus of \$1,300.00 on or before the 15th of December, each year.~~ Effective Beginning in the year ~~2006~~ 2007, Employees that are certified by the State of Ohio as a paramedic shall be paid a bonus of \$1,400.00 3.25% of the salary of a Fire Fighter – 5th year as specified in Article 17, on or before the 15th of December, each year.

It shall be calculated on a prorated basis for those who, during the year, retire, and for those individuals hired before December 31, 1995, that lose their certification for whatever reason. To be eligible for full payment, an Employee shall be required to be certified for the period between December 15 and December 14, each year of this Agreement.

- 18.2 Employees shall be permitted to drop their paramedic certification after 15 years of continuous service in order of seniority down. Employees that drop their Paramedic certification must maintain their EMT certification. Employees shall be permitted to drop their paramedic certification providing the total number of remaining paramedics does not fall below thirty-three (33). Should manning increase, the total minimum number of paramedics required would increase by one (1) for every three (3) additional hires.

ARTICLE XXXVII

SAFE MINIMUM STAFFING

The City and Union shall establish a Fire Department Safe Minimum Staffing committee to develop an implementation plan on how to raise the daily minimum safe staffing levels of line personnel and will attempt to implement such plan as soon as possible. The Fire Department Safe Minimum Staffing committee shall consist of seven (7) members, 3 representatives of IAFF Local 1267, the Fire Chief, Assistant Fire Chief, Finance Director and Safety Director. The Law Director shall act as legal advisor only. Two (2) members of City Council of which preferably one (1) shall be from the City Council Safety Committee and one (1) from the Finance Committee shall be invited to participate in said committee as advisors also. The committee shall begin meeting within sixty (60) days following the signing of the collective bargaining agreement and meet monthly there after until completion.

The City shall appropriate \$35,000 for an independent risk assessment of the City of North Olmsted Fire Department to assist the Fire Department Safe Minimum Staffing committee in developing an implementation plan on how to raise the daily minimum safe staffing levels. A risk assessment/study of the City of North Olmsted Fire Department shall be completely by an independent consultant or consulting firm and shall focus on the following items and any other items related to the day to day function of the North Olmsted Fire Department as determined by the Fire Department Safe Minimum Staffing committee.

- 1) Assess current staffing
- 2) Address staffing needs for a "right size" fire department
- 3) Compare the department to National Fire/EMS standards
- 4) Assess the department's current operations
- 5) Examine response times
- 6) Analyze current status of the fire department
- 7) Provide an objective analysis of the fire department
- 8) Identify opportunities for improvement
- 9) Utilization of existing personnel
- 10) Examine future partnerships and regionalization
- 11) Outline a path for the City to follow in creating a great fire department

The independent risk assessment shall begin within 6 months of the signing of the collective bargaining agreement. The Fire Department Safe Minimum Staffing committee shall not be required to meet during the time that an independent risk assessment is being completed but shall resume meeting once the risk assessment is completed.

ARTICLE XXXVIII

DURATION OF AGREEMENT

- 38.1 This Agreement shall be effective as of January 1, ~~2004~~ 2007 and shall remain in full force and effect until December 31, ~~2006~~ 2009, and it shall automatically be renewed from year to year thereafter, unless either party shall have notified the other in writing in accordance with Article XXXI.
- 38.2 For the duration of the Agreement, all wages, benefits and working conditions shall stay in effect as presently covered under this Agreement unless changed in accordance with Article XXXI.

PREVAILING RIGHTS

Proposal

All Rights, privileges, and working conditions enjoyed by the Employees at the present time which are not included in this Agreement shall remain in full force, unchanged and unaffected in any manner, during the term of this Agreement unless changed by mutual consent. This is not intended to preclude the City from establishing reasonable work rules.

The Employer and the Union acknowledge that during negotiations which preceded this Agreement, each had the unlimited right and opportunity to make demands and proposals and that the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this agreement.

Therefore, for the life of this Agreement, the Employer and the Association each agrees that the *other shall not be obligated to bargain/negotiate collectively with respect to any subject or matter referred to, or covered in this Agreement, or with respect to any subject or matter not specifically referred to or covered in this Agreement, even though such subjects or matters may not have been within the knowledge or contemplation of either or both of the parties at the time they bargained/negotiated and signed this Agreement.*

Appendix B



Attorneys and
Counsellors at Law

Gary C. Johnson*
Thomas L. Colaluca+~
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(216) 696-5222
Fax: (216) 696-5288

April 16, 2007

VIA OVERNIGHT MAIL

Robert G. Stein
265 W. Main Street, Suite 102
Kent, Ohio 44240

Re: SERB Case No. 06-MED-10-1148
City of North Olmsted and IAFF Local 1267

Dear Mr. Stein:

Pursuant to Ohio Administrative Code Rule 4117-9-05(F), the Employer, City of North Olmsted, hereby submits its prehearing statement in the above-captioned matter. This statement identifies and includes all of the requirements in the same sequential order as set forth in the above rule. This statement is being served upon the Fact Finder and the opposing party prior to the hearing date which is required by rule.

1. Party:

City of North Olmsted

Principal Representative:

Gary C. Johnson, Esq.
Johnson & Colaluca, LLC
1700 North Point Tower
1001 Lakeside Avenue
Cleveland, Ohio 44114
(216) 696-5222
(216) 696-5288 (fax)

2. There is one (1) bargaining unit involved in the above-captioned fact-finding. The issue involves all full-time Fire Fighters, Lieutenants and Captains employed by the Employer in the Fire Department. There are approximately forty-five (45) employees in this bargaining unit.

ARTICLE 2 - DEFINITIONS

EMPLOYER'S POSITION:

2.1 Either delete, move or modify numerous definitions contained in the existing Collective Bargaining Agreement (CBA).

UNION'S POSITION:

2.1 The Union is not opposed to moving or deleting certain definitions contingent upon the result of other provisions of the CBA.

PRESENT PROVISION:

2.1 The CBA includes thirty-six (36) definitions of various terms that are common knowledge or define terms that are referred to in the main body of the CBA.

RATIONALE:

2.1 The CBA contains numerous definitions of terms that need not be defined or are already defined in subsequent provisions of the CBA. Additionally, many of these definitions contain the definition of a subject that is inappropriate for a series of definitions and should be specified in a particular article such as Overtime or Hours of Work.

The existing situation causes confusion between the interpretation of an article in the CBA and the definition pages at the front of the Agreement. Some of the definitions actually change the meaning of what the average person would glean from an existing article of the CBA. The Employer's position is that antiquated or unnecessary definitions should be deleted from the CBA and others should be more appropriately located, with only a few necessary definitions being included in the front of the CBA.

This is the only CBA on the west side of Cleveland where there is a list of definitions as presently included in the CBA. Furthermore, there is no listing of definitions like in this CBA, in

any of the other CBAs within the City of North Olmsted. Accordingly, it should be modified as proposed by the Employer.

ARTICLE II

DEFINITIONS

2.1 In this agreement, whenever the contents indicate, ~~the singular or plural number and the masculine, feminine or neuter gender, shall be deemed to include the other, the terms "he", "his" and "him" shall refer to an Employee (as herein defined), and the following capitalized terms shall have the following meanings:~~

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- A
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~~Agreement: This agreement including all amendments thereto.~~

Aggrieved Party: Any eEmployee or eEmployees within the Association filing a grievance.

~~Association: Local 1267 I.A.F.F.~~

~~Basic Hourly Rate of Pay for Line Personnel: For personnel that work a 51.7 hour work week, that rate of pay equal to the total annual salary of an Employee divided by 2688.4 hours.~~
Effective January 1, 2003 for personnel that work a 50.4 hour work week, that rate of pay equal to the total annual salary of an Employee divided by 2620.8 hours.

~~Basic Hourly rate of Pay for Staff Personnel: For personnel that work a 40 hour work week, that rate of pay equal to the total annual salary of an Employee divided by 2080 hours.~~

~~Board of Health: The Cuyahoga County Board of Health.~~

Call Back/Call In: The time an eEmployee is called back to work after leaving work or on a day when the employee is not scheduled to work, and which is commonly

~~understood by the Employer and the Association as
call back time.~~

Captain: ~~An individual having the rank of Captain in the Fire
Department.~~

Civil Service Commission: ~~The Civil Service Commission as is commonly
recognized in the City of North Olmsted, State of
Ohio.~~

Civil Service Rules and Regulations: ~~Rules and regulations as outlined by the Civil
Service Commission from time to time.~~

Compensatory Time: ~~Time off in lieu of pay.~~

Employee: ~~Any full time member of the Fire Department
occupying the position of Fire Cadet/Paramedic,
Fire Fighter, Lieutenant, or Captain.~~

Employer: ~~City of North Olmsted, Ohio.~~

Fair Share Fee: ~~Fee in lieu of dues, deducted from those full time
Employees of the Fire Department who are not
members of the Association.~~

Fire Cadet/Paramedic: ~~An individual hired as an eEmployee of the Fire
Division Department who, at the inception of
employment, holds certification as a paramedic
from the State of Ohio.~~

Fire Chief: ~~The individual having the position of Fire Chief or his designee as appointed from time to time in the Fire Department.~~

Fire Department: ~~The City of North Olmsted, Ohio, Fire Department.~~

Fire Fighter:

2nd year

A Fire Fighter who has completed one (1) year of service with the City of North Olmsted performing work of this bargaining unit.

3rd year

A Fire Fighter who has completed two (2) years of service with the City of North Olmsted performing work of this bargaining unit.

4th year

A Fire Fighter who has completed three (3) years of service with the City of North Olmsted performing work of this bargaining unit.

5th year

A Fire Fighter who has completed four (4) years of service with the City of North Olmsted performing work of this bargaining unit.

Grievance: ~~A complaint, dispute or controversy arising from an alleged misapplication or misinterpretation of the provisions of this Agreement. (Moved and changed).~~

Grievance Procedure: ~~The procedure outlined in Article VII of this Agreement.~~

Immediate Family: ~~In the case of illness, Immediate Family shall be parent; parents of spouse; spouse and children of the Employee as well as other relatives living with the Employee if the Employee is acting as parent or guardian. (Moved and changed).~~

Lieutenant: ~~An individual having the rank of Lieutenant in the Fire Department.~~

Light Duty: That work assigned to an eEmployee during time when an eEmployee is acting under disability or poor health.

Line Personnel: Individuals working a 24-hour shift in a 72-hour period who are not Staff Personnel.

Longevity: ~~Compensation based on continuous loyal service to the Employer. Longevity shall be computed on the base salary and be: 4% after 5 years of continuous service, 5% after 10 years of continuous service, 6% after 15 years of continuous service, 7% after 20 years of continuous service. (Moved and changed).~~

Normal Work Schedule: One (1) twenty-four (24) consecutive hour shift followed by forty-eight (48) hours off duty, However, for reasons of shift transfer, training, Light Duty or emergency disaster, the Fire Chief may change an Employee's work shifts to meet the Employer's needs that are affected by a shift transfer, training, Light Duty or emergency disaster.

Overtime: Any time worked in excess of forty (40) hours per week or in excess of the daily work schedule agreed to by the Employee and the Employer for Staff Personnel or as specified in Article X. In the case of Line Personnel, any time worked in excess of twenty four hours in a seventy two hour period or as specified in Article X. (Moved and changed).

Overtime Rate of Pay: The rate of pay equal to one and one half (1 1/2) times the Basic Hourly Rate of Pay including Longevity compensation if applicable. During the year 2002, overtime rate of pay only shall be calculated by dividing the annual rate by 2080 hours. Effective January 1, 2003, overtime is to be calculated based upon a 50.4 hour work week except for emergency call ins and emergency hold-overs which shall be paid at the 40 hour rate. (Moved and changed).

Paramedic Certification: That certification as awarded by the State of Ohio in accordance with the Ohio Revised Code.

Safety Director: The individual occupying the position of Safety Director of the Employer from time to time.

Seniority: A position determined by continuous service in the North Olmsted Fire Department from the date of

~~employment. Continuous service shall be broken only in resignation, discharge, retirement, or leave of absence for personal reasons. Employees with the same employment date shall be assigned seniority in the order of their ranking on the Civil Service eligibility list. (Moved)~~

Shift Captain: ~~The individual designated as such or his designee.~~

Staff Personnel: ~~Staff Personnel permanently assigned to a forty (40) hour week, and understood to be such personnel by the Employer and the Association. Individuals assigned to light duty are not considered to be permanently assigned to a forty (40) hour work week.~~

State Employment Relations Board: ~~The State Employment Relations Board of the State of Ohio.~~

Treasurer: ~~The individual occupying the position of Treasurer of the Association from time to time.~~

Week Sunday through Saturday

ARTICLE 4 – MANAGEMENT RIGHTS

EMPLOYER’S POSITION:

The Employer wishes to modify the Management Rights article so it reads like a Management Rights article, without the surplus language of the collective bargaining law (O.R.C. 4117), which of course, is not necessary in this article.

UNION’S POSITION:

The Union is opposed.

PRESENT PROVISION:

The present Management Rights article is basically a copy of O.R.C. 4117.08.

RATIONALE:

At some point in time in the past this CBA was negotiating with the parties just placing sections of the collective bargaining act in the CBA. This article contains a paragraph regarding what is negotiable or what should be negotiated, along with barring negotiations over civil service examinations and the like, along with other provisions from the collective bargaining act. Much of this language is inappropriate for a Management Rights clause and the Employer seeks to modify the clause so it is clear and the proper language of a Management Rights clause is used without all the excess language of 4117 being included.

ARTICLE IV

MANAGEMENT'S RIGHTS

~~3.1 All matters pertaining to wages, hours, or terms and other conditions of employment and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement are subject to collective bargaining between the public Employer and the exclusive representative, except as otherwise specified.~~

~~3.2 The conduct and grading of civil service examinations, the rating of candidates, the establishment of eligible lists from the examinations, and the original appointments from the eligible lists are not appropriate subjects for collective bargaining.~~

4.13 Unless the a public Employer has specifically agreed otherwise in this a collective bargaining Agreement, the Employer retains the right to: nothing in Chapter 4117 of the Revised Code impairs the right and responsibility of each public Employer to:

- A. Determine matters of inherent managerial policy which include, but are not limited to areas of discretion or policy such as the functions and programs of the public Employer, standards of services, its overall budget, utilization of technology, and organizational structure;
- B. Direct, supervise, evaluate and hire employees;
- C. Maintain and improve the efficiency and effectiveness of governmental operations;
- D. Determine the overall methods, process, means, or personnel by which governmental operations are to be conducted;
- E. Suspend, discipline, demote, or discharge for just cause, or lay off, transfer, assign, schedule, promote, or retain employees;
- F. Determine adequacy of the work force;

- G. Determine the overall mission of the Employer as a unit of government;
- H. Effectively manage the work force;
- I. Take actions to carry out the mission of the public Employer as a governmental unit.

In addition, the Association agrees that all of the functions, rights, powers, responsibilities and authority of the Employer, in regard to the operation of its work and business and the direction of its workforce, which the Employer has not specifically abridged, deleted, granted or modified by the express and specific written provisions of this Agreement are, and shall remain, exclusively those of the Employer and shall not be subject to the grievance procedure.

~~The employer is not required to bargain on subjects reserved to the management and direction of governmental unit except as affect wages, hours, terms and conditions of employment, and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement. A public Employee or exclusive representative may raise legitimate complaint or file grievance based on the collective bargaining agreement.~~

ARTICLE 8 – GRIEVANCE PROCEDURE

EMPLOYER’S POSITION:

8.1 The Employer has moved the definition of a grievance from the Definition Article to this paragraph of the Grievance Procedure and has modified it to be more precise and specific as to the definition of a grievance.

UNION’S POSITION:

8.1 The Union is opposed.

PRESENT PROVISION:

8.1 The present provision does not define a “grievance” in the grievance procedure but defines it in the “Definition Article” of the CBA.

RATIONALE:

8.1 The definition of a “grievance” should be in the Grievance Procedure. It should be defined as proposed by the Employer that a “grievance” is a “complaint by an employee that there has been a violation and misinterpretation or misapplication of this Agreement.” This is not a difficult concept to grasp. This is the way most CBAs are composed. There is no valid basis for the Union’s objection to defining a grievance in the Grievance Procedure as proposed.

EMPLOYER’S POSITION:

8.2(A) The Employer wishes to delete the phrase “or past practice.”

UNION’S POSITION:

8.2(A) The Union is opposed.

PRESENT PROVISION:

8.2 Presently, an employee has to detail the violations of the section of the CBA involved “or past practice.”

RATIONALE:

8.2 The Employer's position in these negotiations is to eliminate "past practice" in the CBA. The Union has utilized past practice to limit the Employer's ability to manage the Fire Department efficiently. The Employer has proposals regarding the elimination of past practices later in the CBA and this provision is inconsistent with these proposals. Furthermore, no other CBAs on the west side of Cleveland cite past practice in the grievance procedure.

EMPLOYER'S POSITION:

8.3 The Employer wishes to change from receiving lists of arbitrators from FMCS to a permanent panel in the CBA and have the party losing the arbitration pay for the arbitrator.

UNION'S POSITION:

8.3 The Union is opposed.

PRESENT PROVISION:

8.3 The FMCS supplies the list of arbitrators.

RATIONALE:

8.3 One needs not tell this arbitrator that the lists received from the FMCS or the AAA leave a lot to be desired. Furthermore, one has to pay for the inferior lists and the service is slow. Placing a list of arbitrators on a permanent panel in the CBA is the cheapest and most efficient manner in which to obtain arbitrators to hear arbitration hearings under the Grievance Procedure. There is no good reason to oppose this concept. Additionally, the Employer wishes the losing party to be obligated to pay the arbitrator's fees.

ARTICLE VIII

GRIEVANCE PROCEDURE

8.1 Any eEmployee shall have the right to present a Grievance in accordance with the procedure provided herein, free from any interference, coercion, restraint, discrimination or reprisal. It is the intent and purpose of the parties to this Agreement that all grievances shall be settled at the lowest possible step of this procedure. A "grievance" shall be defined as a complaint by an employee (aggrieved party) that there has been a violation, misinterpretation or misapplication of this Agreement.

8.2 The following procedures shall apply to the administration of all grievances filed under this Article.

- A. When any of the aforementioned Grievance conditions arise, the following procedures shall be strictly observed:

All Grievances shall be typewritten and filed on an Official Grievance Form. An Official Grievance Form shall be provided to the eEmployee by the Association and shall contain the following information at the time the Grievance is presented:

The date the Grievance occurred.

The time the Grievance occurred.

A detailed description of the incident giving rise to the Grievance.

Article and Sections of the Agreement involved, ~~or past practice.~~

Relief requested.

Name and signature of the eEmployee and date signed by the eEmployee.

Name and signature of the Steward and date signed by the Steward, if any.

- B. Except at Step 1, decisions shall be rendered in writing at each step of the Grievance Procedure. Each decision shall be transmitted to the Aggrieved Party and his representative, if any.

- C. A grievance may be filed by any employee, ~~member of the Association~~. Where a group of employees ~~Association members~~ desire to file a grievance involving a situation affecting more than one (1) employee ~~member of the Association~~ in a similar manner, one (1) employee ~~member~~ selected by such group shall process the grievance. Such grievance shall be defined as a group grievance. The names of each employee, ~~member~~, on behalf of which the grievance is filed, shall be presented on, or appended to, the grievance form and submitted to the Shift Officer. The grievance procedure outlined in Section 7.3 shall be used throughout.
- D. The preparation and processing of Grievances by eEmployees or the Association may, with the Chief's or designee's approval, be conducted on duty, providing it does not interfere with the operations of the Fire Department. Grievance hearings may ~~shall~~ be conducted while on duty when practical ble in accordance with the Fire Chief's and/or Safety Director's schedule.
- E. Nothing contained herein shall be construed as limiting the right of an eEmployee to request having a Grievance discussed informally with the Fire Chief or his designee and having said matter informally adjusted without intervention of the Association, provided that the adjustment is not inconsistent with the terms of this Agreement. In the event that the Grievance is adjusted without formal determination, pursuant to the procedure, while such adjustment shall be binding upon the Aggrieved Party and the Employer, and in all respects be final, said adjustment shall not create a precedent or ruling upon the Employer or Association in future proceedings.
- F. The Aggrieved Party may have Association representation at any step of the Grievance Procedure.
- G. The time limits provided herein will be strictly adhered to and any Grievance not filed initially or appealed within the specific time limits outlined in this Article

shall be deemed null and void. Should any of the time limits as specified herein end on any day that City Hall is closed than that time limit shall automatically be extended to the next regular business day. If the Employer fails to reply within the specified time limits, the Grievance shall automatically move on to the next step. The time limits specified for either party may be extended only by written mutual agreement.

H. This procedure shall not be used for the purpose of adding to, subtracting from, or altering in any way of the provisions of this Agreement.

8.3 All Grievances shall be administered in accordance with the following steps:

STEP 1 – The Grievance shall be discussed between the eEmployee involved and the Association representative of his choice, and his Shift Officer within ten (10) days of the occurrence on which the Grievance is based. If a settlement satisfactory to the parties cannot be reached within five (5) days of the initial presentation of the Grievance, the Aggrieved Party shall reduce the Grievance to writing as per Section 7.2 (A) and submit his written grievance to the Shift Officer. The Shift Officer shall indicate the date and time of receipt of the grievance, and affix his signature to the grievance form, and, within ten (10) days submit the grievance to the Fire Chief with a written report stating the substance of the grievance and any necessary background information that may be pertinent to the grievance. Copies of any written statements and documents shall be provided to the aggrieved party as well. Written grievances can not be resolved at STEP 1 of the grievance procedure.

In the event of an eEmployee's discharge from employment, the Grievance shall be submitted at Step 3 with a written Grievance submitted to the Director of Public Safety within ten (10) days of the discharge of the eEmployee.

STEP 2 – The Fire Chief shall render a written decision within ten (10) days after receipt of the Grievance. The fire chief may convene a hearing during that ten (10) day period with the aggrieved party and the Association representative of the aggrieved party's choice.

STEP 3 – If the Aggrieved Party initiating the Grievance is not satisfied with the written decision of the Fire Chief at the conclusion of Step 2, a written appeal of the decision may be filed with the Director of Public Safety within ten (10) days from the date of the written decision rendered by the Fire Chief at Step 2. Copies of the written decision shall be submitted with the appeal.

The Director of Public Safety shall convene a hearing within ten (10) days of the receipt of the appeal. The hearing will be held with the Aggrieved Party and his Association representative. The Director of Public Safety shall issue a written decision to the eEmployee and his representative if requested, within fifteen (15) ~~ten (10)~~ days from the date of the hearing.

STEP 4 – If the Grievance is not satisfactorily settled at Step 3, the Association may, within thirty (30) days after receipt of the Step 3 decision, submit the matter to arbitration. The Association shall notify the Employer of its intent to appeal the Grievance to arbitration in writing. ~~Within ten (10) days, representatives of the Association, shall send a written notice of its intent to arbitrate the Grievance to the~~ The Employer and Association shall meet within ten (10) days to select an arbitrator from the panel of arbitrators herein contained to hear the grievance. Federal Mediation and Conciliation Service. The Federal Mediation and Conciliation Service shall submit a panel of five arbitrators and the arbitrator shall be selected by alternate striking within ten (10) days after receipt of the list.

- (A) The arbitrator shall have no power or authority to add to, subtract from, or in any manner alter the specific terms of this Agreement, or to make any award requiring

the commission of any act prohibited by law, or to make any award that itself is contrary to law or violates any of the terms and conditions of this Agreement.

- (B) ~~The arbitrator shall hold a hearing within thirty days of the notification of appointment. He shall establish the hearing time and place, but it shall be, where feasible, within the jurisdiction of the City.~~
- (C) ~~Not later than five (5) days before the hearing, each of the parties shall submit to the arbitrator and to the opposing party a written report summarizing the unresolved issue, the parties requested method of resolution, and the rationale for that resolution.~~
- ~~(D)~~(C) All awards of the arbitrator and all pre-arbitration Grievance settlements reached by the Association and the Employer shall be final, binding and conclusive on the Association and the Employer.
- (D) The fees of the arbitrator, expenses of meeting rooms and stenographic service shall be borne equally by the party losing the grievance. ~~ies.~~

8.4 There is hereby created a permanent panel of arbitrators for selection of an arbitrator pursuant to this procedure. Those individuals appointed to such panel are as follows: 1)

_____ ; 2) _____ ; 3) _____ ; 4) _____ ; and,
5) _____.

8.54 A Grievance may be withdrawn without prejudice at any time.

8.5 Both the Employer and the Association shall in good faith, make every attempt to resolve all Grievances at the lowest step in the Grievance Procedure.

ARTICLE 9 – SENIORITY

EMPLOYER’S POSITION:

Move the definition of seniority and give it its own article in the CBA immediately prior to the Layoff and Recall article.

UNION’S POSITION:

Unknown.

PRESENT PROVISION:

The seniority definition is contained in the Definitional Article of the CBA.

RATIONALE:

It only makes common sense to find seniority next to a major article where seniority is going to be the only right exercised and not on a definitional page.

ARTICLE IX

SENIORITY

9.1 A position determined by continuous service in the North Olmsted Fire Department from the employee's date of employment. Continuous service shall be broken only in resignation, discharge, retirement, or leave of absence for personal reasons. Employees with the same employment date shall be assigned seniority in the order of their ranking on the Civil Service eligibility list.

ARTICLE 12 – OVERTIME

EMPLOYER’S POSITION:

12.2 The Employer wishes to substitute the “Chief or a Chief’s designee” instead of the “officer in charge” when it comes to determine whether an employee is required to stay and work overtime. Further, the Employer wishes to only pay the minimums for time which does not abut the employee’s regularly scheduled workday.

UNION’S POSITION:

12.2 The Union is opposed.

PRESENT PROVISION:

12.2 Presently, the officer in charge determines when a person has to work overtime or stay longer and there is no prohibition of paying minimums if the time abuts the employee’s regular workday.

RATIONALE:

12.2 The Employer believes that the Chief or designee should determine when overtime is necessary or how long a person should work overtime. The officer in charge of the shift is a Union member covered by the CBA. This is not to say that the Chief may not designate the officer in charge, but the Chief should have the fundamental right of approval or disapproval of the overtime and who authorizes it. Secondly, there is a list of minimums being paid for certain reasons if employees are called back. The Employer wants it clear that if an employee is held over or called in early so that the time paid for abuts a regular workday, there should not be a minimum attached to this time period, other than the holdover minimums. Furthermore, the Employer wishes to change the pay rate for acting officers as defined in the call in schedule later in the CBA.

EMPLOYER'S POSITION:

12.4 The Employer has moved the definition of overtime rate from the definitional page to the overtime article and has eliminated the calculation of emergency overtime so that all overtime is paid based on the employee's 50.4 hourly rate for shift personnel.

UNION'S POSITION:

12.4 The Union is opposed.

PRESENT PROVISION:

12.4 Presently, employees are paid at the 50.4 hourly rate, except in cases of emergency when they are paid at the 40 hour rate.

RATIONALE:

12.4 There has been numerous arbitrations, unfair labor practice charges, and litigation regarding the overtime payment rate. Approximately, five years ago the employees were paid the 40 hour rate for all overtime. This was modified by Fact Finder Mancini to provide that only the emergency overtime rate would be paid at the 40 hour rate and all other overtime would be paid based on the 50.4 hour rate. Unbeknownst to the Mayor or City Council, the Fire Chief entered into an agreement with the Union defining emergency overtime to include a person who calls in sick or other types of unexpected absences as an emergency and, therefore, pay the employees the 40 hour rate instead of the 50.4 hour rate for virtually all overtime. This obviated the deal negotiated wherein the Employer received the 50.4 hour overtime rate in exchange for reducing the Union's hours of work from 51.7 to 50.4 five years ago. When the Employer realized the Chief's actions, it corrected the overtime rate to 50.4. The Union filed a grievance and ULPs over the change.

The Union prevailed on the arbitration case based on the fact of past practice and the Chief initialing this unauthorized agreement. The well-settled Ohio law is that the Chief has absolutely no authority to modify a CBA without the Mayor or Council approving it. During the pendency of the grievance and ULP, the CBA was up for renegotiations. Arbitrator Harry Graham agreed with the Employer regarding the interpretation the Employer was using in defining "emergency overtime" and that the Employer need not pay a 40 hour overtime rate for such things as shift fill. Subsequently, an arbitrator ruled, based on the Chief's signature and past practice, that the Employer was required to pay the 40 hour overtime rate, notwithstanding Harry Graham's fact-finding decision.

This matter went to SERB and SERB supported Harry Graham's decision and the Employer's position on the 50.4 overtime rate. The Employer appealed the Arbitrator's decision and that decision, along with several others, are still in front of Common Pleas Judges to determine whether or not the Arbitrator's decisions should be vacated.

The basic fact is that the Employer never got the benefit of its deal due to the Chief's judgment error and the Union improperly convincing the Chief to do what the Union wanted. This has resulted in the Employees making a great deal more overtime pay as the 40 hour overtime rate is 25% greater than at the 50.4 hour overtime rate. As a result of the problems regarding how this rate is defined, the Employer's solution is that the rate should be defined as 50.4 hours for all overtime work. This is the practice in virtually all of the west side cities, except for Bay Village which has a 50/40 hour practice. Accordingly, the Fact-finder should award this proposal to the Employer.

ARTICLE XII

OVERTIME

12.1 The Fire Chief will be the final authority in determining the need for ~~o~~Overtime.

12.2 Overtime shall be paid in one-half (1/2) hour increments. With respect to ~~o~~Overtime and Call Back, ~~e~~Employee's may be required to stay the entire time if in the discretion of the Chief or designee Officer in Charge the same is necessary. Employees shall receive a minimum of overtime compensation as listed below, providing such time paid for does not abut the employee's regularly scheduled work day.

Holdover – Minimum 1/2 Hour

Callback – Minimum of Two (2) Hours

Paramedic Class – Minimum of Two (2) Hours

Training – Minimum of Two (2) Hours

Meetings – Minimum of Two (2) Hours

~~Acting Officer – 1/2 Hour per 8 Hours acting out of rank~~

Rocky River Municipal Court – Minimum of Two (2) Hours

Common Pleas Court – Minimum of Four (4) Hours

Juvenile Court – Minimum of Four (4) Hours

Appearance at a Grand Jury – Minimum of Four (4) Hours

Early Start for Training – Minimum of One (1) Hour

All Other Overtime – Minimum of 2 Hours

12.3 Employees may request payment of Overtime at any time. Employees shall be paid for all Overtime hours accumulated in excess of one hundred twenty (120) hours on January 15, April 15, July 15, and October 15 each year.

10.4 Any cash payment for Overtime shall be paid at the rate of pay at which it was earned after applying Longevity increment applicable.

12.5 Upon retirement or death, an Employee or his estate shall be paid for all accumulated Overtime.

12.6 Upon promotion or change in rank, all accumulated Overtime will be paid at the rate the Overtime was earned.

12.7 Overtime for line personnel shall be paid at the rate of one and one-half (1 ½) times the employee's basic hourly rate, calculated on a fifty and four-tenths (50.4) hourly workweek.

Overtime for staff personnel shall be paid at the rate of one and one-half (1 ½) times the employee's basic hourly rate for all hours actually worked in excess of eighty (80) hours in any bi-weekly pay period.

ARTICLE 14 - HOLIDAYS

EMPLOYER'S POSITION:

14.1 The Employer wishes to reduce the number of holidays from 7-24 hour holidays to 5 and delete the 24 hour personal day.

UNION'S POSITION:

14.1 The Union is opposed.

PRESENT PROVISION:

14.1 Employees are given 7-24 hour holidays and 1 personal day of 24 hours for a total of 8-24 hour tours of duty off for the year.

RATIONALE:

14.1 The amount of holiday time given off to Employees is grossly excessive when compared to holiday time given all other employees working for the Employer and surrounding cities. All other 40 hour employees are receiving 12-8 hour days off for a total of 96 hours in holiday time. These employees are given 192 hours off in holiday time. These employees work approximately 25% more than 40 hour employees. Hence, the amount of holiday time that they should receive off annually is 120 hours, not 192 hours. This results in these employees receiving over 70 hours more time off in holiday time than a normal 40 hour employee received. This amounts to more than another week's worth of vacation or paid time off that 40 hour employees do not receive. This practice is also adverse to the 40 hour staff employees that are covered under this CBA, which only gives them the same 12, 8 hour holidays and not at the 24 hour rate. Furthermore, it is clearly excessive when compared to the average of 145 hours received in surrounding cities.

This benefit was created when the employees worked 56 hours a week and the number of hours worked by these employees were 40% more than 40 hour employees. Therefore, a greater

number of holidays were given. This ratio has not been modified in a downward fashion to reflect the new workweek that these employees presently work. Hence, the holiday hours for shift employees should be made similar to other cities and proportional to all other Employer employees.

EMPLOYER'S POSITION:

14.6 Cap the number of holiday hours for 40 hour employees at ninety-six (96) hours.

UNION'S POSITION:

14.6 The Union is opposed.

PRESENT PROVISION:

14.6 The CBA is unclear as to amount of holiday time given to an employee who works 4-10 hour days, per week instead of 5-8 hour days.

RATIONALE:

14.6 The number of hours worked per day should not increase the total holiday hours received in the year when the employees work the same number of hours (2,080). All other non-shift employees received 96 hours, which is what 10 hour/day employees should receive.

ARTICLE XIV

HOLIDAYS

14.1 On January 1st of each year, ~~e~~Employees shall be entitled to five (5), ~~seven~~, twenty-four (24) hour Holidays plus ~~1 (one) additional 24 (twenty four) hour Personal day~~ to be used at the ~~e~~Employees discretion. ~~The Personal day shall be subject to approval of the Fire Chief or his designee and shall be made in accordance with the rules governing any other time off request under the Holiday provision. However, S~~should an ~~e~~Employee retire or otherwise terminate employment for any reason, ~~other than death or disability~~, Holidays shall be prorated for the year, and any Holidays taken beyond the prorated allowance will be debited from amounts due said ~~e~~Employee. Proration shall be at the rate of one-half (1/2) holiday per month worked.
~~which are related to wages.~~

14.2 Selection of Holidays shall be made by the ~~e~~Employee and be subject to the approval of the Fire Chief or his designee.

14.3 Employees shall be permitted to select Holidays so, in the sole opinion of the Fire Chief, the Fire Department will be appropriately staffed, ~~to protect the City of North Olmsted.~~

14.4 Holidays may be selected at any time prior to the desired date. However, such selection shall not be approved more than three (3) months prior to the selected date. In the event more requests are submitted for a specific day than the schedule can accommodate, an ~~e~~Employee's seniority and selection date shall be the deciding factor.

14.5 Each ~~e~~Employee who works a shift beginning at 0800 hours on New Year's Day, President's Day, Good Friday, Easter, Memorial Day, Fourth of July, Labor Day, Veteran's Day, Thanksgiving, and Christmas shall be compensated at time and a half pay ~~plus longevity if applicable~~ for all hours worked. All comp time will be earned ~~paid~~ at the Basic Hourly Rate of Pay for Line Personnel, ~~plus longevity if applicable.~~

14.6 Staff Personnel shall be entitled to the following Holidays: New Year's Day, President's Day, Good Friday, Memorial Day, Fourth of July, Labor Day, Veteran's Day, Thanksgiving Day, Christmas Day, one-half (1/2) day Christmas Eve, and one-half (1/2) day New Year's Eve day, the ~~e~~Employee's Birthday and a floating personal use day, for an aggregate total of ninety-six (96) hours of annual holiday time.

14.7 The Fire Chief or his designee shall have the right to cancel a Holiday in the event of an emergency situation. An Employee shall have the right to cancel any Holidays no later than sixty (60) hours prior to the scheduled Holiday, except as described in Section 12.10.

14.8 Seniority shall prevail on Holiday requests first by rank, then by date of promotion, then by years of service:

- A. On the same day.
- B. All requests prior to three (3) months of the date selected shall be considered same day requests.

14.9 Selection date shall apply to those requests submitted between scheduled shifts within three (3) months of the selected day.

14.10 In the event an ~~e~~Employee is off duty due to an on-duty injury, or illness of more than five (5) shifts, he shall be permitted to cancel any Holiday previously scheduled during that time.

14.11 All requests for Holidays shall be acted upon before the end of the shift on which they are submitted, except as in Section ~~14.4. 12.4.~~ This applies to request received prior to 1400 hours.

ARTICLE 15- VACATION SCHEDULE

EMPLOYER'S POSITION:

15.1 Reduce the number of tours given off so that vacation schedule equals the actual workweek of employees under this schedule.

UNION'S POSITION:

15.1 The Union is opposed.

PRESENT PROVISION:

15.1 The present provision grants 5, 7, 10, 12, and 15, tours of 24 hours of duty off for vacation at various levels of seniority.

RATIONALE:

15.1 This is another benefit that was not changed when the Union was given an hours reduction. At the present moment, existing employees are given far more time off for a week's vacation than they actually work. For example, beginning employees receive five tours off which is 120 hours for two week's vacation when they only work 100 hours in two weeks. This is 20 hours more than necessary. Employees with five years in receive seven tours or 168 hours off when they actually work 151.2. At ten years, employees receive 10 tours off, which is 240 hours, when employees only work 202 hours in four weeks. This is approximately 40 hours more than they work. Employees at 15 years receive 288 hours off in 12 tours, when they only work 252 hours in five weeks which is a surplus of 36 hours. Employees at 20 years receive 15 tours for 360 hours when they only work 302 hours in six weeks. This is almost 60 hours more, which is more than an additional week's vacation than they should be entitled to. These employees are not receiving six (6) week's vacation at 20 years. They are, in fact, receiving more than seven (7) week's vacation.

For the same argument raised in holidays, this schedule should be changed to reflect the actual hours they work in a week. If an employee is to have a week's vacation, then the vacation schedule should reflect the hours of work the person works in the week. The proposed schedule modifies this practice to the appropriate time. Not only is the existing schedule an egregious excess, but it is detrimental all other 40 hour employees that are covered under this CBA whose schedule provides that they receive exactly the number hours off they work per week for a week's vacation. Furthermore, this is totally inconsistent with the vacation schedule given all other 40 hour employees of the Employer. Lastly, this schedule greatly exceeds the surrounding city average. Accordingly, this schedule should be modified to reflect actual hours of work per week.

ARTICLE XV

VACATION SCHEDULE

15.1 All Line Personnel of the Fire Department shall receive a vacation at the Basic Hourly Rate of Pay ~~plus Longevity~~, provided that they have been employed for at least one (1) year.

The amount of vacation time earned shall be as follows:

<u>Length of Service</u>	<u>Shifts</u>	<u>Year of Employment to be taken</u>
After one (1) year	<u>Four (4)</u> Five (5)	Second (2 nd)
After two (2) years	<u>Four (4)</u> Five (5)	Third (3 rd)
After three (3) years	<u>Four (4)</u> Five (5)	Fourth (4 th)
After four (4) years	<u>Four (4)</u> Five (5)	Fifth (5 th)
After five (5) years	Seven (7)	Sixth (6 th)
After six (6) years	Seven (7)	Seventh (7 th)
After seven (7) years	Seven (7)	Eighth (8 th)
After eight (8) years	Seven (7)	Ninth (9 th)
After nine (9) years	Seven (7)	Tenth (10 th)
After ten (10) years	<u>Nine (9)</u> Ten (10)	Eleventh (11 th)
After eleven (11) years	<u>Nine (9)</u> Ten (10)	Twelfth (12 th)
After twelve (12) years	<u>Nine (9)</u> Ten (10)	Thirteenth (13 th)
After thirteen (13) years	<u>Nine (9)</u> Ten (10)	Fourteenth (14 th)
After fourteen (14) years	<u>Nine (9)</u> Ten (10)	Fifteenth (15 th)
After fifteen (15) years	<u>Eleven (11)</u> Twelve (12)	Sixteenth (16 th)
After sixteen (16) years	<u>Eleven (11)</u> Twelve (12)	Seventeenth (17 th)
After seventeen (17) years	<u>Eleven (11)</u> Twelve (12)	Eighteenth (18 th)
After eighteen (18) years	<u>Eleven (11)</u> Twelve (12)	Nineteenth (19 th)

After nineteen (19) years	<u>Eleven (11)</u> Twelve (12) Twentieth (20 th)
After twenty (20) years	<u>Thirteen (13)</u> Fifteen (15) Twenty-first (21 st)
After twenty-one (21) years	<u>Thirteen (13)</u> Fifteen (15) Twenty-second (22 nd)
After twenty-two (22) years	<u>Thirteen (13)</u> Fifteen (15) Twenty-third (23 rd)
After twenty-three (23) years	<u>Thirteen (13)</u> Fifteen (15) Twenty-fourth (24 th)

15.2 All Staff Personnel of the Fire Department shall receive a vacation at the Basic Hourly Rate of Pay ~~plus Longevity~~, provided that they have been employed for at least one (1) year.

The amount of vacation time earned shall be as follows:

<u>Length of Service</u>	<u>Hours</u>	<u>Year of Employment to be taken</u>
After one (1) year	Eighty (80)	Second (2 nd)
After two (2) years	Eighty (80)	Third (3 rd)
After three (3) years	Eighty (80)	Fourth (4 th)
After four (4) years	Eighty (80)	Fifth (5 th)
After five (5) years	One-hundred Twenty (120)	Sixth (6 th)
After six (6) years	One-hundred Twenty (120)	Seventh (7 th)
After seven (7) years	One-hundred Twenty (120)	Eighth (8 th)
After eight (8) years	One-hundred Twenty (120)	Ninth (9 th)
After nine (9) years	One-hundred Twenty (120)	Tenth (10 th)
After ten (10) years	One-hundred sixty (160)	Eleventh (11 th)
After eleven (11) years	One-hundred sixty (160)	Twelfth (12 th)
After twelve (12) years	One-hundred sixty (160)	Thirteenth (13 th)
After thirteen (13) years	One-hundred sixty (160)	Fourteenth (14 th)
After fourteen (14) years	One-hundred sixty (160)	Fifteenth (15 th)

After fifteen (15) years	Two-hundred (200)	Sixteenth (16 th)
After sixteen (16) years	Two-hundred (200)	Seventeenth (17 th)
After seventeen (17) years	Two-hundred (200)	Eighteenth (18 th)
After eighteen (18) years	Two-hundred (200)	Nineteenth (19 th)
After nineteen (19) years	Two-hundred (200)	Twentieth (20 th)
After twenty (20) years	Two-hundred forty (240)	Twenty-first (21 st)
After twenty-one (21) years	Two-hundred forty (240)	Twenty-second (22 nd)
After twenty-two (22) years	Two-hundred forty (240)	Twenty-third (23 rd)
After twenty-three (23) years	Two-hundred forty (240)	Twenty-fourth (24 th)
After twenty-four (24) years	Two-hundred forty (240)	Twenty-fifth (25 th)

15.3 The procedure for the selection of vacation time is described in Section 13.8 below.

However, if extenuating circumstances arise the ~~e~~Employee involved may request the Fire Chief or his designee to approve such vacation out of sequence. In situations whereby the Fire Chief or his designee approves or denies vacation out of sequence, such action shall not be subject to the Grievance Procedure.

15.4 Employees shall be permitted to cancel scheduled vacation time no later than sixty (60) hours prior to the scheduled time.

15.5 In the event of a disaster (as determined by the Fire Chief or his designee) vacations may be cancelled by the Fire Chief or his designee.

15.6 Upon retirement or death, an ~~e~~Employee or his estate shall be paid for all accrued vacation, at the Basic Hourly Rate of Pay ~~plus Longevity~~ at the time of such retirement or death.

15.7 For ~~e~~Employees hired after January 1, 1996, years of service with another public sector employer shall not be credited for years of service towards vacation time as an ~~e~~Employee of the City of North Olmsted.

15.8 Employees shall be permitted to request that earned vacation leave be accumulated in accordance with the provisions in this Section. Employees shall be permitted to request that a portion of vacation leave be accumulated or be paid at their Basic Hourly Rate of Pay, ~~plus Longevity~~. In no event shall an Employee be permitted to accumulate vacation leave or be paid at their Basic Hourly Rate of Pay ~~plus Longevity~~ in excess of one-half (1/2) the amount of vacation earned in the prior year. Employees who are entitled to an odd number of shifts vacation, and choose to accumulate or be paid in accordance with this Article, shall only be permitted to accumulate or be paid the lesser of one-half (1/2) (example – an ~~e~~Employee is entitled to seven (7) shifts, he must use four (4) shifts and be eligible to accumulate or be paid for three (3) shifts). In no event shall an ~~e~~Employee be permitted to carryover into the subsequent year more vacation than one-half (1/2) of the vacation earned in the prior year or be paid for more than one-half (1/2) of the vacation earned in the prior year. In no event shall an ~~e~~Employee be permitted to accumulate a total aggregate vacation leave amount in excess of two (2) times the amount earned in the prior year.

15.9 Seniority shall prevail for vacation picks first by rank, then by date of promotion, then by years of service. Employees shall select usage of earned vacation time as follows:

A. General Rules:

1. Shift Captains shall provide each ~~e~~Employee a selection day assignment by rank and then seniority, no later than October 15th of each year.

2. Should an eEmployee be scheduled off duty on his selection date, the eEmployee shall submit his selection request before his last duty day.
3. Vacation selection shall not bump previously approved vacations; and third round vacation picks shall not bump approved holidays.
4. Each eEmployee shall have seventy-two (72) hours to complete his selection. Failure to complete his selection within the time frame provided shall cause the eEmployee to lose his selection and any bumping rights for that portion of the selection procedure.
5. Employees may choose up to two (2) weeks vacation time in the first and second round of vacation selection.
6. Vacation selections shall be made in whole weeks, which may include a Kelley Day except as in 13.8C(2).
7. An eEmployee may elect to pass on his selection in any round. In doing so, he forfeits selection order and bumping rights for that round.

B. First and second round selection:

1. First round selection shall begin on November 1 of each year.
2. Second round selection shall begin immediately upon completion of the first round.

C. Third round selections:

1. Third round selections shall begin immediately following the completion of the second round of selections as in 13.8A (1) through (4).
2. During the third round of selections individual days may be selected in any order and number up to the limit on the books for the current year.

3. Employees may select usage of accumulated vacation after all his current vacation time has been selected or sold with the approval of the Fire Chief or his designee.
4. An eEmployee who selects usage of accumulated vacation in accordance with 13.8C(3) shall lose his right to cancel any vacation in that calendar year.

15.10 After the third (3rd) round of vacation selection, any remaining vacation time an employee may have may be selected and approved at any time during the calendar year providing a vacation slot is available.

15.11 In the event that an eEmployee is off duty due to on-duty injury of more than five (5) shifts, he shall be permitted to cancel any vacation previously scheduled during that time.

15.12 All requests for vacations shall be acted upon before the end of the shift on which they are submitted, provided they are submitted prior to 1400 hours.

ARTICLE 16 – SICK LEAVE

EMPLOYER’S POSITION:

16.1 Modify the CBA so that it specifies the sick leave accrual rate presently in existence and provided in the O.R.C.

UNION’S POSITION:

16.1 Unknown.

PRESENT PROVISION:

16.1 The CBA refers to the Ohio Revised Code without specifying the accrual rate.

RATIONALE:

16.1 There is no change in existing practice by this change. It just accurately sets forth what the present accrual rate is for sick leave, 4.6 hours for 80 hours work excluding overtime. There is no basis to object to this change, as it is instructive for everyone who reads the CBA.

EMPLOYER’S POSITION:

16.2 Reduce the amount of hours of compensatory time granted for not using sick leave in a sixth month period. This results in a reduction from 26 hours to 12 hours for tour employees and from 20 hours to 10 hours for eight hour employees.

UNION’S POSITION:

16.2 The Union is opposed.

PRESENT PROVISION:

16.2 Presently, tour employees receive 26 hours of pay every six months while staff personnel working eight hours a day receive 20 hours every six months when no sick leave is used by the employee.

RATIONALE:

16.2 This is a grossly excessive benefit. Granting employees 26 hours every six months equates to another week's vacation every year to an employee not using sick days. Other cities do not provide this benefit in such an amount. Other cities have different practices but not a full week's pay for not using sick leave. This equates the cost of over \$1,000.00 each year to any employee who collects this benefit.

EMPLOYER'S POSITION:

16.7, 16.8, 16.9 The Employer wishes to modify the existing language to provide better control of sick leave use. Presently, employees do not have to provide a sick slip until they are off more than two consecutive tours of duty or five, eight hours days for employees working a 40 hour week. This time limit is grossly excessive. The standard is three days for 40 hour employees and 1 tour for tour employees. Furthermore, the Employer wishes to more clearly define requirements for providing proof of illness, unless waived by the Employer. The Employer also wishes to include language regarding the patterned use or abuse of sick leave as a disciplinary offense. Lastly, the Employer seeks precise language regarding the definition of an "immediate family" so it is clear for whom the employee may take sick leave.

UNION'S POSITION:

16.7, 16.8, 16.9 The Union is opposed.

PRESENT PROVISION:

16.7, 16.8, 16.9 The existing provision only requires employees on tours to provide a sick slip after two 24 hour tours or five consecutive eight hour days for 40 hour employees.

RATIONALE:

16.7, 16.8, 16.9 In essence, the Employer is attempting to reform the language so that it is clear and concise and sets forth the rules of the road for utilization of sick leave. It more clearly provides for how sick leave is utilized and for employees to provide physician's statements in a more timely fashion. It clearly defines the "immediate family," along with the abuse or patterned use of sick leave being a disciplinary offense. These are not new concepts. The Union wishes the Employer, to in essence, excessively "bribe" employees for not abusing sick leave. If that is the case, then the sick leave article should have clear language in defining what abuse of sick leave is and what the requirements are regarding the turning in of sick slips, medical exams and the like.

ARTICLE XVI

SICK LEAVE

16.1 All employees shall earn sick leave at the rate of four and six-tenths (4.6) hours for every eighty (80) hours paid, excluding overtime, and may accumulate such sick leave to an unlimited amount. Sick leave shall be earned in accordance with the Ohio State minimum requirements and accumulation shall be unlimited.

16.2 Line Personnel shall have the option to receive twelve (12) ~~twenty-six (26)~~ hours compensatory time or twelve (12) ~~twenty-six (26)~~ hours pay at the Basic Hourly Rate of Pay for Line Personnel ~~plus Longevity~~ for each six (6) consecutive months of unused Sick Leave. Staff Personnel shall have the option to receive eight (8) ~~twenty (20)~~ hours compensatory time or eight (8) ~~twenty (20)~~ hours pay at the Basic Hourly Rate of Pay for Staff Personnel ~~plus Longevity~~ for each six (6) consecutive months of unused sick leave. Selection of such time off shall be subject to the approval of the Fire Chief or his designee.

16.3 An ~~e~~Employee or his estate shall be paid for unused, accumulated Sick Leave at the time of retirement, disability, retirement or death. Payment shall be based upon the Basic Hourly Rate of Pay for his "work week" at the time of disability, retirement, retirement or death ~~plus Longevity~~ and the amount shall be one-half (1/2) of the unused Sick Leave with a maximum payment of one thousand (1,000) hours.

16.4 Any ~~e~~Employee who transfers from one department within the City of North Olmsted to another shall be credited with the unused balance of Sick Leave accumulated.

16.5 Sick Leave may be taken for any of the following reasons:

- A. Illness or injury to the employee.
- B. Illness or injury of a member of the ~~e~~Employee's immediate family.

- C. Medical, dental, or optical examination or treatment of the eEmployee, where the treatment may not be scheduled during non-working hours.
- D. Exposure to contagious disease where quarantined by the Board of Health or communicable to other eEmployees.
- E. Pregnancy of the eEmployee where complications exist or childbirth by eEmployee's spouse.

16.6 The Employer shall require an eEmployee to furnish a standard form identifying the reason for the use of sick leave as per 14.5 and signed by the eEmployee.

16.7 Before an absence may be charged against accumulated sick leave, the Employer may require proof of illness, injury or death as may be satisfactory to the Employer, or may require the employee to be examined by a physician designated by and paid for by the Employer. In any event, forty (40) hour employees absent for three (3) consecutive work days must supply a physician's report to be eligible for paid sick leave, unless waived by the Employer. Employees assigned to a twenty-four (24) hour tour schedule, absent for more than one (1) twenty-four (24) hour tour, must supply a physician's report to be eligible for paid sick leave, unless waived by the Employer.

16.8 If the employee fails to submit adequate proof of illness, injury or death, or in the event that upon proof as is submitted or upon the request of medical examination, the Employer finds there is not satisfactory evidence of illness or death sufficient to justify the employee's absence, such leave may, be considered an unauthorized leave and shall be without pay.

16.9 Any abuse of patterned use of sick leave shall be just and sufficient cause for disciplinary action.

16.10 The Employer may require an employee who has been absent due to personal illness or injury, prior to and as a condition of his return to duty, to be examined by a physician designated and paid by the Employer, to establish that he is not disabled from the performance of his duties and that his return to duty will not jeopardize the health and safety of other employees.

16.11 When the use of sick leave is due to illness or injury in the immediate family, "immediate family" shall be defined to only include the employee's spouse, children (i.e., dependent residing in the same household), parents residing with the employee, or minor over whom the employee is legal guardian. When the use of sick leave is due to the death in the immediate family, "immediate family" shall be defined to only include the employee's parents, spouse, child, brother, sister, parents-in-law, grandparents, or minor over whom the employee is legal guardian, grandparents of spouse and grandchildren.

~~14.7 If medical attention is required, the Employee shall be required to furnish a statement from a licensed physician or psychologist notifying the Employer that the Employee was unable to perform his duties. Any firefighter who is sick or disabled for more than two (2) consecutive tours of duty or forty (40) hour Employee who is sick or disabled for five (5) consecutive working days may be required to secure and submit a physician's release certifying that they are fit to return to work. This release must be submitted to the Employee's Officer in Charge before the Employee will be permitted to return to work.~~

16.12 Employees shall be permitted to contribute sick leave hours to a sick leave bank for use by any eEmployee who has exhausted all of his own sick leave under the following conditions:

- A. The Sick Leave bank shall have a maximum balance of fifteen hundred (1500) hours.

- B. Employees that have suffered any illness or injury in the scope of their employment and have exhausted the benefits of Article XVI or were not covered by the provisions of Article XVI may draw from the sick leave bank after their own sick leave bank has been exhausted.
- C. Employees that have suffered any illness or injury to themselves or their immediate family outside of the scope of their employment may draw from the sick leave bank only after the eEmployee has exhausted all of their own sick leave bank, vacation and holidays.
- D. Any eEmployee that contributes sick leave hours to the sick leave bank shall not lose any sick leave bonus as granted by section 14.2.
- E. No eEmployee shall be permitted to contribute more than one hundred (100) hours during his term of employment.
- F. Employees who have used hours from the sick leave bank shall be required to repay the sick leave bank one (1) hour for every two (2) hours used. Employees shall be required to repay a minimum of two (2) hours per pay period. Should an employee not be able to repay the sick leave bank prior to his separation from service then the sick leave bank shall be credited from his separation check. Such requirement of repayment may be waived by a majority vote of the Association's Executive Board, (1 total vote) of Local 1267, the Chief and Safety Director. Assistant Chief.

~~14.9 — The Employer may require any Employee requesting paid sick leave to furnish substantiating evidence or a statement from his/her attending physician certifying that absence from work was required due to one of the reasons set forth in 14.5. Such certification must be~~

~~presented whenever sick leave is requested for more than two (2) consecutive tours of duty for Employees who work an average of 50.4 hours per week and for five (5) consecutive working days for Employees on a forty (40) hour work week.~~

ARTICLE 19 – SALARIES

EMPLOYER'S POSITION:

19.1 That all employees should be granted a 2% wage increase effective on the execution day of this Agreement.

UNION'S POSITION:

19.1 Unknown.

PRESENT PROVISION:

19.1 The previous CBA provided for a 4 ½% wage increase in 2005.

RATIONALE:

19.1 The cost of living over the preceding three years has averaged a little over 2 ½%. The Employer has covered increases in healthcare costs while the employee's premium share has actually gone down. The employees have unjustly received excessive overtime payments during the two preceding agreements. Furthermore, these employees are paid more than their counterparts in surrounding communities. As a result, the Employer's proposal of 2% on the signing of the CBA is reasonable based on the circumstances.

EMPLOYER'S POSITION:

19.3 Change the payments for officer in charge pay from ½ hour overtime for every eight (8) hours to \$2.00 per hour.

UNION'S POSITION:

19.3 The Union is opposed.

PRESENT PROVISION:

19.3 The employee receives ½ hour of overtime pay for each eight hours he works out of rank.

RATIONALE:

19.3 Presently, the computation of ½ hour for ever eight hours pay, results in an employee receiving 1 ½ hours of overtime for filling in for a lieutenant. The overtime rate results in this employee receiving almost \$100.00 for serving a full tour of duty as a lieutenant, while the lieutenant only makes approximately \$70.00 more than the firemen make on a normal basis. Clearly, this is an inordinate amount of money to be paid for an employee that does not fulfill all the duties of a lieutenant, due to the fact that they are a firefighter and are not as fully trained or experienced in being a lieutenant as is the actual lieutenant. Accordingly, the Employer wishes to reduce it to \$2.00 an hour, which still results in the employee receiving approximately \$50.00 for every day that he fills in for a lieutenant. This is fair and equitable on its face.

EMPLOYER'S POSITION:

19.5 Delete the weekend bonus.

UNION'S POSITION:

19.5 The Union is opposed.

PRESENT PROVISION:

19.5 Any employee who works on a Saturday or a Sunday receives an additional 2 ¼ hours pay for working on those days.

RATIONALE:

19.5 This is one of the more preposterous benefits contained in this CBA. Nowhere has it been found that any other fire department pays employees 2 ¼ hours for working on a Saturday or a Sunday. This is an additional bonus of approximately \$58.00 per day. No other fire department on the west side of Cuyahoga County, or for that matter as far as the Employer can glean, anywhere else in the County, pays this benefit. Furthermore, no other employee working

for the City of North Olmsted receives this benefit. Accordingly, it should be removed from the CBA.

EMPLOYER'S POSITION:

19.4 The Employer wishes to pay employees by electronic deposit.

UNION'S POSITION:

19.4 Unknown.

PRESENT PROVISION:

19.4 Employees receive checks.

RATIONALE:

19.4 The Employer wishes to have all employees be paid through electronic deposit. It is more efficient and cheaper for the Employer to do the same. There is no good rationale as to deny this proposal. It is now the 21st century and the State has just changed to require such payments and numerous other public employers are going the same way.

ARTICLE XIX

SALARIES

~~17.1 A schedule of salaries shall form a part of, and be subject to, all provisions of this Agreement.~~

~~17.2 Salary schedule for Employees:~~

~~A. Effective January 1, 2004 through December 31, 2004~~

~~(Represents a 0.0% increase from 2003)~~

~~Cadet/Paramedic 1st year \$38,170.26 Annually \$1,468.09 Bi-weekly~~

~~Fire Fighter 2nd year \$41,205.24 Annually \$1,584.82 Bi-weekly~~

~~Fire Fighter 3rd year \$44,242.53 Annually \$1,701.64 Bi-weekly~~

~~Fire Fighter 4th year \$47,277.52 Annually \$1,818.37 Bi-weekly~~

~~Fire Fighter 5th year \$52,043.28 Annually \$2,001.66 Bi-weekly~~

~~Lieutenant \$58,808.92 Annually \$2,261.88 Bi-weekly~~

~~Captain \$64,983.86 Annually \$2,499.38 Bi-weekly~~

~~B. Effective January 1, 2005 through December 31, 2005~~

~~(Represents a 4.5% increase from 2004)~~

~~Cadet/Paramedic 1st year \$39,887.92 Annually \$1,534.15 Bi-weekly~~

~~Fire Fighter 2nd year \$43,059.64 Annually \$1,656.14 Bi-weekly~~

~~Fire Fighter 3rd year \$46,233.46 Annually \$1,778.21 Bi-weekly~~

~~Fire Fighter 4th year \$49,405.20 Annually \$1,900.20 Bi-weekly~~

~~Fire Fighter 5th year \$54,385.23 Annually \$2,091.74 Bi-weekly~~

~~Lieutenant \$61,455.32 Annually \$2,363.67 Bi-weekly~~

~~Captain \$67,908.13 Annually \$2,611.85 Bi-weekly~~

C. Effective January 1, 2006 through December 31, 2006

(Represents a 4.5% increase from 2005)

Cadet/Paramedic – 1 st year	\$41,682.94 Annually	\$1,603.19 Bi-weekly
Fire Fighter – 2 nd year	\$44,997.42 Annually	\$1,730.67 Bi-weekly
Fire Fighter – 3 rd year	\$48,313.98 Annually	\$1,858.23 Bi-weekly
Fire Fighter - 4 th year	\$51,628.46 Annually	\$1,985.71 Bi-weekly
Fire Fighter - 5 th year	\$56,832.57 Annually	\$2,185.87 Bi-weekly
Lieutenant -	\$64,220.81 Annually	\$2,470.03 Bi-weekly
Captain -	\$70,963.88 Annually	\$2,729.38 Bi-weekly

19.23 Fire Prevention Premium – All Fire Prevention Officers/Inspectors shall receive one thousand two hundred (\$1,200.00) dollars per year plus Longevity if applicable. Said payment shall be paid bi-weekly in the ~~e~~Employee's regular payroll check for performance of said duty.

19.34 Acting In The Capacity of A Higher Rank – Any Fire Fighters or Officers assigned to act in the capacity of a superior Officer shall receive an additional two dollars (\$2.00) one half (1/2) hour of overtime pay for each eight (8) hours he is required to act out of rank.

~~17.5 Weekend Bonus – Employees scheduled to work on Saturdays or Sundays shall receive an additional two and one quarter (2 1/4) hours pay at the Basic Hourly Rate of Pay for Line Personnel plus Longevity.~~

19.4 All forms of compensation shall be paid by electronic deposit to commence at the Employer's convenience.

ARTICLE 21 – LONGEVITY

EMPLOYER’S POSITION:

21.1 Modify the existing percentage longevity payment to a set dollar schedule which equates to \$100.00 per year at 5, 10, 15 and 20 years and grandfather all existing employees so that they do not lose any money. However, their pay amount will not increase until they advance on the new scale to a level that pays a greater sum.

UNION’S POSITION:

The Union is opposed.

PRESENT PROVISION:

Presently, employees receive 4% after five years, 5% and 10 years, 6% after 15 years, and 7% after 20 years.

RATIONALE:

This CBA is one of the few CBAs in the area that provides for percentage longevity. The vast majority of other fire contracts provide dollar amounts based on the length of service. At the present moment, a person with five years of seniority, receives an additional 4% of their wage scale. This equates to over \$2,000.00 per year at five years. The surveys will indicate that in most cities the average employee receives only \$500.00 at five years. This is clearly a grossly exorbitant benefit and should be modified. The Employer is not suggesting taking any money away from the existing employees, only freezing existing employees at their rate for the duration of their employment, unless and until they can receive more money under the new scale.

This longevity plan is only in effect for the police and fire in the City of North Olmsted. All other employees of the City are on a fixed dollar amount. This percentage of longevity favors higher paid employees to the detriment of lower paid employees. An employee receiving

4% longevity making \$60,000.00 a year receives \$2,400.00 in longevity, whereas a secretary working for \$30,000.00 a year would only receive \$1,200.00 in longevity. One year out of one person's life should be worth the same amount of money as any other. Longevity is only based on two things, staying employed and staying alive. It is not related to the work or duties being performed by the individual, only their seniority. Hence, longevity payment should not be predicated on the base salary of a respective employee. Further, this present practice greatly exceeds the longevity benefits provided in surrounding cities.

ARTICLE XXI

LONGEVITY

~~.01 Longevity shall be based on the continuous service of an employee and shall be computed on the base salary and be four (4%) percent after five (5) years; five (5%) percent after ten (10) years; six (6%) percent after fifteen (15) years and seven (7%) percent after twenty (20) years.~~

21.1 All employees shall receive longevity payments based on their number of years of continuous service in accordance with the following schedule:

Five (5) years – five hundred (\$500.00) dollars

Ten (10) years – one thousand (\$1,000.00) dollars

Fifteen (15) years – one thousand five hundred (\$1,500.00) dollars

Twenty (20) years – two thousand (\$2,000.00) dollars

21.2 Longevity payments should be divided by the employee's regularly scheduled number of hours worked per year (2080 or 2621) and added to the employee's regular basic hourly rate of pay.

21.3 Any employee receiving a longevity payment on the employee's annual base rate of pay that is greater than the payments provided in this schedule on December 31, 2006, shall continue to receive such dollar amount until such time that the employee will receive a greater amount under this schedule, when this schedule shall control.

ARTICLE 22 – HEALTH BENEFITS

EMPLOYER’S POSITION:

22.1 Modify the existing health plan as is demonstrated in Exhibit A. Further, modify the employee’s contribution rate towards the premium to be 10% of the premium. This change results in deductibles and co-pays being placed in the CBA and in more of a mainstream healthcare plan.

UNION’S POSITION:

The Union is opposed.

PRESENT PROVISION:

Presently, the Employer is required to provide a plan that has minimal deductibles and co-pays and co-insurance limits.

RATIONALE:

The Employer has just received a very large increase in premium rates of approximately 16% or 17%. The cost of the health care plan has gone up consistently over the last several years due to the minimal deductibles or co-pays that any employees have to pay. The only time the premiums stayed flat was when the Union and the Employer changed the “stop loss” coverage from \$50,000.00 to \$75,000.00. This saved the Employer a little money but had nothing to do with changing the employee’s benefits. Furthermore, at that time, there was a minor increase in co-pays for drug prescriptions, but they are still exceedingly low. The Employer is proposing a mainstream plan with in-network deductibles of \$200.00 and \$400.00 and an 80/20 co-insurance rate, with a maximum out-of-pocket limit for single and family plans at \$1,000.0/\$2,000.00. Additionally, prescriptions will have a co-pay of \$10, \$20 and \$30, depending on the types of

drugs being bought. This is a basic plan and it is effective with many other employers within the area, including the State of Ohio.

EMPLOYER'S POSITION:

22.7 Delete the insurance committee.

UNION'S POSITION:

22.7 The Union is opposed.

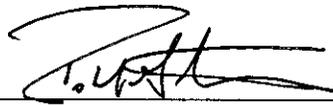
PRESENT PROVISION:

22.7 At the present, there is a committee formed between the Employer and the Union, along with other unions. This committee was supposed to meet to save the Employer money and has failed to do so. The Employer's premiums have increased markedly over the years and this committee has failed to provide any meaningful savings. The only meaningful savings provided was due to a change in prescription co-pays and in the stop loss coverage, which the Employer could have done on its own because it is only insurance to protect how much the Employer has to pay out in catastrophic claims. It has only agreed to a very minor change in prescription co-pays. The net effect is that the Employer now faces 16% to 17% increase in healthcare costs with the committee being totally ineffectual. Furthermore, the language provides that the Employer must meet with a committee and try to work something out, otherwise the Union has the right to go to binding arbitration to determine what the insurance coverage should be. The Employer is adamantly opposed to the continuation of this language, as it does not provide any finality in negotiations. Healthcare is an interval part of the overall cost factor of negotiating a CBA and the Employer needs to know what the plan is going to be for the term of the Agreement. The Employer wishes to negotiate the provisions of the new healthcare plan now and have it be in

TENTATIVE AGREEMENT

During negotiations, mediation, and fact-finding the parties reached tentative agreements on several issues. These tentative agreements and any current language recommended to remain unchanged or not addressed in this report are part of the recommendations contained in this report.

The Fact-finder respectfully submits the above recommendations to the parties this 17th day of December 2007 in Portage County, Ohio.

A handwritten signature in black ink, appearing to read 'R. G. Stein', written over a horizontal line.

Robert G. Stein, Fact-finder

Appendix C

COLLECTIVE BARGAINING AGREEMENT

BETWEEN

CITY OF NORTH OLMSTED

AND

INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS

LOCAL 1267



JANUARY 1, 2004 THROUGH DECEMBER 31, 2006

CONTRACT AGREEMENT

CITY OF NORTH OLMSTED FIRE FIGHTERS #1267

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THIS AGREEMENT, made and entered into this 28th day of October, 2004, by and between the City of North Olmsted, Ohio (herein referred to as the "Employer") and Local 1267, I.A.F.F., (herein referred to as the "Association")

W I T N E S S E T H:

WHEREAS, the employer and the Association desire to promote, achieve, and maintain harmonious relations between the employer and the Association, and

WHEREAS, the Employer and the Association desire to provide for the equitable and peaceful adjustment of differences as they may arise, and

WHEREAS, the Employer and the Association desire to establish proper standards of wages, hours and conditions of employment;

NOW THEREFORE, in consideration of the promises and of the mutual covenants herein contained, it is mutually agreed as follows:

ARTICLE I

DEFINITIONS

In this agreement, whenever the contents indicate, the singular or plural number and the masculine, feminine or neuter gender, shall be deemed to include the other, the terms "he", "his" and "him" shall refer to an Employee (as herein defined), and the capitalized terms shall have the following meanings:

<u>Agreement:</u>	This agreement including all amendments thereto.
<u>Aggrieved Party:</u>	Any Employee or Employees within the Association filing a grievance.
<u>Association:</u>	Local 1267 I.A.F.F.
<u>Basic Hourly Rate of Pay for Line Personnel:</u>	For personnel that work a 51.7 hour work week, that rate of pay equal to the total annual salary of an Employee divided by 2688.4 hours. Effective January 1, 2003 for personnel that work a 50.4 hour work week, that rate of pay equal to the total annual salary of an Employee divided by 2620.8 hours.
<u>Basic Hourly rate of Pay for Staff Personnel:</u>	For personnel that work a 40 hour work week, that rate of pay equal to the total annual salary of an Employee divided by 2080 hours.
<u>Board of Health:</u>	The Cuyahoga County Board of Health.
<u>Call Back:</u>	The time an Employee is called back to work and which is commonly understood by the Employer and the Association as call back time.
<u>Captain:</u>	An individual having the rank of Captain in the Fire Department.

<u>Civil Service Commission:</u>	The Civil Service Commission as is commonly recognized in the City of North Olmsted, State of Ohio.
<u>Civil Service Rules and Regulations:</u>	Rules and regulations as outlined by the Civil Service Commission from time to time.
<u>Compensatory Time:</u>	Time off in lieu of pay.
<u>Employee:</u>	Any full-time member of the Fire Department occupying the position of Fire Cadet/Paramedic, Fire Fighter, Lieutenant, or Captain.
<u>Employer:</u>	City of North Olmsted, Ohio.
<u>Fair Share Fee:</u>	Fee in lieu of dues, deducted from those full-time Employees of the Fire Department who are not members of the Association.
<u>Fire Cadet/Paramedic:</u>	An individual hired as an Employee of the Fire Department who, at the inception of employment, holds certification as a paramedic from the State of Ohio.
<u>Fire Chief:</u>	The individual having the position of Fire Chief or his designee as appointed from time to time in the Fire Department.
<u>Fire Department:</u>	The City of North Olmsted, Ohio, Fire Department.
<u>Fire Fighter:</u> 2 nd year	A Fire Fighter who has completed one (1) year of service with the City of North Olmsted performing work of this bargaining unit.

3rd year A Fire Fighter who has completed two (2) years of service with the City of North Olmsted performing work of this bargaining unit.

4th year A Fire Fighter who has completed three (3) years of service with the City of North Olmsted performing work of this bargaining unit.

5th year A Fire Fighter who has completed four (4) years of service with the City of North Olmsted performing work of this bargaining unit.

Grievance: A complaint, dispute or controversy arising from an alleged misapplication or misinterpretation of the provisions of this Agreement.

Grievance Procedure: The procedure outlined in Article VII of this Agreement.

Immediate Family: In the case of illness, Immediate Family shall be parent; parents of spouse; spouse and children of the Employee as well as other relatives living with the Employee if the Employee is acting as parent or guardian.

Lieutenant: An individual having the rank of Lieutenant in the Fire Department.

Light Duty: That work assigned to an Employee during time when an Employee is acting under disability or poor health.

Line Personnel: Individuals working a 24-hour shift in a 72-hour period who are not Staff Personnel.

Longevity: Compensation based on continuous loyal service to the Employer. Longevity shall be computed on the

base salary and be: 4% after 5 years of continuous service, 5% after 10 years of continuous service, 6 % after 15 years of continuous service, 7% after 20 years of continuous service.

Normal Work Schedule:

One (1) twenty-four (24) consecutive hour shift followed by forty-eight (48) hours off duty, However, for reasons of shift transfer, training, Light Duty or emergency disaster, the Fire Chief may change an Employee's work shifts to meet the Employer's needs that are affected by a shift transfer, training, Light Duty or emergency disaster.

Overtime:

Any time worked in excess of forty (40) hours per week or in excess of the daily work schedule agreed to by the Employee and the Employer for Staff Personnel or as specified in Article X. In the case of Line Personnel, any time worked in excess of twenty-four hours in a seventy-two hour period or as specified in Article X.

Overtime Rate of Pay:

The rate of pay equal to one and one-half (1-1/2) times the Basic Hourly Rate of Pay including Longevity compensation if applicable. During the year 2002, overtime rate of pay only shall be calculated by dividing the annual rate by 2080 hours. Effective January 1, 2003, overtime is to be calculated based upon a 50.4 hour work week except for emergency call-ins and emergency hold-overs which shall be paid at the 40 hour rate.

Paramedic Certification:

That certification as awarded by the State of Ohio in accordance with the Ohio Revised Code.

Safety Director:

The individual occupying the position of Safety Director of the Employer from time to time.

Seniority:

A position determined by continuous service in the North Olmsted Fire Department from the date of employment. Continuous service shall be broken only in resignation, discharge, retirement, or leave of absence for personal reasons. Employees with the same employment date shall be assigned seniority in the order of their ranking on the Civil Service eligibility list.

Shift Captain:

The individual designated as such or his designee.

Staff Personnel:

Staff Personnel permanently assigned to a forty (40) hour week and understood to be such personnel by the Employer and the Association. Individuals assigned to light duty are not considered to be permanently assigned to a forty (40) hour work week.

State Employment Relations Board:

The State Employment Relations Board of the State of Ohio.

Treasurer:

The individual occupying the position of Treasurer of the Association from time to time.

Week:

Sunday through Saturday

ARTICLE II

RECOGNITION

The employer hereby recognizes the Association as the sole and exclusive bargaining unit with respect to wages, hours, and other terms and conditions of employment for all full-time Employees in the Fire Department who are members of the Association or are represented by the Association. All other Employees of the City of North Olmsted are excluded from the bargaining unit.

ARTICLE III

MANAGEMENT'S RIGHTS

- 3.1 All matters pertaining to wages, hours, or terms and other conditions of employment and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement are subject to collective bargaining between the public Employer and the exclusive representative, except as otherwise specified.
- 3.2 The conduct and grading of civil service examinations, the rating of candidates, the establishment of eligible lists from the examinations, and the original appointments from the eligible lists are not appropriate subjects for collective bargaining.
- 3.3 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:
- A. Determine matters of inherent managerial policy which include, but are not limited to areas of discretion or policy such as the functions and programs of the public Employer, standards of services, its overall budget, utilization of technology, and organizational structure;
 - B. *Direct, supervise, evaluate and hire employees;*
 - C. Maintain and improve the efficiency and effectiveness of governmental operations;
 - D. Determine the overall methods, process, means, or personnel by which governmental operations are to be conducted;
 - E. Suspend, discipline, demote, or discharge for just cause, or lay off, transfer, assign, schedule, promote, or retain employees;
 - F. Determine adequacy of the work force;
 - G. Determine the overall mission of the Employer as a unit of government;
 - H. Effectively manage the work force;

- I. Take actions to carry out the mission of the public Employer as a governmental unit.

The employer is not required to bargain on subjects reserved to the management and direction of governmental unit except as affect wages, hours, terms and conditions of employment, and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement. A public Employee or exclusive representative may raise legitimate complaint or file grievance based on the collective bargaining agreement.

ARTICLE IV

DUES DEDUCTIONS

- 4.1 The Employer agrees to deduct regular monthly Association dues from wages of those Employees who have voluntarily signed dues deduction authorization forms permitting such deductions. The dues deductions shall be made from the second paycheck of every month.
- 4.2 The Employer agrees to deduct from the salary of any Employee of the Fire Department, who is not a member of the Association, to pay to the Association by way of payroll deduction, a Fair Share Fee, as determined by the Treasurer of the Association but not to exceed the dues paid by Association members.
- 4.3 A check in the amount of the total dues and Fair Share Fees withheld from those Employees authorizing dues and Fair Share Fee deductions shall be tendered to the Treasurer of the Association within fourteen days from the date of those deductions. The Employer shall supply the Association with a list of those Employees for whom deduction has been made.
- 4.4 The Association agrees to hold the Employer harmless from any and all liabilities and damages which may arise from the performance of its, the Employer's, obligations under this Article and the Association shall indemnify the Employer for any such liabilities or damages that do arise.

ARTICLE V

NONDISCRIMINATION

- 5.1 The parties to this Agreement agree to continue their policy of non-discrimination as required by applicable law based on sex, race, religion, disability, national origin or age, regarding employment, employment advancement, working conditions, rates of pay, acceptance into Association membership or selection for apprentice openings.
- 5.2 The Employer and the Association recognize the right of all Employees to be free to join the Association, should they so desire, and to participate in lawful Association activities. The Employer and the Association agree that there shall be no discrimination by the Employer or the Association against any Employee because of Association membership or non-membership.

ARTICLE VI

RULES, REGULATIONS, AND ORDERS

- 6.1 The Association agrees that its members shall comply with all Fire Department rules, regulations and orders, including those relating to conduct and work performance.

ARTICLE VII

GRIEVANCE PROCEDURE

- 7.1 Any Employee shall have the right to present a Grievance in accordance with the procedure provided herein, free from any interference, coercion, restraint, discrimination or reprisal. It is the intent and purpose of the parties to this Agreement that all grievances shall be settled at the lowest possible step of this procedure.

7.2 The following procedures shall apply to the administration of all grievances filed under this Article.

A. When any of the aforementioned Grievance conditions arise, the following procedures shall be strictly observed:

All Grievances shall be typewritten and filed on an Official Grievance Form. An Official Grievance Form shall be provided to the Employee by the Association and shall contain the following information at the time the Grievance is presented:

The date the Grievance occurred.

The time the Grievance occurred.

A detailed description of the incident giving rise to the Grievance.

Article and Sections of the Agreement involved or past practice.

Relief requested.

Name and signature of the Employee and date signed by the Employee.

Name and signature of the Steward and date signed by the Steward, if any.

B. Except at Step 1, decisions shall be rendered in writing at each step of the Grievance Procedure. Each decision shall be transmitted to the Aggrieved Party and his representative, if any.

C. A grievance may be filed by any member of the Association. Where a group of Association members desire to file a grievance involving a situation affecting more than one member of the Association in a similar manner, one member selected by such group shall process the grievance. Such grievance shall be defined as a group grievance. The names of each member, on behalf of which the grievance is filed, shall be presented on, or appended to, the grievance form and submitted to the Shift Officer. The grievance procedure outlined in Section 7.3 shall be used throughout.

- D. The preparation and processing of Grievances by Employees or the Association may be conducted on duty providing it does not interfere with the operations of the Fire Department. Grievance hearings shall be conducted while on duty when practicable in accordance with the Fire Chief's and/or Safety Director's schedule.
- E. Nothing contained herein shall be construed as limiting the right of an Employee to request having a Grievance discussed informally with the Fire Chief or his designee and having said matter informally adjusted without intervention of the Association, provided that the adjustment is not inconsistent with the terms of this Agreement. In the event that the Grievance is adjusted without formal determination, pursuant to the procedure, while such adjustment shall be binding upon the Aggrieved Party and the Employer, and in all respects be final, said adjustment shall not create a precedent or ruling upon the Employer or Association in future proceedings.
- F. The Aggrieved Party may have Association representation at any step of the Grievance Procedure.
- G. The time limits provided herein will be strictly adhered to and any Grievance not filed initially or appealed within the specific time limits outlined in this Article shall be deemed null and void. Should any of the time limits as specified herein end on any day that City Hall is closed than that time limit shall automatically be extended to the next regular business day. If the Employer fails to reply within the specified time limits, the Grievance shall automatically move on to the next step. The time limits specified for either party may be extended only by written mutual agreement.
- H. This procedure shall not be used for the purpose of adding to, subtracting from, or altering in any way of the provisions of this Agreement.

7.3 All Grievances shall be administered in accordance with the following steps:

STEP 1 – The Grievance shall be discussed between the Employee involved and the Association representative of his choice, and his Shift Officer within ten (10) days of the occurrence on which the Grievance is based. If a settlement satisfactory to the parties cannot be reached within five (5) days of the initial presentation of the Grievance, the Aggrieved Party shall reduce the Grievance to writing as per Section 7.2 (A) and submit his written grievance to the Shift Officer. The Shift Officer shall indicate the date and time of receipt of the grievance, and affix his signature to the grievance form, and, within ten (10) days submit the grievance to the Fire Chief with a written

report stating the substance of the grievance and any necessary background information that may be pertinent to the grievance. Copies of any written statements and documents shall be provided to the aggrieved party as well. Written grievances can not be resolved at STEP 1 of the grievance procedure.

In the event of an Employee's discharge from employment, the Grievance shall be submitted at Step 3 with a written Grievance submitted to the Director of Public Safety within ten (10) days of the discharge of the Employee.

STEP 2 – The Fire Chief shall render a written decision within ten (10) days after receipt of the Grievance. The fire chief may convene a hearing during that ten (10) day period with the aggrieved party and the Association representative of the aggrieved party's choice.

STEP 3 – If the Aggrieved Party initiating the Grievance is not satisfied with the written decision of the Fire Chief at the conclusion of Step 2, a written appeal of the decision may be filed with the Director of Public Safety within ten (10) days from the date of the written decision rendered by the Fire Chief at Step 2. Copies of the written decision shall be submitted with the appeal.

The Director of Public Safety shall convene a hearing within ten (10) days of the receipt of the appeal. The hearing will be held with the Aggrieved Party and his Association representative. The Director of Public Safety shall issue a written decision to the Employee and his representative if requested, within ten (10) days from the date of the hearing.

STEP 4 – If the Grievance is not satisfactorily settled at Step 3, the Association, may, within thirty days after receipt of the Step 3 decision, submit the matter to arbitration. The Association shall notify the Employer of its intent to appeal the Grievance to arbitration in writing. Within ten (10) days, representatives of the Association, shall send a written notice of its intent to arbitrate the Grievance to the Federal Mediation and Conciliation Service. The Federal Mediation and Conciliation Service shall submit a panel of five arbitrators and the arbitrator shall be selected by alternate striking within ten (10) days after receipt of the list.

(A) The arbitrator shall have no power or authority to add to, subtract from, or in any manner alter the specific terms of this Agreement, or to make any award requiring the commission of any act prohibited by law, or to make any award that itself is contrary to law or violates any of the terms and conditions of this Agreement.

- (B) The arbitrator shall hold a hearing within thirty days of the notification of appointment. He shall establish the hearing time and place, but it shall be, where feasible, within the jurisdiction of the City.
- (C) Not later than five (5) days before the hearing, each of the parties shall submit to the arbitrator and to the opposing party a written report summarizing the unresolved issue, the parties requested method of resolution, and the rationale for that resolution.
- (D) All awards of the arbitrator and all pre-arbitration Grievance settlements reached by the Association and the Employer shall be final, binding and conclusive on the Association and the Employer.
- (E) The fees of the arbitrator, expenses of meeting rooms and stenographic service shall be borne equally by the parties.

7.4 A Grievance may be withdrawn without prejudice at any time.

7.5 Both the Employer and the Association, shall in good faith, make every attempt to resolve all Grievances at the lowest step in the Grievance Procedure.

ARTICLE VIII

PERSONNEL REDUCTION

- 8.1 When a position in the Fire Department is abolished or an administrative layoff is ordered, and the position is above the rank of Fire Fighter, the least Senior officer in such rank shall be demoted to the next lower rank and the least Senior officer in such lower rank shall be demoted, and so on down until the least Senior person has been reached and he shall be laid off.
- 8.2 When a Fire Fighter's position, or Fire Cadet/Paramedic, has been abolished and is re-established, or has been administratively laid off and subsequently a decision to refill the position is made, the person who previously held that position shall be entitled to that position. If a position above the rank of Fire Fighter is abolished, then re-established, or administratively laid off, then subsequently a decision to refill is made, the person who previously held that position shall be entitled to that position. No new Employees shall be hired until all laid off Employees within that

classification have been given the opportunity to return to work. Any Employee laid off for more than thirty-six consecutive months shall not be called to return to work.

- 8.3 Any Employee who has been laid off shall be subject to the terms and regulations of the Consolidated Omnibus Budget Reconciliation Act (COBRA).
- 8.4 Any Employee laid off and subsequently recalled to work shall return to work with all benefits and privileges previously held provided the same have not been used, including but not limited to seniority, accumulated sick leave, holidays and vacation rights.
- 8.5 Employee must report all address and telephone changes while laid off.
- 8.6 Employee must agree to return to work within 48 hours of recall or lose his right of recall. Employee must return to work within 14 days of the date of recall or lose his right to recall.

ARTICLE IX

DISCIPLINE AND DISCHARGE

- 9.1 No Employee shall be disciplined or discharged without just cause.
- 9.2 In all cases whereby the Employer takes disciplinary action against a member of this bargaining unit which results in the suspension or discharge of a non-probationary Employee, the Employee shall receive a written notification detailing the cause for the suspension or discharge and the effective date of the suspension or discharge.
- 9.3 In a case where the Employer takes disciplinary action resulting in suspension or discharge of a non-probationary Employee, the non-probationary Employee shall have a right to appeal such disciplinary action through the Grievance Procedure beginning at Step 3 and shall be filed in accordance with the time limits established in Step 1 of the Grievance Procedure. Verbal and/or written reprimands that do not in themselves result in suspension or discharge shall not be subject to the Grievance Procedure.

- 9.4 An Employee that has been suspended and/or discharged and chooses to file a Grievance, shall be permitted to, at his option, be allowed to call witnesses to present testimony relating to the suspension and/or discharge at the hearing. The Employer shall also be permitted to call witnesses to provide testimony relative to the suspension and/or discharge. Witness lists established by the City or the Grievant shall be exchanged 5 days prior to the hearing. No other witnesses shall be permitted to testify unless so listed, or unless agreed upon by both parties, or unless called by either party as a rebuttal witness.
- 9.5 Failure of an Employee to comply with the provisions of this Article and the provisions contained within Article VII of this Agreement shall result in immediate forfeiture of further right of appeal.
- 9.6 Failure of the Employer to comply with the provision contained in Section 9.2 above shall result in rendering the suspension and/or termination null and void.
- 9.7 The time limits set forth within the Grievance Procedure (Article VII) may be modified by written mutual agreement of the Association and the Employer.
- 9.8 The Employer shall notify the Association in writing of each disciplinary action involving suspension or discharge.
- 9.9 The Employer shall make every attempt to notify an Association representative in the event of any written discipline, suspension or discharge before the action is taken.

ARTICLE X

OVERTIME

- 10.1 The Fire Chief will be the final authority in determining the need for Overtime.
- 10.2 Overtime shall be paid in one-half hour increments. With respect to Overtime and Call Back, Employee's may be required to stay the entire time if in the discretion of the Officer in Charge the same is necessary. Employees shall receive a minimum of overtime compensation as listed below:

Holdover – Minimum ½ Hour

Callback – Minimum of 2 Hours

Paramedic Class – Minimum of 2 Hours
Training – Minimum of 2 Hours
Meetings – Minimum of 2 Hours
Acting Officer – ½ Hour per 8 Hours acting out of rank
Rocky River Municipal Court – Minimum of 2 Hours
Common Pleas Court – Minimum of 4 Hours
Juvenile Court – Minimum of 4 Hours
Appearance at a Grand Jury – Minimum of 4 Hours
Early Start for Training – Minimum of 1 Hour
All Other Overtime – Minimum of 2 Hours

- 10.3 Employees may request payment of Overtime at any time. Employees shall be paid for all Overtime hours accumulated in excess of one hundred twenty (120) hours on January 15, April 15, July 15, and October 15 each year.
- 10.4 Any cash payment for Overtime shall be paid at the rate of pay at which it was earned after applying Longevity increment applicable.
- 10.5 Upon retirement or death, an Employee or his estate shall be paid for all accumulated Overtime.
- 10.6 Upon promotion or change in rank, all accumulated Overtime will be paid at the rate the Overtime was earned.

ARTICLE XI

UNIFORM ALLOWANCE

- 11.1 All Employees shall maintain duty and dress uniforms as mandated by the Rules and Regulations.
- 11.2 All Fire Cadet/Paramedics, immediately upon appointment, shall be provided two (2) duty uniforms, one uniform cap, one (1) universal squad jacket and one (1) white shirt. All clothing provided and/or clothing allowance paid shall be surrendered to the Employer in the event the Employee fails to complete the probationary period.

- 11.3 Each Employee shall receive an annual cash uniform allowance in the amount of \$1,250.00. Such allowance shall be paid in the Employee's first paycheck of January each year providing they have twelve (12) months of service. Employees with less than twelve (12) months of service shall have such amount prorated.
- 11.4 Clothing allowance shall be prorated per month in the Employee's final year of employment.

ARTICLE XII

HOLIDAYS

- 12.1 On January 1st of each year, Employees shall be entitled to seven, twenty-four hour Holidays plus 1 (one) additional 24 (twenty-four) hour Personal day to be used at the Employees discretion. The Personal day shall be subject to approval of the Fire Chief or his designee and shall be made in accordance with the rules governing any other time off request under the Holiday provision. However, should an Employee retire or otherwise terminate employment for any reason other than death or disability, Holidays shall be prorated for the year, and any Holidays taken beyond the prorated allowance will be debited from amounts due said Employee which are related to wages.
- 12.2 Selection of Holidays shall be made by the Employee and be subject to the approval of the Fire Chief or his designee.
- 12.3 Employees shall be permitted to select Holidays so in the sole opinion of the Fire Chief, the Fire Department will be appropriately staffed to protect the City of North Olmsted.
- 12.4 Holidays may be selected at any time prior to the desired date. However, such selection shall not be approved more than three months prior to the selected date. In the event more requests are submitted for a specific day than the schedule can accommodate, an Employee's seniority and selection date shall be the deciding factor.
- 12.5 Each Employee who works a shift beginning at 0800 hours on New Year's Day, President's Day, Good Friday, Easter, Memorial Day, Fourth of July, Labor Day, Veteran's Day, Thanksgiving, and Christmas shall be compensated at time and a half pay plus longevity if applicable for all hours worked. All comp time will be paid at the Basic Hourly Rate of Pay for Line Personnel plus longevity if applicable.

- 12.6 Staff Personnel shall be entitled to the following Holidays: New Year's Day, President's Day, Good Friday, Memorial Day, Fourth of July, Labor Day, Veteran's Day, Thanksgiving Day, Christmas Day, one-half day Christmas Eve, and one-half day New Year's Eve day, the Employee's Birthday and a floating personal use day.
- 12.7 The Fire Chief or his designee shall have the right to cancel a Holiday in the event of an emergency situation. An Employee shall have the right to cancel any Holidays no later than sixty (60) hours prior to the scheduled Holiday, except as described in Section 12.10.
- 12.8 Seniority shall prevail on Holiday requests first by rank, then by date of promotion, then by years of service:
- A. On the same day.
 - B. All requests prior to three months of the date selected shall be considered same day requests.
- 12.9 Selection date shall apply to those requests submitted between scheduled shifts within three months of the selected day.
- 12.10 In the event an Employee is off duty due to an on-duty injury, or illness of more than five shifts, he shall be permitted to cancel any Holiday previously scheduled during that time.
- 12.11 All requests for Holidays shall be acted upon before the end of the shift on which they are submitted, except as in Section 12.4. This applies to request received prior to 1400 hours.

ARTICLE XIII

VACATION SCHEDULE

13.1 All Line Personnel of the Fire Department shall receive a vacation at the Basic Hourly Rate of Pay plus Longevity, provided that they have been employed for at least one year. The amount of vacation time earned shall be as follows:

<u>Length of Service</u>	<u>Shifts</u>	<u>Year of Employment to be taken</u>
After one (1) year	Five (5)	Second (2 nd)
After two (2) years	Five (5)	Third (3 rd)
After three (3) years	Five (5)	Fourth (4 th)
After four (4) years	Five (5)	Fifth (5 th)
After five (5) years	Seven (7)	Sixth (6 th)
After six (6) years	Seven (7)	Seventh (7 th)
After seven (7) years	Seven (7)	Eighth (8 th)
After eight (8) years	Seven (7)	Ninth (9 th)
After nine (9) years	Seven (7)	Tenth (10 th)
After ten (10) years	Ten (10)	Eleventh (11 th)
After eleven (11) years	Ten (10)	Twelfth (12 th)
After twelve (12) years	Ten (10)	Thirteenth (13 th)
After thirteen (13) years	Ten (10)	Fourteenth (14 th)
After fourteen (14) years	Ten (10)	Fifteenth (15 th)
After fifteen (15) years	Twelve (12)	Sixteenth (16 th)
After sixteen (16) years	Twelve (12)	Seventeenth (17 th)
After seventeen (17) years	Twelve (12)	Eighteenth (18 th)
After eighteen (18) years	Twelve (12)	Nineteenth (19 th)
After nineteen (19) years	Twelve (12)	Twentieth (20 th)
After twenty (20) years	Fifteen (15)	Twenty-first (21 st)
After twenty-one (21) years	Fifteen (15)	Twenty-second (22 nd)
After twenty-two (22) years	Fifteen (15)	Twenty-third (23 rd)
After twenty-three (23) years	Fifteen (15)	Twenty-fourth (24 th)

13.2 All Staff Personnel of the Fire Department shall receive a vacation at the Basic Hourly Rate of Pay plus Longevity, provided that they have been employed for at least one year. The amount of vacation time earned shall be as follows:

<u>Length of Service</u>	<u>Hours</u>	<u>Year of Employment to be taken</u>
After one (1) year	Eighty (80)	Second (2 nd)
After two (2) years	Eighty (80)	Third (3 rd)
After three (3) years	Eighty (80)	Fourth (4 th)
After four (4) years	Eighty (80)	Fifth (5 th)
After five (5) years	One-hundred Twenty (120)	Sixth (6 th)
After six (6) years	One-hundred Twenty (120)	Seventh (7 th)
After seven (7) years	One-hundred Twenty (120)	Eighth (8 th)
After eight (8) years	One-hundred Twenty (120)	Ninth (9 th)
After nine (9) years	One-hundred Twenty (120)	Tenth (10 th)
After ten (10) years	One-hundred sixty (160)	Eleventh (11 th)
After eleven (11) years	One-hundred sixty (160)	Twelfth (12 th)
After twelve (12) years	One-hundred sixty (160)	Thirteenth (13 th)
After thirteen (13) years	One-hundred sixty (160)	Fourteenth (14 th)
After fourteen (14) years	One-hundred sixty (160)	Fifteenth (15 th)
After fifteen (15) years	Two-hundred (200)	Sixteenth (16 th)
After sixteen (16) years	Two-hundred (200)	Seventeenth (17 th)
After seventeen (17) years	Two-hundred (200)	Eighteenth (18 th)
After eighteen (18) years	Two-hundred (200)	Nineteenth (19 th)
After nineteen (19) years	Two-hundred (200)	Twentieth (20 th)
After twenty (20) years	Two-hundred forty (240)	Twenty-first (21 st)
After twenty-one (21) years	Two-hundred forty (240)	Twenty-second (22 nd)
After twenty-two (22) years	Two-hundred forty (240)	Twenty-third (23 rd)
After twenty-three (23) years	Two-hundred forty (240)	Twenty-fourth (24 th)
After twenty-four (24) years	Two-hundred forty (240)	Twenty-fifth (25 th)

13.3 The procedure for the selection of vacation time is described in Section 13.8 below. However, if extenuating circumstances arise the Employee involved may request the Fire Chief or his designee to approve such vacation out of sequence. In situations whereby the Fire Chief or his designee approves or denies vacation out of sequence, such action shall not be subject to the Grievance Procedure.

- 13.4 Employees shall be permitted to cancel scheduled vacation time no later than sixty (60) hours prior to the scheduled time.
- 13.5 In the event of a disaster (as determined by the Fire Chief or his designee) vacations may be cancelled by the Fire Chief or his designee.
- 13.6 Upon retirement or death, an Employee or his estate shall be paid for all accrued vacation, at the Basic Hourly Rate of Pay plus Longevity at the time of such retirement or death.
- 13.7 For Employees hired after January 1, 1996, years of service with another public sector employer shall not be credited for years of service towards vacation time as an Employee of the City of North Olmsted.
- 13.8 Employees shall be permitted to request that earned vacation leave be accumulated in accordance with the provisions in this Section. Employees shall be permitted to request that a portion of vacation leave be accumulated or be paid at their Basic Hourly Rate of Pay plus Longevity. In no event shall an Employee be permitted to accumulate vacation leave or be paid at their Basic Hourly Rate of Pay plus Longevity in excess of one-half the amount of vacation earned in the prior year. Employees who are entitled to an odd number of shifts vacation, and choose to accumulate or be paid in accordance with this Article, shall only be permitted to accumulate or be paid the lesser of one-half (example – an Employee is entitled to 7 shifts, he must use 4 shifts and be eligible to accumulate or be paid for 3 shifts). In no event shall an Employee be permitted to carryover into the subsequent year more vacation than one-half of the vacation earned in the prior year or be paid for more than one-half of the vacation earned in the prior year. In no event shall an Employee be permitted to accumulate a total aggregate vacation leave amount in excess of two (2) times the amount earned in the prior year.
- 13.9 Seniority shall prevail for vacation picks first by rank, then by date of promotion, then by years of service. Employees shall select usage of earned vacation time as follows:
- A. General Rules:
1. Shift Captains shall provide each Employee a selection day assignment by rank and then seniority, no later than October 15th of each year.
 2. Should an Employee be scheduled off duty on his selection date, the Employee shall submit his selection request before his last duty day.

3. Vacation selection shall not bump previously approved vacations; and third round vacation picks shall not bump approved holidays.
4. Each Employee shall have seventy-two (72) hours to complete his selection. Failure to complete his selection within the time frame provided shall cause the Employee to lose his selection and any bumping rights for that portion of the selection procedure.
5. Employees may choose up to two (2) weeks vacation time in the first and second round of vacation selection.
6. Vacation selections shall be made in whole weeks, which may include a Kelley Day except as in 13.8C(2).
7. An Employee may elect to pass on his selection in any round. In doing so, he forfeits selection order and bumping rights for that round.

B. First and second round selection:

1. *First round selection shall begin on November 1 of each year.*
2. Second round selection shall begin immediately upon completion of the first round.

C. Third round selections:

1. Third round selections shall begin immediately following the completion of the second round of selections as in 13.8A (1) through (4).
2. During the third round of selections individual days may be selected in any order and number up to the limit on the books for the current year.
3. Employees may select usage of accumulated vacation after all his current vacation time has been selected or sold with the approval of the Fire Chief or his designee.

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4. An Employee who selects usage of accumulated vacation in accordance with 13.8C(3) shall lose his right to cancel any vacation in that calendar year.
- 13.10 After the third (3rd) round of vacation selection, any remaining vacation time an employee may have may be selected and approved at any time during the calendar year providing a vacation slot is available.
- 13.11 In the event that an Employee is off duty due to on-duty injury, or illness of more than five (5) shifts, he shall be permitted to cancel any vacation previously scheduled during that time.
- 13.12 All requests for vacations shall be acted upon before the end of the shift on which they are submitted, provided they are submitted prior to 1400 hours.

ARTICLE XIV

SICK LEAVE

- 14.1 Sick leave shall be earned in accordance with the Ohio State minimum requirements and accumulation shall be unlimited.
- 14.2 Line Personnel shall have the option to receive twenty six (26) hours compensatory time or twenty six (26) hours pay at the Basic Hourly Rate of Pay for Line Personnel plus Longevity for each six consecutive months of unused Sick Leave. Staff Personnel shall have the option to receive twenty (20) hours compensatory time or twenty (20) hours pay at the Basic Hourly Rate of Pay for Staff Personnel plus Longevity for each six consecutive months of unused sick leave. Selection of such time off shall be subject to the approval of the Fire Chief or his designee.
- 14.3 An Employee or his estate shall be paid for unused, accumulated Sick Leave at the time of disability, retirement or death. Payment shall be based upon the Basic Hourly Rate of Pay for his "work week" at the time of disability, retirement or death plus Longevity and the amount shall be one-half of the unused Sick Leave with a maximum payment of 1000 hours.
- 14.4 Any Employee who transfers from one department within the City of North Olmsted to another shall be credited with the unused balance of Sick Leave accumulated.

- 14.5 Sick Leave may be taken for any of the following reasons:
- A. Illness or injury to the employee.
 - B. Illness or injury of a member of the Employee's immediate family.
 - C. Medical, dental, or optical examination or treatment of the Employee, where the treatment may not be scheduled during non-working hours.
 - D. Exposure to contagious disease where quarantined by the Board of Health or communicable to other Employees.
 - E. Pregnancy of the Employee where complications exist or childbirth by Employee's spouse.
- 14.6 The Employer shall require an Employee to furnish a standard form identifying the reason for the use of sick leave as per 14.5 and signed by the Employee.
- 14.7 If medical attention is required, the Employee shall be required to furnish a statement from a licensed physician or psychologist notifying the Employer that the Employee was unable to perform his duties. Any firefighter who is sick or disabled for more than two (2) consecutive tours of duty or forty (40) hour Employee who is sick or disabled for five (5) consecutive working days may be required to secure and submit a physician's release certifying that they are fit to return to work. This release must be submitted to the Employee's Officer in Charge before the Employee will be permitted to return to work.
- 14.8 Employees shall be permitted to contribute sick leave hours to a sick leave bank for use by any Employee who has exhausted all of his own sick leave under the following conditions:
- A. The Sick Leave bank shall have a maximum balance of fifteen hundred (1500) hours.
 - B. Employees that have suffered any illness or injury in the scope of their employment and have exhausted the benefits of Article XVI or were not covered by the provisions of Article XVI may draw from the sick leave bank after their own sick leave bank has been exhausted.
 - C. Employees that have suffered any illness or injury to themselves or their immediate family outside of the scope of their employment may draw from the sick leave bank only after the Employee has exhausted all of their own sick leave bank, vacation and holidays.
 - D. Any Employee that contributes sick leave hours to the sick leave bank shall not lose any sick leave bonus as granted by section 14.2.
 - E. No Employee shall be permitted to contribute more than one hundred (100) hours during his term of employment.
 - F. Employees who have used hours from the sick leave bank shall be required to repay the sick leave bank 1 hour for every 2 hours used. Employees shall be required to repay a minimum of 2 hours per pay period. Should an employee not be able to repay the sick leave bank prior to

his separation from service then the sick leave bank shall be credited from his separation check. Such requirement of repayment may be waived by a majority vote of the Executive Board of Local 1267, the Chief and Assistant Chief.

- 14.9 The Employer may require any Employee requesting paid sick leave to furnish substantiating evidence or a statement from his/her attending physician certifying that absence from work was required due to one of the reasons set forth in 14.5. Such certification must be presented whenever sick leave is requested for more than two (2) consecutive tours of duty for Employees who work an average of 50.4 hours per week and for five (5) consecutive working days for Employees on a forty (40) hour work week.

ARTICLE XV

LEAVE OF ABSENCE

- 15.1 In addition to medical leaves to which they may be entitled to under the Family Medical Leave Act ("FMLA"), Employees shall be entitled to take a personal leave of absence with the approval of the Fire Chief. Any leave of absence for personal reasons shall not exceed a ninety day period. If the personal leave of absence is for an event which qualifies for medical leave under FMLA, then the City may require the employee to take the leave as medical leave under the FMLA.
- 15.2 To maintain any benefits normally paid by the Employer, the Employee on a personal leave of absence as provided for in Article 15.1 or on a medical leave under FMLA, shall pay the cost of such benefits to the Finance Director on the first day of the month for which the benefit payment applies, provided, however, that employees on qualifying medical leaves under FMLA shall not be required to pay the City's share of their health insurance premium while on such qualifying medical leave.
- 15.3 If an Employee does not report to the Fire Chief upon expiration of any leave of absence, he shall lose all rights of employment.
- 15.4 Probationary Employees shall not be eligible for a Personal Leave of Absence.
- 15.5 Employees on qualifying military leaves of absence are entitled to receive all benefits guaranteed under applicable federal law and local ordinance to employees who are on such leaves of absence, but are not entitled to any benefits guaranteed to municipal employees on military leaves of

absence by state law, so long as the City, by local ordinance or in collective bargaining agreements, provides benefits for such employees that vary from state law

ARTICLE XVI

WORK RELATED ILLNESS/INJURY

16.1 The parties hereto recognize and agree that the duties of the Employee of the Division of Fire are such that said Employees are exposed to disease and injury as a result of their assigned duties. It is the intention of the parties to provide to said Employees, salary continuation benefits when an Employee contracts an illness as hereinafter specified. Likewise, it is the intention of the parties to provide to said Employee, salary continuation benefits when an Employee is injured while responding to an emergency call, returning from an emergency call, operating at or during an emergency call or training that replicates emergency situations. It is not intended that salary continuation benefits be granted to employees who incur routine injuries in the performance of their duties in non-emergency situations.

16.1(a) In the event that a full time sworn Employee of The North Olmsted Fire Department should become ill due to contact with AIDS, Hepatitis, Tuberculosis, or Meningitis, and such illness has so incapacitated the Employee that he temporarily is unable to work, the Fire Chief shall investigate and determine whether the illness is work related and of a temporary nature. The Fire Chief shall then forward his finding to the Safety Director who shall determine the nature and extent of the illness and how contracted, including the circumstances thereof. If after consideration of the totality of the facts, the Safety Director determines that said disease was contracted during employment and is of a temporary nature requiring medical leave, the Safety Director may authorize the full payment of the employees regular salary for a period of ninety days.

16.1(b) If an Employee is injured while engaged in an emergency response, an injury investigation shall be conducted by the Injury Investigation Committee (The Fire Chief, an individual chosen by the Union and one individual designated by the Safety Director). Said Committee shall investigate the facts and circumstances surrounding said injury and forward a report to the Safety Director. The Safety Director shall determine if the injury is work related and of a temporary nature. The Safety Director shall also determine the nature and extent of the injury and the cause thereof, including the surrounding circumstances. If after consideration of the

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totality of the facts determined from the investigation report and any independent determination of the Safety Director the Safety Director determines that it is appropriate to award said employee his regular pay he shall so order that payment be made for a period not exceeding ninety days.

16.1(c) If after ninety days either an illness or injury still temporarily incapacitates the employee, the Safety Director shall recommend to Council whether to continue salary. Council shall forthwith review the matter and by a majority vote determine whether the employee shall continue to receive full salary during recuperation.

16.2 Any full-time Employee of the Fire Department who qualifies for benefits under this Section shall be required to pay over to the City any amount received from the Bureau of Workers' Compensation as supplemental wages. Further, if at any time the City determines, on the basis of medical evidence, that the Employee is permanently disabled and will no longer be able to carry on his duties, then the City may terminate payments and insist that the Employee go on a pension program.

16.3 Any Employee who qualifies for the benefits under this Section shall not have his accumulated sick time reduced because of a qualified accidental injury or illness which occurred while in the line of duty.

16.4 In the event an Employee has been injured or exposed to a toxic substance or to an infectious disease in the course or scope of his employment, and is sent to the hospital for testing, treatment, and/or preventive measures, and Worker's Compensation subsequently determines that there was no injury sustained, shall have all bills pertaining to the Employee's testing, treatment, and/or preventive measures be the responsibility of the City of North Olmsted.

16.5 Any Employee of the North Olmsted Fire Department who has not qualified for any of the benefits of this article but has sustained an illness/injury in the scope of his employment and used his own sick leave may opt to turn over to the City of North Olmsted any amount received from the Bureau of Worker's Compensation. Any amount turned over to the Employer shall be credited to the Employee's Sick Leave Bank on a dollar for dollar basis.

ARTICLE XVII

SALARIES

17.1 A schedule of salaries shall form a part of, and be subject to, all provisions of this Agreement.

17.2 Salary schedule for Employees:

A. Effective January 1, 2004 through December 31, 2004

(Represents a 0.0% increase from 2003)

Cadet/Paramedic – 1 st year	\$38,170.26 Annually	\$1,468.09 Bi-weekly
Fire Fighter – 2 nd year	\$41,205.24 Annually	\$1,584.82 Bi-weekly
Fire Fighter – 3 rd year	\$44,242.53 Annually	\$1,701.64 Bi-weekly
Fire Fighter - 4 th year	\$47,277.52 Annually	\$1,818.37 Bi-weekly
Fire Fighter - 5 th year	\$52,043.28 Annually	\$2,001.66 Bi-weekly
Lieutenant -	\$58,808.92 Annually	\$2,261.88 Bi-weekly
Captain -	\$64,983.86 Annually	\$2,499.38 Bi-weekly

B. Effective January 1, 2005 through December 31, 2005

(Represents a 4.5% increase from 2004)

Cadet/Paramedic – 1 st year	\$39,887.92 Annually	\$1,534.15 Bi-weekly
Fire Fighter – 2 nd year	\$43,059.64 Annually	\$1,656.14 Bi-weekly
Fire Fighter – 3 rd year	\$46,233.46 Annually	\$1,778.21 Bi-weekly
Fire Fighter - 4 th year	\$49,405.20 Annually	\$1,900.20 Bi-weekly
Fire Fighter - 5 th year	\$54,385.23 Annually	\$2,091.74 Bi-weekly
Lieutenant -	\$61,455.32 Annually	\$2,363.67 Bi-weekly
Captain -	\$67,908.13 Annually	\$2,611.85 Bi-weekly

C. Effective January 1, 2006 through December 31, 2006

(Represents a 4.5% increase from 2005)

Cadet/Paramedic – 1 st year	\$41,682.94 Annually	\$1,603.19 Bi-weekly
Fire Fighter – 2 nd year	\$44,997.42 Annually	\$1,730.67 Bi-weekly
Fire Fighter – 3 rd year	\$48,313.98 Annually	\$1,858.23 Bi-weekly
Fire Fighter - 4 th year	\$51,628.46 Annually	\$1,985.71 Bi-weekly

Fire Fighter - 5 th year	\$56,832.57 Annually	\$2,185.87 Bi-weekly
Lieutenant -	\$64,220.81 Annually	\$2,470.03 Bi-weekly
Captain -	\$70,964.00 Annually	\$2,729.38 Bi-weekly

- 17.3 Fire Prevention Premium – All Fire Prevention Officers/Inspectors shall receive \$1,200.00 per year plus Longevity if applicable. Said payment shall be paid bi-weekly in the Employee's regular payroll check for performance of said duty.
- 17.4 Acting In The Capacity of A Higher Rank – Any Fire Fighters or Officers assigned to act in the capacity of a superior Officer shall receive an additional one-half (1/2) hour of overtime pay for each eight (8) hours he is required to act out of rank.
- 17.5 Weekend Bonus - Employees scheduled to work on Saturdays or Sundays shall receive an additional two and one quarter (2 1/4) hours pay at the Basic Hourly Rate of Pay for Line Personnel plus Longevity.

ARTICLE XVIII

PARAMEDIC PAY

- 18.1 In the contract years 2004 and 2005, Employees that are certified by the State of Ohio as a paramedic shall be paid a bonus of \$1,300.00 on or before the 15th of December, each year. Effective in the year 2006, Employees that are certified by the State of Ohio as a paramedic shall be paid a bonus of \$1,400.00 on or before the 15th of December, each year.

It shall be calculated on a prorated basis for those who, during the year, retire, and for those individuals hired before December 31, 1995, that lose their certification for whatever reason. To be eligible for full payment, an Employee shall be required to be certified for the period between December 15 and December 14, each year of this Agreement.

- 18.2 Employees shall be permitted to drop their paramedic certification after 15 years of continuous service in order of seniority down. Employees that drop their Paramedic certification must maintain their EMT certification. Employees shall be permitted to drop their paramedic certification providing the total number of remaining paramedics does not fall below thirty-three

(33). Should manning increase, the total minimum number of paramedics required would increase by one (1) for every three (3) additional hires.

ARTICLE XIX

HEALTH BENEFITS

- 19.1 The employer shall provide either individual or family medical insurance coverage at the Employee's option for each full-time Employee. The Employer shall have the option of seeking alternate health insurance providers or plans and will attempt to offer at least two (2) different plans. Basic hospitalization will be consistent with and similar to those plans offered on July 1, 1995. Basic hospitalization will be that offered to all the Employees of the City of North Olmsted. The Employer has the right to negotiate co-payment and prescription drug rates with providers to lower the cost to the Employer as well as the Employee.
- 19.2 Effective January 1, 2002 and through the duration of this agreement, full-time Employee(s) participating within either an individual or family plan shall contribute an amount equal to thirteen percent (13%) of the plan premium or expected costs of such medical plan and the Employer shall contribute eighty-seven (87%) percent of such costs. The Employee contribution shall be withheld via payroll deduction not later than the first pay period each month.
- 19.3 The City will offer the Option 1 Plan in effect on July 1, 2001 for the duration of the contract. Employees' participation in the Option 1 Plan is strictly voluntary to all eligible employees. The City shall offer in the Option 1 Plan for thirty (30) days, each December of the contract. Employees who opt for the Option 1 Plan shall be required to contribute an amount equal to 2% of the plan premium or expected cost.
- 19.4 In conjunction with participation within a medical plan, the full-time Employee may subscribe to and participate in the following optional health benefit coverage(s):
1. Dental
 2. Vision – Option Plan #1 (vision plan which was in effect August 1, 1994)

Vision – Option Plan #2 (vision plan similar to that offered through Union Eye Care)

3. Dental and Vision (Option Plan #1 or #2)

Full-time Employees participating and subscribing to the optional health benefit listed above within this Section shall contribute an equal amount to that which is listed in Section 19.2(A), (B) and (C) of this Article. Employees shall be required to participate within the optional benefit coverage listed within this Section. The Employee contribution shall be withheld as a payroll deduction not later than the first pay period of each month.

- 19.5 Expected cost of premium is defined as the cost of all medical, hospital, prescription drug and related fees including, but not limited to, administration fees.
- 19.6 The Employer reserves the right to establish plans, enrollment periods and regulations.
- 19.7 The Employer shall establish an Insurance Committee of one (1) to two (2) representative from each of the City's bargaining units, if they choose to be represented and a minimum of one (1) representative of the Employer. The Committee shall meet at least once a month for the purpose of exploring cost saving measures and/or alternative health plans. The Committee shall make recommendations regarding health care coverage and such recommendations shall be presented to each bargaining unit as well as to the City Administration.
- 19.8 All changes affecting the plan coverage's co-payment, deductibles, providers' enrollment periods, and regulations will be shared with the bargaining unit prior to making such changes.
- 19.9 It is further agreed that if any bargaining unit employed by the City of North Olmsted, in negotiations held subsequent to this Agreement and for the same time period covered under this Agreement, negotiates to conclusion a lower percentage of Employee contribution to the health Insurance Plan, that lower percentage shall apply to the unit covered under this Agreement. Said lower percentage shall commence under this Agreement at the time that it is agreed upon by another unit, and shall continue for the remaining years covered under this Agreement.
- 19.10 All Employees shall receive \$25,000.00 in group term life insurance, paid for by the Employer.
- 19.11 The city shall cause to be implemented the current Health Care Plan as a qualified Plan under Section 125 of the Internal Revenue Code.

19.12 In 2004 at the conclusion of the bargaining units' current collective bargaining cycle, or sooner if all City bargaining units agree, an employee committee shall be formed and shall meet for the purpose of creating a new or revised health care plan or plans for City employees. The committee shall consist of 14 employees who must be participants in one of the City's current health care plans and who have been selected from the following employee groups: 1 from Corrections, 1 from Dispatch, 2 from Clerical/Technical, 2 from Service, 2 from Fire, 2 from Police, 2 from NOMBL, and 2 from non-bargaining unit employees. The employer shall provide two advisors or facilitators to assist the employee committee regarding health care issues.

The committee shall be required to review the City's current health care plans, including its plans for medical, dental and vision benefits, and adopt new or revised plan or plans that are competitive in the health care market and that will achieve the goals of promoting cost containment within the plan and minimizing premium contributions by employees.

In fulfilling its mission, the committee shall consider office co-pays, prescription drug rates, deductibles, maximum out-of-pockets, wellness programs and such other plan attributes and other related matters that will achieve the goals set forth above.

Within six (6) months following its first meeting, the committee shall vote upon proposed new or revised health care plan or plans that meet the goals set forth above. If a majority of all members of the committee approve such proposed new or revised plan or plans, then such plan or plans shall become the City's plan or plans, and the Employer shall be authorized and directed to implement the plan or plans.

If the committee, however, fails within six months after its first meeting to approve a new or revised plan or plans, then the Employer shall be authorized to submit the matter to binding arbitration with an arbitrator selected by mutual agreement using the American Arbitration Association. The submittal shall instruct the Arbitrator to select from health care plans submitted and order the Employer to implement such new or revised health care plan or plans for all City employees that meets the goals set forth above.

The committee shall meet thereafter at least every other year, commencing in the year 2006, when called upon by Employer to consider further and additional revisions to the City's plan or plans in order to meet the goals set forth above. When meeting in such future years, the committee and the Employer shall continue to follow the procedures set forth above for approving appropriate additional revisions to the City's health care plan or plans.

In no event shall the Employer implement a new or revised health care plan or plans, pursuant to either committee approval or arbitration order, earlier than January 1, 2005. When the Employer implements a new or revised health care plan or plans, either pursuant to either committee approval or as a result of an arbitrator's order, the provisions of Sections 19.1 through 19.11 of this Article shall, to the extent that they are inconsistent or in

conflict with the new or revised plan or plans approved or ordered, no longer be binding upon the Employer.

In the event that the City and other bargaining units fail to agree to the establishment of the *Employee Health Care Committee* set forth above, the Employer and the Association shall meet to negotiate new Health Care provisions. Should the Employer and the Association not come to mutual agreement, the issue of Health care coverage shall be submitted to binding conciliation under the O. R. C. 4117.

ARTICLE XX

APPENDICES AND AMENDMENTS

All appendices and amendments to this Agreement shall be numbered (or lettered), dated and signed by the Employer and the Association and shall be subject to all provisions of this Agreement.

ARTICLE XXI

SUCCESSORS

This Agreement shall be binding upon successors and assigns of the parties hereto, and no provisions, terms, or obligations herein contained shall be affected, modified, altered, or changed in any respect whatsoever by the consolidation, merger, annexation, transfer, or assignment of either party hereto, or by any change geographically or otherwise in the location or place of business of either party.

ARTICLE XXII

SAVINGS CLAUSE

If any provisions of this Agreement, or the application of any provision of this Agreement should be rendered or declared invalid by any court action or reason of any existing or subsequently enacted legislation, the remaining parts or portions of this Agreement shall remain in full force and effect.

ARTICLE XXIII

ASSOCIATION BUSINESS AND MEETINGS

- 23.1 Not more than five (5) members of the Association either elected or appointed by the Association for the purpose of negotiating with the Employer shall be allowed time off for all meetings with the Employer which shall be mutually set by the Employer and the Association.
- 23.2 The Employer agrees that the Association shall be permitted to hold meetings at the Fire House as long as the meetings do not interfere with the regular activities of the Fire Department. Additionally, all Association members shall be allowed to attend all Association meetings provided the Association members remain in service and receive approval of the Fire Chief, which approval shall not be unreasonably withheld.
- 23.3 Such meetings must be approved in advance by the Fire Chief and are limited to members of the Association, unless otherwise approved by the Fire Chief, which approval shall not be unreasonably withheld.
- 23.4 For the purpose of Association business, the Employer shall acknowledge a Comp Time Bank into which members of the Association contribute hours.
- 23.5 The Association shall maintain an address and phone number for its official business separate from City government addresses and phone numbers. The Association shall not use any City government address or phone number for union or union-related business.
- 23.6 Employees elected or appointed by the Association to represent the Association may be granted up to four (4) twenty-four hour shifts per year for attendance at regular and special meetings, state

and national conferences and/or worker's compensation seminars, with the approval of the Fire Chief, which approval shall not be unreasonably withheld. It is understood that the attendance will not be approved if it will incur overtime, at the time the approval is granted. Additional time may be granted at the sole discretion of the Fire Chief.

ARTICLE XXIV

HOURS OF WORK

- 24.1 Beginning January 1, 1993 and continuing through December 31, 2002, the basic work week for Employees assigned to platoon duty shall be an average of 51.7 hours. Beginning January 1, 2003, the basic work week for Line Personnel assigned to platoon duty shall be an average of 50.4 hours.
- 24.2 Employees assigned to Fire Prevention duty shall work a forty hour week.
- 24.3 Twenty-four hour shifts shall commence at 0800 hours in accordance with the Normal Work Schedule.
- 24.4 In order to facilitate the work week of 51.7 hours effective January 1, 1993, Employees shall be entitled to additional time off with pay, known as Kelley Days. All Kelley Days shall be taken during the year of entitlement, shall not accrue from year to year, and shall be selected by the Employer. In order to facilitate the work week of 50.4 hours effective January 1, 2003, Line Personnel shall be entitled to additional time off with pay, known as Kelley Days. All Kelley Days shall be taken during the year of entitlement, shall not accrue from year to year, and shall be selected by the Employer.
- 24.5 The Employer shall annually provide each Employee with a thirteen (13) shift cycle schedule commencing on January 1, 1993, and indicate the thirteen (13) shift cycles in which the Employer has scheduled his Kelley Days.
- 24.6 The Employer shall annually provide each Employee with a ten (10) shift cycle schedule commencing on January 1, 2003, and indicate the ten (10) shift cycles in which the Employer has scheduled his Kelley Days.

- 24.7 To alleviate scheduling problems, Kelley Days shall be taken as scheduled. Kelley Days shall be scheduled by January 1 of each year, and shall not be rescheduled for any reason without approval of the Fire Chief.
- 24.8 Any change in shift assignment other than for Light Duty shall, except in an emergency, require the Chief to provide seven (7) days written notice to any affected employee indicating the beginning and expected end, if any, of such change.
- 24.9 Employees shall have the right to exchange hours when, in the opinion of the Shift Officer, such changes do not interfere with Fire Department operations. All such changes are subject to the approval of the Fire Chief or his designee. No Overtime shall be allowed and no additional cost is to be incurred by the Employer due to such changes unless shift change was approved prior to any class being scheduled.

ARTICLE XXV

LIGHT DUTY

- 25.1 The Fire Chief or his designee may at his discretion assign an Employee to Light Duty, should an Employee be unable to perform his regular job tasks. The Employee shall provide upon request of the Fire Chief, medical certification from the Employee's physician citing the Employee's physical limitations, explaining why the Employee can't perform his regular job task and responsibilities and a prognosis of how long the Employee will be unable to perform his regular job tasks.

The Employee may submit a request to the Fire Chief or his designee to be assigned to Light Duty. The Employee shall first submit a request to the Fire Chief or his designee along with corroboration from the Employee's physician citing: the Employee's physical limitation, why the Employee can't perform his job task and responsibilities and a prognosis of how long the Employee will be required to refrain from performing his job task.

Light Duty, if approved, shall be limited to availability of Light Duty assignments and which is medically appropriate and which contributes to the function and mission of the Department. All Light Duty assignments are to be of a temporary nature.

Should an Employee be assigned to Light Duty for any period of time, the Employee must submit satisfactory medical certification from his physician stating that the Employee can return to his regularly assigned job task prior to reinstatement to regular duty.

- 25.2 Any Employee while assigned to Light Duty shall continue to receive all compensation and fringe benefits, including accumulation of seniority attached to his normally assigned position.

ARTICLE XXVI

EXPENSE REIMBURSEMENT

- 26.1 Cadets shall receive \$6.00 per day for expenses while in attendance at a state certified fire fighters training school as mandated by law.
- 26.2 Should a Cadet be required to travel round trip from N.O.F.D. #1 to school, the Employer shall reimburse at a rate per mile established from time to time, unless the Cadet travels in an Employer-owned vehicle.
- 26.3 Should a Cadet be required to be away from his residence overnight for such schooling, the Employer shall pay all costs for meals, housing and transportation.

ARTICLE XXVII

COURT LEAVE

- 27.1 The Employer shall grant leave with the Basic Hourly Rate of Pay plus Longevity or Overtime Pay (as applicable) to an Employee for the period of time he is required to appear before a court, judge, justice, magistrate or coroner as a plaintiff, defendant or witness in matters directly relating to his job as an Employee of the Employer. Employees shall be paid a minimum two (2) hours

overtime pay for appearance at Rocky River Municipal Court. A minimum four (4) hours overtime pay shall be paid for appearance at a Grand Jury, Common Pleas Court or Juvenile Court.

27.2 The Employer shall grant leave with the Basic Hourly Rate of Pay plus Longevity to an Employee for the period of time he is required to appear for jury duty.

27.3 The Employee may be required to work weekends while on jury duty. He shall not be required to work 12 hours before jury duty or twelve hours after jury duty.

ARTICLE XXVIII

CONTINUING EDUCATION

The Employer shall provide continuing education for those Employees who are required to recertify in areas that require mandatory recertification for the Employee to maintain employment. Costs for continuing education shall be paid by the Employer and if said education requires the Employee to attend classes above and beyond his Normal Work Schedule, he shall be paid Overtime Pay. The education must be approved in advance by the Fire Chief or his designee.

ARTICLE XXIX

EQUIPMENT AND GEAR

29.1 The Employer shall furnish and maintain at no cost to the Employee all gloves, helmets, protective clothing and other protective equipment necessary to preserve and protect the safety and health of the Employee as determined by the Fire Chief.

29.2 An Occupational Safety and Health Committee shall be established and shall serve in an advisory capacity to the Fire Chief. The committee shall include the designated Fire Department safety officer, representatives of Fire Department management, and three members of the North Olmsted Fire Department, chosen by the Union, who have attained the rank of First Class or higher. The committee shall also be permitted to include other persons, to be appointed by the Fire Chief.

- 29.3 The purpose of this committee shall be to conduct research, develop recommendations, study, and review matters pertaining to occupational safety and health within the Fire Department.
- 29.4 The committee shall hold regularly scheduled meetings and shall be permitted to hold special meetings whenever necessary. Regular meetings shall be held at least once in every six months. Written minutes shall be retained and shall be made available to all Employees.
- 29.5 The committee shall make recommendations to the Fire Chief on matters concerning the safety and health of department members. The Fire Chief shall respond within fourteen (14) days or within a mutually agreed time frame. Should a dispute exist with respect to the decision of the Fire Chief regarding corrective measures, the committee may submit those recommendations to the Safety Director requesting relief from the Fire Chief's decision. Upon receipt, the Safety Director shall respond within ten days. The decision of the Safety Director may be appealed to the Mayor or his designee and his decision shall be final.

ARTICLE XXX

COMPENSATORY TIME

- 30.1 Each Employee shall have the right to convert Overtime hours into Compensatory Time with the approval of the Fire Chief or his designee on a dollar-for-dollar basis. Employees shall be paid for all Compensatory Time accumulated in excess of four hundred eighty (480) hours on the next scheduled pay.
- 30.2 Employees may have the right to take Compensatory Time when the time off does not interfere with the operation of the Fire Department. The taking off of such Compensatory Time shall be subject to the approval of the Fire Chief or his designee. Overtime shall be converted to Compensatory Time at the current rate of pay plus Longevity on a dollar-for-dollar basis.
- 30.3 An Employee or his estate shall be paid for unused, accumulated Compensatory Time at the time of disability, retirement or death at the Basic Hourly Rate of Pay for his work week plus longevity if applicable.

- 30.4 Compensatory time may be used in increments of no less than one (1) hour except at the end of a shift in which case Compensatory Time may be used in half (1/2) hour increments up to one (1) hour.

ARTICLE XXXI

IMPASSE PROCEDURE

- 31.1 The procedures contained in the Section shall govern the settlement of disputes between the Employer and the Association concerning the modification of the existing collective bargaining agreement or negotiations of a successor agreement.
- 31.2 In the case of either party requesting modification of the current Agreement, the party requesting modification shall:
- A. Serve written notice upon the other party of the proposed modification. The Party must serve notice not less than sixty days prior to the time it is proposed to modify.
 - B. Offer to bargain collectively with the other party for the purpose of modifying the existing Agreement.
 - C. Notify the State Employment Relations Board of the offer by serving upon the board a copy of the written notice to the other party and a copy of the existing collective bargaining agreement.
 - D. Upon receipt of the notice, the parties shall enter into collective bargaining.
 - E. In the event the parties are unable to reach an agreement, the impasse procedure as set forth in Section 4117.14C(2) O.R.C. shall prevail.
- 31.3 In the case of negotiating a successor collective bargaining agreement, the party requesting such negotiations shall:
- A. Serve written notice upon the other party of the proposed successor agreement not less than ninety days prior to the expiration date of the existing Agreement.

- B. Offer to bargain collectively with the other party for the purpose of negotiating a successor agreement.
 - C. Notify the State Employment Relations Board of the offer by serving upon the board a copy of the written notice to the other party and a copy of the existing collective bargaining agreement.
 - D. Upon receipt of the notice, the parties shall enter into collective bargaining.
 - E. In the event the parties are unable to reach an agreement, the impasse procedure as set forth in Section 4117.14O.R.C. shall prevail.
- 31.4 The parties shall continue in full force and effect all the terms and conditions of the existing collective bargaining agreement for a period of sixty days after the party gives notice or until the expiration date of the collective bargaining agreement, whichever is later.

ARTICLE XXXII

BEREAVEMENT LEAVE

- 32.1 In the event of death of Immediate Family other than the Employee's spouse or children, the Employee shall receive two (2) consecutive twenty-four (24) hour shifts off.
- 32.2 In the event of death of an Employee's spouse, children or stepchildren, the Employer shall provide a total of ninety-six (96) hours of compassionate leave.
- 32.3 For the purpose of this Article, Immediate Family is defined to mean:
 - Parents of the Employee;
 - Parents of the Employee's spouse;
 - Brothers and Sisters of the Employee;
 - Step Parents of the Employee;
 - Spouse and Children of the Employee;
 - Relatives living with the Employee if the Employee is acting as a parent and/or legal guardian; and
 - Grandchildren of the Employee;

- 32.4 In addition, employees may receive bereavement leave for the death of a grandparent of the employee or the employee's spouse, brother-in-law, or sister-in-law for a total of one (1) twenty-four (24) hour tour of duty.
- 32.5 Should an Employee need additional time off as a result of the death of a spouse or children, and he can provide a medical certificate by his physician clearly stating the need for such additional time off in excess of the compassionate leave, such additional leave may be granted by the Fire Chief, and shall be deducted from the Employee's accumulated Sick Leave.

ARTICLE XXXIII

DRUG AND ALCOHOL POLICY

33.1 POLICY

The North Olmsted Fire Department and the North Olmsted Fire Fighters Local 1267, I.A.F.F., recognize that drug use by Employees would be a threat to the public welfare and the safety of department personnel. It is the goal of this policy to eliminate or absolve illegal drug usage through education and rehabilitation of the affected personnel. The possession, use or being under the influence of alcoholic beverages or unauthorized drugs shall not be permitted at the Employer's work sites and/or while an Employee is on duty.

33.2 INFORMING EMPLOYEES ABOUT DRUG AND ALCOHOL TESTING

All Employees shall be fully informed of the Fire Department's drug and alcohol testing policy. Employees will be provided with information concerning the impact of the use of alcohol and drugs on job performance. In addition, the Employer shall inform the Employees on how the tests are conducted, what the test can determine and the consequence of testing positive for drug use. All newly hired Employees will be provided with this information on their initial date of hire. No Employee shall be tested before this information is provided to him. Prior to any testing, the Employee will be required to sign a consent and release form. Employees who voluntarily come forward and ask for assistance to deal with a drug or alcohol problem shall not be disciplined by the Employer. No disciplinary action will be taken against an Employee unless he refuses the opportunity for rehabilitation, fails to complete a rehabilitation program successfully, or again tests positive for drugs within two years of completing an appropriate rehabilitation program.

33.3 **EMPLOYEE TESTING**

Employees shall not be subjected to random medical testing involving urine or blood analysis or other similar or related tests for the purpose of discovering possible drug or alcohol abuse. If, however, objective evidence exists establishing reasonable suspicion to believe an Employee's work performance is impaired due to drug or alcohol abuse, the Employer will require the Employee to undergo a medical test consistent with the conditions as set forth in this Policy.

33.4 **SAMPLE COLLECTION**

The collection and testing of the samples shall be performed only by a laboratory and by a physician or health care professional qualified and authorized to administer and determine the meaning of any test results. The laboratory performing the test shall be one that is certified by the National Institute of Drug Abuse (NIDA). The laboratory chosen must be agreed to between the Association and the Employer. The laboratory used shall also be one whose procedures are periodically tested by NIDA where they analyze unknown samples sent to an independent party. The results of Employee tests shall be made available to the Medical Review Physician. Collection of blood or urine samples shall be conducted in a manner which provides the highest degree of security for the sample and freedom from adulteration. Recognized strict chain of custody procedures must be followed for all samples as set by NIDA. The Association and the Employer agree that security of the biological urine and blood samples is absolutely necessary, therefore, the Employer agrees that if the security of the sample is compromised in any way, any positive test shall be invalid and may not be used for any purpose. Blood or urine samples will be submitted as per NIDA Standards. Employees have the right for Association or legal counsel representatives to be present during the submission of the sample.

A split sample shall be reserved in all cases for an independent analysis in the event of a positive test result. All samples must be stored in a scientific acceptable preserved manner as established by NIDA. All positive confirmed samples and related paperwork must be retained by the laboratory for at least six months or for the duration of any grievance disciplinary action or legal proceedings, whichever is longer. At the conclusion of this period, the paperwork and specimen shall be destroyed. Tests shall be conducted in a manner to ensure that an Employee's legal drug use and diet does not affect the test results.

33.5 **DRUG TESTING**

The laboratory shall test only for substances and within the limits for the initial and confirmation test as provided within NIDA standards. The initial test shall use an immunoassay which meets the requirements of the Food and Drug Administration for commercial distribution. The following

initial cutoff levels shall be used when screening specimens to determine whether they are negative for these five drugs or classes of drugs:

Marijuana metabolites	50 ng/ml
Cocaine metabolites	300 ng/ml
Opiate metabolites*	300 ng/ml
Phencyclidine	25 ng/ml
Amphetamines	1,000 ng/ml

*If immunoassay is specific for free morphine the initial test level is 25 ng/ml. If initial testing results are negative, testing shall be discontinued, all samples destroyed and records of the testing expunged from the Employee's file. Only specimens identified as positive in the initial test shall be confirmed using gas chromatography/mass spectrometry (GC/MS) techniques at the following listed cutoff values:

Marijuana Metabolites ¹	15 ng/ml
Cocaine Metabolites ²	150 ng/ml
Opiates	
Morphine	300 ng/ml
Codeine	300 ng/ml
Phencyclidine	25 ng/ml
Amphetamines	
Amphetamine	500 ng/ml
Methamphetamine ³	500 ng/ml

If confirmatory testing results are negative all samples shall be destroyed and records of the testing expunged from the Employee's file.

33.6 ALCOHOL TESTING

-
- 1 Delta-9-tetrahydrocannabinol-9-carboxylic acid
 - 2 Benzoyllecgonine
 - 3 Specimen must also contain amphetamine at a concentration no greater than 200 ng/ml.

A breathalyzer or similar test equipment shall be used to screen for alcohol use and if positive shall be confirmed by a blood alcohol test performed by the laboratory. This screening shall be performed by an individual qualified through and utilizing equipment certified by the Ohio State Highway Patrol. An initial positive alcohol level shall be .10 grams per 210L of breath. If initial testing results are negative, testing shall be discontinued, all samples destroyed and records of the testing expunged from the Employee's file. Only specimens identified as positive on the initial test shall be confirmed using a blood alcohol level. Sample handling procedures, as detailed in Section 4 shall apply. A positive blood alcohol level shall be .10 grams per 100 ml of blood. If confirmatory testing results are negative, all samples shall be destroyed and records of the testing expunged from the Employee's file.

33.7 **MEDICAL REVIEW PHYSICIAN**

The Medical Review Physician shall be chosen and agreed upon between the Association and the Employer and must be a licensed physician with a knowledge of substance abuse disorders. The Medical Review Physician shall be familiar with the characteristics of drug tests (sensitivity, specificity, and predictive value), the laboratories running the tests and the medical conditions and *work exposures of the Employees.*

The role of the medical Review Physician will be to review and interpret the positive test results. The Medical Review Physician must examine alternate medical explanation for any positive test results. This action shall include conducting a medical interview with the affected Employee, review of the Employee's medical history and review of any other relevant biomedical factors. The Medical Review Physician must review all medical records made available by the tested Employee when a confirmed positive test could have resulted from legally proscribed medication.

33.8 **LABORATORY RESULTS**

The laboratory will advise only the Employee and the Medical Review Physician of any positive results. The results of a positive drug or alcohol test can only be released to the Employer by the Medical Review Physician once he has completed his review and analysis of the laboratory's test. The Employer shall only be informed if the individual passed or failed the test. The Employer will be required to keep the results confidential and it shall not be released to the general public.

33.9 **TESTING PROGRAM COSTS**

The Employer shall pay for all costs involving drug and alcohol testing as well as the expenses involved of the Medical Review Physician. The Employer shall also reimburse each Employee for their time and expense including travel incurred involved in the testing procedure only.

33.10 **REHABILITATION PROGRAM**

Any Employee who tests positive for illegal drugs or alcohol shall be medically evaluated, counseled and treated for rehabilitation as recommended by an E.A.P. counselor. Employees who complete a rehabilitation program will be re-tested randomly once every quarter for the following twenty-four months. An Employee may voluntarily enter rehabilitation without a requirement or prior testing. Employees who enter a program on their own initiative shall not be subject to re-testing. The treatment and rehabilitation shall be paid for by the Employee's insurance program. Any costs over and above the insurance coverage shall be paid for by the Employer for initial treatment and rehabilitation. Employees will be allowed to use their accrued and earned leave for the necessary time off involved in the rehabilitation program.

If an Employee tests positive during the twenty-four month period they shall be subject to disciplinary action as per the department Rules and Regulations. The Employee will be re-evaluated by an E.A.P. counselor to determine if the Employee requires additional counseling and/or treatment. The Employee will be solely responsible for any costs, not covered by insurance, which arise from this additional counseling or treatment. If an Employee tests positive during this subsequent twenty-four month period which in effect will be the Employee's third chance for rehabilitation, the Employee will be subject as per the Department Rules and Regulations.

33.11 **DUTY ASSIGNMENT AFTER TREATMENT**

Once an Employee successfully completes rehabilitation, he shall be returned to his regular duty assignment. Once treatment and any follow-up is completed, and three years have passed since the Employee entered the program, the Employee's personnel file shall be purged of any reference to his drug or alcohol problem.

33.12 **RIGHT OF APPEAL**

The Employee has the right to challenge the results of the drug or alcohol tests and any discipline imposed in the same manner that any other Employer action under the terms of the Agreement is grievable.

33.13 **UNION HELD HARMLESS**

This drug and alcohol testing program was initiated at the request of the Employer. The Fire Department assumes sole responsibility for the administration of this Policy and shall be solely liable for any legal obligations and costs arising out of the provisions and/or application of this collective bargaining agreement relating to drug and alcohol testing. The Association shall be held harmless for the violation of any worker rights arising from the administration of the drug and alcohol testing program.

33.14 **CHANGES IN TESTING PROCEDURES**

The parties recognize that during the life of this Agreement, there may be improvements in the technology of testing procedures which provide more accurate testing. In that event, the parties will bargain in good faith whether to amend this procedure to include such improvements. If the parties are unable to agree in the amendment, they will be submitted to impasse procedures as outlined in Step 4 of the Grievance Procedure of the Collective Bargaining Agreement.

33.15 **CONFLICT WITH OTHER LAWS**

This Article is in no way intended to supersede or waive any constitutional or other rights that the Employee may be entitled to under Federal, State or local statutes.

ARTICLE XXXIV

PROBATIONARY PERIOD

All new Employees shall have a probationary period of eighteen months. Probationary period will be extended until new Employee has earned Paramedic Certification or thirty-six months, whichever comes first.

During the probationary period, discipline, suspension or discharge by the Employer shall not be subject to the Grievance Procedure.

If an Employee is discharged or resigns during the probationary period described in the aforementioned Section of this Article, and is later rehired, he shall be considered as a new Employee and subject to all terms contained within this Agreement.

ARTICLE XXXV

PERSONNEL RECORDS

- 35.1 The Employer shall maintain an individual official personnel file for each Employee. The official personnel file shall be located in the office of the Fire Chief. Employees shall be permitted to inspect their individual personnel file during regular business hours (8:00 a.m. – 4:00 p.m.; Monday through Friday, excluding Saturdays, Sundays and Holidays) by giving reasonable notice and request to inspect said individual personnel file to the Fire Chief. Should the Fire Chief not be available at the requested time, he shall schedule a time mutually agreeable between himself and the Employee. During the inspection of the official file, the Employee may have one (1) representative present. The Employer may have one (1) representative present at the time the official personnel file is being inspected by the Employee.
- 35.2 Subject to the provisions of Ohio's public records laws, only the Fire Chief, his confidential Secretary, the Assistant Fire Chief and the Employee shall have access to the personnel file, except other City Officials may have access and inspect the personnel file as needed to perform the functions of their office.

ARTICLE XXXVI

LABOR MANAGEMENT COMMITTEE

- 36.1 In the interest of sound Labor/Management relations, unless mutually agreed otherwise, once each quarter on a mutually agreeable day and time, up to three (3) of the Employer's Representatives shall meet with up to three (3) Association Representatives to discuss pending problems or issues of concern and to promote a more harmonious Labor/Management relationship. The Mayor shall be present when his participation is necessary to resolve an agenda item.

- 36.2 An agenda will be furnished upon request of either party at least five (5) working days in advance of the scheduled meetings with a list of the matters to be taken up in the meeting, and the names of those Association representatives and management representatives who will be attending.
- 36.3 It is further agreed that if special Labor/Management meetings have been requested, and mutually agreed upon, they shall be convened as soon as feasible.

ARTICLE XXXVII

SAFE MINIMUM STAFFING

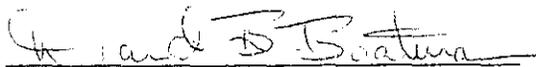
The City and Union shall establish a Fire Department Safe Minimum Staffing committee to develop an implementation plan on how to raise the daily minimum safe staffing levels of line personnel and will attempt to implement such plan as soon as possible. The Fire Department Safe Minimum Staffing committee shall consist of seven (7) members, 3 representatives of IAFF Local 1267, the Fire Chief, Assistant Fire Chief, Finance Director and Safety Director. The Law Director shall act as legal advisor only. Two (2) members of City Council of which preferably one (1) shall be from the City Council Safety Committee and one (1) from the Finance Committee shall be invited to participate in said committee as advisors also. The committee shall begin meeting within sixty (60) days following the signing of the collective bargaining agreement and meet monthly there after until completion.

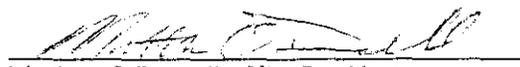
ARTICLE XXXVIII

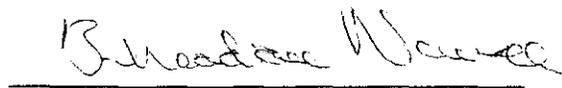
DURATION OF AGREEMENT

- 38.1 This Agreement shall be effective as of January 1, 2004 and shall remain in full force and effect until December 31, 2006, and it shall automatically be renewed from year to year thereafter, unless either party shall have notified the other in writing in accordance with Article XXXI.
- 38.2 For the duration of the Agreement, all wages, benefits and working conditions shall stay in effect as presently covered under this Agreement unless changed in accordance with Article XXXI.

IAFF Local 1267
For the Association

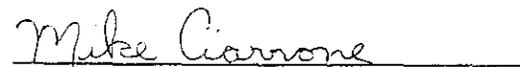

David B. Boatman - President


Matthew O'Donnell - Vice President


Theodore Vance

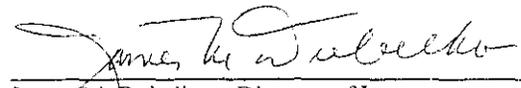

John Davis - Sergeant-At-Arms


Jack Sevier

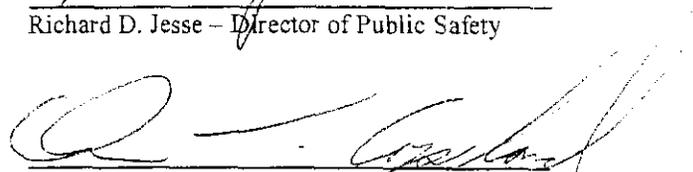

Mike Ciarrone

City of North Olmsted
For the Employer


Mayor Norman Musial


James M. Dubelko - Director of Law


Richard D. Jesse - Director of Public Safety


Don Copeland - Director of Human Resources

MEMORANDUM OF UNDERSTANDING

THIS AGREEMENT is made by and between the City of North Olmsted (City) and The Fraternal Order of Police/Ohio Labor Council for Officers and Patrolmen, and for Correction Officers, and the International Association of Fire Fighters, Local 1267 for Fire Fighters (unions).

WHEREAS, the above named parties have existing Collective Bargaining Agreements in effect for the period of January 1, 2004 through December 31, 2006, and

WHEREAS, said Collective Bargaining Agreements, as well as other existing Collective Bargaining Agreements between the City of North Olmsted and The Fraternal Order of Police/Ohio Labor Council for Officers and Patrolmen, and for Correction Officers, The Ohio Patrolmans Benevolent Association for Emergency Central Dispatchers, and the International Association of Fire Fighters, Local 1267 for Fire Fighters, established an Employee Health Care Committee, charged with the authority to, from time to time, review and revise the City's Health Care Plan; and

WHEREAS, the said Health Care Committee met during 2004-2005, and established a revised Health Care Plan for the City, which provides, among other things, for the City to offer to all City bargaining unit employees, whose unions agree to do so accept, participation in the Dental Level 3 program of the Ohio AFSCME Care Plan; and

WHEREAS, all of the foregoing City Unions, with exception of the Ohio Patrolmans Benevolent Association, representing the City's Emergency Central Dispatchers, have agreed to participate in said Ohio AFSCME Care Plan program;

NOW, THEREFORE, the parties hereto agree as follows:

1. Effective April 1, 2005, and ending, with each Union's existing Collective Bargaining Agreement's expiration date, unless sooner terminated by authorized action taken under the applicable provisions of each Union's existing Collective Bargaining Agreement that established the Employee Health Care Committee, the City of North Olmsted agrees to contribute \$49.00 per month to the Ohio AFSCME Care Plan for each eligible employee covered by the above referenced Collective Bargaining Agreements for the purpose of providing Dental Level 3 Benefits.

2. The City of North Olmsted agrees to be bound by, and hereby assents to, the terms of the Trust Agreement creating the Ohio AFSCME Care Plan (hereinafter called "Trust Fund") as amended or restated, the Benefit Plan, and all rules and regulations heretofore and hereafter adopted by the Trustees of said Trust Fund, and all actions of the Trustees administering such Trust Fund in accordance with the Trust Agreement, Benefit Plan and rules adopted.

3. The City of North Olmsted agrees to notify promptly the Ohio AFSCME Care Plan of all new eligible employees and employees ceasing to be eligible for a contribution to the Ohio AFSCME Care Plan so that the Ohio AFSCME Care Plan can issue timely COBRA notices.

IN WITNESS WHEREOF, the parties hereto have hereby executed this Memorandum of understanding on this 9th day of June 2005.

FOR THE UNIONS


F.O.P. Ohio Labor Council, Inc.

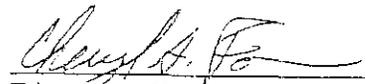

International Association of
Fire Fighters Local 1267

FOR THE EMPLOYER

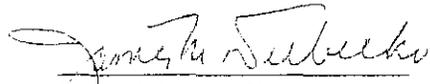

Mayor


Director of Public Services


Director of Public Safety


Director of Personnel and
Administrative Services

Approved as to Legal Form:


James M. Dubelko
Director of Law

Appendix D



SuperMed Plus



Benefits	Network	Non-Network
Benefit Period	January 1 st through December 31 st	
Dependent Age Limit	19 Dependent / 25 Student Removal upon Birth Date	
Pre-Existing Condition Waiting Period	Not Subject to Pre-Ex	
Blood Pint Deductible	0 pints	
Lifetime Maximum	\$2,500,000	
Benefit Period Deductible – Single/Family ¹	\$200 / \$400	\$400 / \$800
Coinsurance	80%	60%
Coinsurance Out-of-Pocket Maximum (Excluding Deductible) – Single/Family	\$1,000 / \$2,000	\$2,000 / \$4,000
Physician/Office Services		
Office Visit (Illness/Injury)	80% after deductible	60% after deductible
Urgent Care Office Visit	80% after deductible	60% after deductible
Voluntary Second Surgical Opinion	80% after deductible	60% after deductible
Immunizations (tetanus toxoid, rabies vaccine, and meningococcal polysaccharide vaccine are covered services)	80% after deductible	Not Covered
Preventative Services		
Office Visit/Routine Physical Exam (One exam per benefit period)	80% after deductible	Not Covered
Well Child Care Services including Exam and Immunizations (To age nine)	80% after deductible	Not Covered
Well Child Care Laboratory Tests (To age nine)	100%	
Routine Mammogram (One, limited to an \$85 maximum per benefit period)	100%	
Routine Pap Test (One per benefit period)	100%	
Routine EKG, Chest X-ray, Complete Blood Count, Comprehensive Metabolic Panel, Urinalysis	100%	
Outpatient Services		
Surgical Services	80% after deductible	60% after deductible
Diagnostic Services	100%	
Physical and Occupational Therapy – Facility and Professional (10 visits then Medical Review)	80% after deductible	60% after deductible
Chiropractic Therapy – Professional Only (Unlimited)	80% after deductible	60% after deductible
Speech Therapy – Facility and Professional (10 visits then Medical Review)	80% after deductible	60% after deductible
Cardiac Rehabilitation	80% after deductible	60% after deductible
Emergency use of an Emergency Room ²	\$50 copay, then 100%	
Non-Emergency use of an Emergency Room ^{2,3}	\$50 copay, then 80%	\$50 copay, then 60%

Benefits	Network	Non-Network
Inpatient Facility		
Semi-Private Room and Board	80% after deductible	60% after deductible
Maternity	80% after deductible	60% after deductible
Skilled Nursing Facility (100 days per benefit period)	80% after deductible	60% after deductible
Additional Services		
Allergy Testing and Treatments	80% after deductible	Not Covered
Ambulance	80% after deductible	60% after deductible
Durable Medical Equipment	80% after deductible	60% after deductible
Home Healthcare	80% after deductible	Not Covered
Hospice	80% after deductible	Not Covered
Organ Transplants	80% after deductible	60% after deductible
Private Duty Nursing	80% after deductible	60% after deductible
Mental Health and Substance Abuse		
Inpatient Mental Health and Substance Abuse Services (30 days per benefit period; Substance Abuse limited to one admission per benefit period)	50% after deductible	Not Covered
Outpatient Mental Health and Substance Abuse Services (20 visits per benefit period)	50% after deductible	50% ⁴ after deductible

Note: Services requiring a copayment are not subject to the single/family deductible.

Coinsurance expenses incurred for services by a network provider will only apply to the network coinsurance out-of-pocket limits. Coinsurance expenses incurred for services by a non-network provider will only apply to the non-network coinsurance out-of-pocket limits.

Non-Contracting and Facility Other Providers will pay the same as Contracting.

Benefits will be determined based on Medical Mutual's medical and administrative policies and procedures.

This document is only a partial listing of benefits. This is not a contract of insurance. No person other than an officer of Medical Mutual may agree, orally or in writing, to change the benefits listed here. The contract or certificate will contain the complete listing of covered services.

In certain instances, Medical Mutual's payment may not equal the percentage listed above. However, the covered person's coinsurance will always be based on the lesser of the provider's billed charges or Medical Mutual's negotiated rate with the provider.

¹Maximum family deductible. Member deductible is the same as single deductible.

²Copay waived if admitted.

³The copay applies to room charges only. All other covered charges are subject to deductible and coinsurance.

⁴Not applied to Coinsurance Out-of-Pocket Maximum.



Prescription Drug Program

Benefits	Copay	Day Supply
Benefit Period	January 1 st through December 31 st	
Dependent Age Limit	19 Dependent / 25 Student Removal upon Birth Date	
Formulary Retail Program with Oral Contraceptive Coverage – mandatory mail order after the second retail fill of a prescription drug		
Generic Copayment	\$10	30
Formulary Copayment	\$20	30
Non-Formulary Copayment	\$30	30
Formulary Mail Order Program with Oral Contraceptive Coverage		
Generic Copayment	\$25	90
Formulary Copayment	\$50	90
Non-Formulary Copayment	\$75	90

Note: In an effort to continue our commitment to quality care and help contain the increasing cost of prescription drug coverage, a formulary feature is included in your prescription drug benefit. A formulary drug is a FDA approved prescription medication reviewed by an independent Pharmacy and Therapeutics Committee brought together by Medco Health Solutions, Inc. Formulary drugs can assist in maintaining quality care while meeting your plan's cost containment objectives.

Benefits will be determined based on Medical Mutual's medical and administrative policies and procedures.

This document is only a partial listing of benefits. This is not a contract of insurance. No person other than an officer of Medical Mutual may agree, orally or in writing, to change the benefits listed here. The contract or certificate will contain the complete listing of covered services.