

FACT FINDERS REPORTSTATE EMPLOYMENT
RELATIONS BOARD

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IN THE MATTER OF:

International Association of EMT's and Paramedics Local 26
And
The City of Norton, Ohio

Case Numbers:
2006-MED-12-1388

Before Fact Finder
N. Eugene Brundige

PRESENTED TO:

Edward E. Turner, Administrator
Bureau of Mediation
State Employment Relations Board
65 East State Street, 12th. Floor
Columbus, Ohio 43215-4213

And

Christian M. Cloen, National Staff Representative
International Association of EMT's and Paramedics Local 36
159 Burgin Parkway
Quincy, MA 02169
e-mail: ccloen@nape.org

And

Nicholas Codrea, Jr.
For the City of Norton
642 Kiowa Trail
Tallmadge, OH 44278
e-mail: nceegecon@aol.com

Fact Finder N. Eugene Brundige was selected by the parties and appointed by The State Employment Relations Board in compliance with Ohio Revised Code Section 4117.14 (c)(3).

The parties timely filed the required pre-hearing briefs and statements.

The parties met March 19, 2007 in Norton, Ohio. Pursuant to the Administrative Rules and the policies of the State Employment Relations Board the Fact Finder invited the parties to attempt to mediate the open issues. Both parties entered into those discussions in good faith and with a sincere desire to resolve the open matters.

The open issues identified and discussed included:

Determination of Level	Article 8
Wages	Article 11
Overtime Compensation	Article 12
Holiday Work	Article 13
Uniforms	Article 14
Duration	Article 30

This case involves a unit comprised of part-time personnel in the Norton Fire Department. At the time of hearing there were thirty-three incumbents.

During the course of this proceeding the parties reached several agreements which are repeated herein.

- (1) The parties agreed that the documents, discussions and submissions offered within the mediation session either in caucus or jointly might

be considered by the Fact Finder as data and information upon which he might base his report and findings.

- (2) The parties agreed that each would have the opportunity to offer supplemental submissions of material anytime before the end of the day Wednesday March 21 by e-mail to the Fact Finder with a copy provided to the other party.
- (3) The parties waived overnight delivery of the report.
- (4) The parties jointly requested that if the resultant collective bargaining agreement contains a re-opener clause for wages, that Fact Finder Brundige retain jurisdiction if the services of a Fact Finder might be required.

In addition to these formal agreements the parties also agreed to several matters that support the finding of facts in this matter.

While the Union felt that the part-time fire fighters are under-compensated compared to comparable jurisdictions, all parties agreed that due to the current financial situation of the City, it was in the best interest of all for the City to pass a levy for the benefit of the Fire Department.

The parties also recognized the unique situation of political instability that existed at the time of the hearing.¹

Due to these realities the Union was willing to accept a lower wage increase in the current situation with an expectation that their position will be given appropriate consideration during the remaining two years of the collective

¹ On the morning of the Fact Finding Hearing (March 19, 2007) the Mayor of Norton resigned.

bargaining agreement if a wage re-opener becomes a part of the new agreement.

Findings of Fact and Recommendations:

After giving due consideration to the positions presented to me verbally and in writing I conclude:

1. The current financial situation of the City of Norton limits the size and amount of wage increases and benefits that can be awarded at this time.
2. The part-time members of this unit are compensated at a level below that provided to other comparably situated employees.
3. It is in the best interest of the citizens, the City of Norton and the members of the bargaining unit to execute a collective bargaining agreement that provides a one year salary increase with a re-opener in the second and third years of the agreement.

Let me turn then to a brief discussion of each of the open issues:

DETERMINATION OF LEVELS – ARTICLE 8

The Union proposes an additional level of employee between the current EMT-B and the EMT-P. This new level would be titled “A EMT-1.” The Employer resists this new level based upon perceived cost and a lack of adequate justification for the need.

RECOMMENDATION:

After discussion with the parties and consideration of the current situation I am not convinced that there has not been a demonstrated need to expend limited funds in this way. I recommend the current levels of bargaining unit employees.

Article 8 should read:

ARTICLE 8 - DETERMINATION OF LEVEL

For use in this Agreement, the Part-Time Firefighters shall be classified as to their level of training and/or rank as follows:

1. **PROBATIONARY EMPLOYEE:** *a new hire with less than one-year of seniority with the City of Norton Fire Department.*
2. **EMT-B: A FIREFIGHTER** *certified by the State of Ohio at an EMT level less than that of EMT-P.*
3. **EMT-P: A FIREFIGHTER** *certified by the State of Ohio as an EMT-P.*
4. **LIEUTENANT**
5. **CAPTAIN**

WAGES – ARTICLE 11

The Union believes the current wage scale for bargaining unit employees means they are “woefully underpaid in relation to the Part Time Firefighters in the comparable communities”²

The City points to the current economic realities to argue that their offer on the table is all they can afford to pay at this time.

While I have not done adequate study to agree with the Union’s characterization of “woefully” I do believe the evidence shows that members of this bargaining unit are inadequately compensated.

² Union Position Submission, Tab 1

The statute requires me, as a Fact Finder to examine a number of factors when fashioning a report. Two of these are the "best interest of the public" and the "ability to pay."

Considering these criteria along with the discussions of the parties, I recommend the first year increase be 2%.

Article 11 should read:

ARTICLE 11-WAGES AND OTHER COMPENSATION

SECTION 1 - This section specifically excludes attendance at EMT-B school, EMT-P school, or the 120 hour or 240 hour Basic Firefighter course.

SECTION 2 – Effective January 1, 2007 Part-Time Firefighters shall be entitled to the following hourly wage compensation. The Parties agree to a wage re-opener for 2008 and 2009 Hourly Wage Rates. Said wage re-opener shall be conducted under the terms of O.R.C. 4117.

NEWLY HIRED PROBATIONARY EMPLOYEE	2006 Base	2007 2% GWI	2008	2009
FIREFIGHTERS TRAINING ONLY OR AN EMPLOYEE WITHOUT EMT CERTIFICATION	\$9.51	\$9.70	WRO	WRO
EMT-B	\$10.56	\$10.77	WRO	WRO
EMT-P	\$11.35	\$11.58	WRO	WRO

NON-PROBATIONARY PART-TIME FIREFIGHTER	2006 Base	2007 2% GWI	2008	2009
EMT-B	\$11.62	\$11.85	WRO	WRO
EMT-P	\$13.39	\$13.66	WRO	WRO
LIEUTENANT	\$14.50	\$14.79	WRO	WRO
CAPTAIN	\$15.08	\$15.38	WRO	WRO

SECTION 3 –RANK DIFFERENTIALS

- 1) The wage rates above reflect a 4% rank differential EMT-P to Lieutenant.

2) *The wage rates above reflect a 4% rank differential EMT-P to Captain.*

OVERTIME COMPENSATION -- ARTICLE 12

While this article was listed as open at the beginning of the hearing all parties indicated that they could live with current language. I so recommend.

Article 12 should read:

ARTICLE 12 - OVERTIME COMPENSATION

SECTION 1 - *Any work performed by a member of the Bargaining Unit in excess of forty (40) hours within the standard work period shall be paid in accordance with the Fair Labor Standards Act.*

SECTION 2 - *Part-Time Firefighters called in by the Fire Chief or Shift Commander shall receive a minimum of one (1) hour's pay per call-in. Total time worked in excess of one hour (1) shall be calculated to the next nearest quarter (1/4) hour.*

HOLIDAY WORK – ARTICLE 13

Currently employees are compensated at time and one half (1 ½) if they work on one or more of eight designated holidays. The Union proposes to add three additional holidays and to increase the compensation for 1 ½ pay to double pay for time worked on holidays.

The Employer proposes current language.

RECOMMENDATION:

Holiday pay for part time employees is a somewhat different entity than it is for full time employees. However, it is only fair to compensate employees more generously when they work on recommended holidays.

After discussion with the parties and in light of the current situation I recommend the addition of three holidays but maintain the 1 ½ rate of compensation.

Article 13 should read as follows:

ARTICLE 13 - PAYMENT TO WORK HOLIDAYS

Effective with the execution of this Agreement, Part-Time Firefighters who work on any of the holidays listed below shall be paid at the rate of time-and-one-half their appropriate hourly rate as listed in Article 11, Section 2 preceding.

- | | |
|---------------------|-------------------------------|
| 1) NEW YEAR'S DAY | 7) THE DAY AFTER THANKSGIVING |
| 2) PRESIDENT'S DAY | 8) CHRISTMAS DAY |
| 3) MEMORIAL DAY | 9) COLUMBUS DAY |
| 4) INDEPENDENCE DAY | 10) MARTIN LUTHER KING DAY |
| 5) LABOR DAY | 11) CHRISTMAS EVE |
| 6) THANKSGIVING DAY | |

UNIFORMS – ARTICLE 14

The Union argues that an increase in the Uniform allowance is long overdue. The Employer believes that it simply cannot afford a large additional expense in this area.

RECOMMENDATION:

One of the ideas discussed in mediation appeals to this Fact Finder. That idea was the addition of a specific allowance for footwear. While it is a difficult financial time, certainly no one can argue with the necessity of having new work shoes/boots.

I recommend the addition of such a benefit. Article 14 should read as current language except for the addition in number 2:

ARTICLE 14 – UNIFORMS

SECTION 1 - Part-Time Firefighters shall be entitled to a uniform maintenance allowance for the purpose of purchasing items approved by the Employer. The amount of uniform maintenance allowance to be paid to each Part-Time Firefighter shall be determined by the hours worked in the previous calendar year as defined below. The uniform allowance shall be paid in the month of February.

SECTION 2 - Effective on the execution date of this Agreement each Part-Time Firefighter shall receive a **footwear allowance of one hundred dollars (\$100.00) to be utilized at their discretion for the purpose of purchasing approved shoes or boots. The Parties will mutually agree upon a supplier and method of implementing their voucher system.**

SECTION 3 - Effective January 1, 2005 each Part-Time Firefighter shall be entitled to a uniform maintenance allowance annually subject to the following terms and conditions:

1. If the Part-Time Firefighter worked 500 or more hours in the previous calendar year the Uniform Allowance shall be \$400.
2. If the Part-Time Firefighter worked 300 to 499 hours in the previous calendar year the Uniform Allowance shall be \$300.
3. If the Part-Time Firefighter worked less than 300 hours in the previous calendar year the Uniform Allowance shall be \$200.
4. New hires shall receive a Uniform Allowance of \$400 pro-rated based on their month of hire.

DURATION – ARTICLE 30

While this Fact Finder is honored that the parties have requested he write into the report a recommendation that he retain jurisdiction should the parties reach impasse under a wage re-opener, after reflection and discussion with SERB's General Counsel, it is my conclusion that it would be inappropriate to include such a reference in this report.

If the parties desire to select this Fact Finder to assist them in subsequent proceedings they should do that in a separate agreement and not as a part of this report and recommendation.

In order to accomplish the goals of this report and recommendation the Duration Clause should read as follows:

ARTICLE 30-DURATION AND EXECUTION

SECTION 1-DURATION

This Agreement shall become effective at 12:01 AM, on January 1, 2007 and shall continue in full force and effect, along with any amendments made and annexed hereto, until midnight, December 31, 2009 and thereafter until the parties enter into a new contract or terminate relations. The Parties agree the wage re-opener under Article 11 shall be conducted pursuant to the provisions of ORC4117.

SECTION 2-EXECUTION

Agreed to by the Parties this _____ day of _____, 2007.

FOR THE CITY OF NORTON:

FOR THE ASSOCIATION:

ADMINISTRATIVE OFFICER

**CHRISTIAN M. CLOEN
NATIONAL REPRESENTATIVE**

**CHIEF JAMES CALCO
FIRECHIEF**

**ANDREW J. HOWELL
PRESIDENT**

NICK CODREA, JR.

Summary:

The Fact Finder has appreciated the opportunity to work with the parties in this situation.

If, in considering this report, there are recommendations that the parties can jointly agree to improve upon, I urge them to do so. Otherwise, hopefully these recommendations will provide a foundation for moving forward.

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

In addition, all agreements previously reached by and between the parties and tentative agreed to, along with any sections of the current agreement not negotiated and/or changed, are hereby incorporated by reference into this Fact Finding Report, and should be included in the resulting Collective Bargaining Agreement.

Respectfully submitted and issued at London, Ohio this 12th day of April, 2007.


N. Eugene Brundige,
Fact Finder

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of this Fact Finder's Report was served by regular U.S. Mail upon Christian M. Cloen, National Staff Representative, The International Association of EMT's and Paramedics for Local 26 and Nicholas Codera, Jr., For the City of Norton, 642 Kiowa Trail, Tallmadge, Ohio 33278 and Edward E. Turner, Administrator, Bureau of Mediation, State Employment Relations Board, 65 East State Street, 12th floor, Columbus, Ohio 43215-4213, this 12th day of April, 2007.


N. Eugene Brundige,
Fact Finder