

STATE EMPLOYMENT RELATIONS BOARD 2008 MAY -1 P 12: 56

**FACT FINDER'S REPORT**

**IN THE MATTER OF:**

**CITY OF COLUMBUS**

**AND**

**COLUMBUS FIREFIGHTERS UNION  
I.A.F.F. LOCAL 67**

Case No. 07-MED-01-0031

Before Fact Finder

*E. William Lewis*

Presented to:

Mr. Edward E. Turner, Administrator, Bureau of Mediation  
State Employment Relations Board  
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And

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And

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E. William Lewis, in compliance with Ohio Revised Code Section 4117.14(C)(3), was appointed by the State Employment Relations Board to serve as the fact finder in this matter.

**BACKGROUND:**

This case evolves from a collective bargaining dispute between the City of Columbus, hereinafter known as the City/Employer, and the International Association of Firefighters, Local 67, hereinafter known as the Union/Firefighters. The bargaining unit of 1517 members is composed of 1226, Firefighters; 196 Lieutenants; 58 Captains; 29 Battalion Chiefs; 4 Deputy Chiefs; and 4 Assistant Chiefs.

The Agreement expired on May 31, 2007. The parties are currently operating under the terms of the expired Agreement, and have timely filed the necessary extensions. This is a mature contract between the parties emanating prior to the passage of the 1984 Collective Bargaining Bill.

The parties report to having had ten bargaining sessions lasting through September 10, 2007. Tentative agreements or no changes to the existing Agreement were agreed to on all Articles except for eleven. A request for a fact finding appointment was made to SERB, and on November 30, 2007 they made the appointment.

A number of delays occurred and a fact finding hearing was scheduled for February 6, 2008. During the February 6<sup>th</sup> hearing the parties entered into mediation and five of the eleven open Articles were resolved. We entered into an evidentiary hearing late on February 6<sup>th</sup>, and additional evidentiary hearing sessions were held on February 7 and 15, and March 3, 2008. An agreement to submit post hearing briefs was reached between the principals and they were timely filed on April 2, 2008. The fact finder was to submit his Report on April 30, 2008.

The format of the Report will be to list an Article followed by a brief review of each party's position, and a fact finder discussion regarding the unresolved issues. My recommendation will be accompanied by the Agreement language, when appropriate, reflecting the recommended changes.

When addressing the unresolved issues, as required by ORC 4117.14, pursuant to division (C)(4)(e), the Fact Finder will consider the following:

- (1) Past collectively bargained agreements, if any, between the parties;
- (2) Comparison of the unresolved issues relative to the employees in the bargaining unit with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the classification involved;
- (3) The interests and welfare of the public, the ability of the public employer to finance and administer the issues proposed, and the effect of the adjustments on the normal

standard of public service;

- (4) The lawful authority of the employer;
- (5) Any stipulations of the parties;
- (6) Such other factors, not confined to those listed above, which are normally or traditionally taken into consideration in the determination of the issues submitted to mutually agreed-upon dispute settlement procedures in the public service or in private employment.

## **UNRESOLVED ARTICLES**

### **ARTICLE 8---SAFETY**

### **ARTICLE 12---WAGES, PENSION AND HOURS OF WORK**

### **ARTICLE 16---SERVICE CREDIT AND PROFESSIONAL TIME**

### **ARTICLE 18---INSURANCE**

### **ARTICLE 19---MAINTENANCE ALLOWANCE AND TURNOUT GEAR**

### **ARTICLE 36---TOUR OF DUTY AND HOURS OF WORK**

## **ARTICLE 8---SAFETY**

### ***Section 8.5. (new) Staffing and Deployment.***

The Union proposed new language as follows:

Fire companies may be staffed with 3 Firefighters during daylight hours (0800-2000) in order to accomplish Company business. Company business shall be limited to Building inspection, Hydrant inspection, Union business and station level management. Company business will not include regularly scheduled Division business such as, but not limited to, Continuing Education, Community Relations programs, and other training initiatives.

By January 1, 2008, the Fire Division will staff all rescue companies with one (1) officer and three (3) firefighters.

By January 1, 2009, the Fire Division will staff at least one four (4) member company in each station.

By January 1, 2010, the Fire Division will staff all companies with four (4) members with the exception of Engine Companies, which will be staffed with six (6) members.

By January 1, 2010, the Fire Division will staff all Battalion Chiefs with an Incident Management Aide. The rank of the Aide shall not be less than a Journeyman firefighter.

Any new companies added after January 1, 2008, shall have a minimum staffing of one (1) officer and three (3) FF's with the exception of Engine companies, which will be staffed with one (1) officer and five (5) firefighters.

All companies shall at all time have at least 2 Journeymen firefighters.

The City shall maintain adequate coverage of its citizens. This coverage shall meet NFPA 1710 guidelines in no less than 95% of the incorporated area and not less than 95% of the time.

### **UNION POSITION:**

The Union argues that the proposed changes are necessary, because fire suppression is a life-threatening occupation. Their proposal simply reflects their concern for safety.

According to the Union the National Fire Protection Association(NFPA) has specified minimum criteria for fire suppression since 2001. Their criteria for fire suppression companies specifies a staffing of not fewer than four firefighters(UE-1 Tb. 4C). They also cite OSHA regulations for burning structure firefighting requiring two in the structure and two outside the structure. The OSHA two-in; two-out cannot be met unless NFPA 1710 is adopted, per the Union.

Although the Union would prefer to add firefighters and promote more to officers, they state that their staffing proposals can be met with current manpower( UE 1 Tb. 4B). This can be accomplished by the Fire Division limiting the assigned fire company personnel to company business, according to the Union. With the exception of allowed Union business, all other assigned personnel on duty, would be restricted to activities in the proximity of their fire station. This would include hydrant inspection, building inspection, and in-station training.

Ultimately, the Union's proposal would require additional manpower that is needed to comply with the specified NFPA standards. However, per the Union, those standards would provide a safe as practical workplace and meet the emergency response demands of a fire service(UE 1 Tb. 4B).

### **EMPLOYER POSITION:**

The Employer's position on this issue is current language. They argue that the City has been safely fighting fires for many decades. The Fire Division's manpower staffing

system is already extremely complex and complicated, and the Firefighter's proposal would require sweeping manpower changes, they claim.

According to the City, the Union has attempted to make minimum staffing an issue since the 80's, without success. Furthermore, no evidence has been submitted that the Union's proposals would make the Fire Division safer or reduce injuries. *More firefighting personnel are being dispatched to alarms than in the 1970's, they state.* The medic unit has two Firefighter/Paramedics in addition to an engine crew of not less than three Firefighters. When a actual fire report is received, according to the City, there would generally be twenty one firefighters working the scene.

Numerous procedures have been implemented by the City over the years to improve the handling of fires, such as: thermal imaging cameras, a fire safety officer, major improvements in fire gear, improved self-contained breathing apparatus, implementation of the two-in, two-out policy, and many others, notes the City. Columbus achieved national accreditation by the Commission of Fire Accreditation International, for its methods of fighting fires, one of only three major fire departments, they proudly point out. Therefore, the Union's attempt to include NFPA standards-plus, in the contract is not necessary.

Because of the complexity of the issue and the difficulty of determining actual costs, the Union's proposed changes to Article 8, are cost prohibitive, argues the Employer. The known costs, according to the Union's Exhibit 5 would be \$8.7 million/ year. However, the City's estimate of the known costs is \$24 million (EE-50). The known costs of the Firefighter's proposal would cost the City \$25 million plus, which they argue, is money they don't have.

## **DISCUSSION:**

Evidence and testimony was extensive on this issue. There is no doubt in the fact finder's mind that both parties are very concerned about firefighter safety, as well as citizen safety(EE-17, UE-3). Staffing, as it relates to safety, should always be a concern of the parties.

Does there exist an eminent threat to firefighter safety with the current staffing by the Fire Division? Testimony by Chief Cox, pointed out that in 2006 the Fire Division achieved a milestone, by being one of three major fire departments in the United States accredited by the Commission of Fire Accreditation International (Tr. 204-07). According to his testimony, the accreditation process involves an in-depth investigation of the fire department, including staffing, equipment etc.. Furthermore, there was no evidence introduced by the Union to show that firefighter safety has been directly impacted by lack of staffing. Testimony showed that on runs where a fire was reported there were multiple crews dispatched(Tr. 167-68).

Evidence and testimony exhibited that to meet the Firefighter's "bare-bones" staffing requirements, in a department that is already spending \$5.5 million annually on overtime,

would require additional firefighters or equivalent overtime (Tr. 174 & UE-Tb 4B). Chief Cox and IAFF President Reall, testified that fulfilling current staffing needs is a difficult and complex problem. Chief Cox reported that the Division has been working for over three years to automate the staffing system, without success (Tr.509).

Using Union Exhibit 5 or Employer Exhibit 50, there is no doubt in the fact finder's mind that it would cost several million per year to comply with the Union's proposals. The Union estimates the yearly cost of nearly \$9 million, and the Employer estimates nearly \$22 million per their Exhibits. The fact finder has been given four different cost estimates of this proposal, two from each party, ranging from a low of \$3,270,000 per year to a high of \$66,181,472 over three years(Tr. 273 & EE-18). Furthermore neither party was willing to project the costs, if possible, to comply with the last two sentences of the Union's proposal on Section 8.5.

#### **FINDING AND RECOMMENDATION:**

*There needs to be on-going discussion, to improve the complex and complicated system, for both parties. However, the fact finder is recommending **current language** for ARTICLE 8.*

#### **ARTICLE 12---WAGES, PENSION AND HOURS OF WORK**

Per Union proposal: change **Section 12.1. Fire Pay Plan**

- (A) (1) Effective at the beginning of the pay period which includes June 1, 2007, the pay ranges and hourly rates listed below are to be adjusted by 4%.
- (2) Effective at the beginning of the pay period which includes June 1, 2008, the pay ranges and hourly rates listed below are to be adjusted by 4%.
- (3) Effective at the beginning of the pay period which includes January 1 2009, the pay ranges and hourly rates listed below are to be adjusted by 1%.
- (4) Effective at the beginning of the pay period which includes June 1, 2009, The hourly rates and pay ranges listed below are to be adjusted by 4%.
- (5) Effective at the beginning of the pay period which includes January 1, 2010, the hourly rates and pay ranges listed below are to be adjusted by 1%.

Per the City's proposal: change **Section 12.1. (A) Wages** as follows:

--Retroactive to the pay period which includes June 1, 2007, a three percent (3%) wage increase

--Effective with the pay period which includes June 1, 2008, a three percent (3%) wage increase

--Effective with the pay period that includes June 1, 2009, a two percent (2%) wage increase.

### **UNION POSITION:**

The Union states that they are in fact finding because of the City's position on economics. They believe, per their brief, that the City's 8% proposal is disrespectful and unfair.

City Auditor Dorrian, substantiated their claim by stating "a 14% increase over a three year period is excessive. I think that's a little bit too high. I may or may not agree with the City's position, but I think 14% is on the high side" (Tr. 639-40).

Union Exhibits 8 and 9 (City Budgets, 07,08) corroborate, in their opinion, 4% increases. Both Exhibits contain the following statement; "Personnel costs, excluding insurance costs, are projected at either the rate in effect per current collective bargaining agreements or, for those units that have contracts that are currently under negotiations or expiring in 2006" through 2008," a rate of 4%." The budgets were balanced and approved by the appropriate personnel.

The Union further argued that the City in their 07 and 08 budgets anticipated a 4% basic wage increase. This, according to the Union, was substantiated through comparison of the Division Summary Charts (UE 8&9,12-9). The anticipated expenditures for fire personnel from 2007 to 2008 was 4.5%, declares the Union (UE 8&9,12-9). The Employer's allegation that they budgeted a 3% wage increase is not supported by the data, say the Firefighters.

Bargaining history and internal equity further support the Firefighter's position. The recently expired contract (04-07) mirrors the wage increases contained in the 02 to 05 FOP contract. The Firefighters contract was agreed to without third party intervention, noted both parties, at the hearing. Nor did the current FOP/City contract require neutral assistance, according to the Union brief. Decades of bargaining history would show that the Fire Division's wage increases were the same as the Police Division, claims the Union. A further insult, per the Union, is that the City income tax revenue growth is significantly above what it was when bargaining the 2004-2007 contract.

External comparables, per the Firefighters, support their request for a higher wage increase than the City is proposing. Union Exhibit 1-1A, shows Columbus Firefighters 11+ percent behind their area counterparts. And with comparable sized cities (UE-14), Columbus is also behind.

Projected inflation figures (UE-11 & 12), also substantiate the Union's argument that the City's proposal is inadequate. The City, notes the Union, in their budgeting assumptions, expects a three percent inflation rate.

Finally, ability to pay is not an issue here, nor does the Employer claim inability. The City's unwillingness to agree to the Union's wage proposals is not due to inadequate funds, declares the Union.

### **EMPLOYERS POSITION:**

The City argues that although their offer poses a budgeting challenge, they are offering a fair and equitable increase. Their offer averages 2.7% per year over the three years. There is a difference of over \$13 million between the City's 8% and the Firefighter's 14%. A difference, to finance, would not be reasonable and fiscally responsible, according to the Employer.

An Employer's ability to finance a wage increase "statutorily", does, in the Employer's opinion, expect them to consider appropriateness, fiscal responsibility and potential impact on other services. Ohio Supreme Court rulings, per the City, did not intend to allow a neutral to adopt an employee proposal that would spell financial disaster.

The City, in determining ability to finance, is requesting the fact finder to consider the overall financial picture, and what is appropriate, reasonable and fiscally responsible. In so doing, they believe that their hearing witnesses are in the best position to determine what's in the best interest and welfare of the public and City.

Columbus is a Charter City and is required to have balanced budgets. Operating expenses for the Fire Division come from the General Fund, and 71% of the GF goes to support Police and Fire, notes the City. Two-thirds of the GF revenue is from City income taxes, however, per the City, the growth rate of income tax revenues has been on general decline since 1975. According to Employer witness Dorrian, with one exception, the growth rate has been inadequate to continue operations as they currently have.

The City, in order to balance the budget, has had to make cuts in Departments such as Health and Recreations & Parks, to preserve the Department of Public Safety, they maintain. Although there has been some increase in Fire Division employment, other civilian GF employees have decreased by nineteen percent.

The 2008 budget and beyond, are bleak, according to the Employer. The final 2008 budget, due to declining income tax receipts, represented a \$27 million reduction over departmental submitted requests. Beyond 2008, looks no better according to Employer witnesses' Dorrian, Taylor and LaFayette.

Therefore, according to the Employer's post hearing brief, the Union's 14% wage increase is not fundable. There is a shaky economy, minimal increases in projected tax

revenues and already cut public services. Anything beyond three percent would have to be through cuts someplace, argues the City.

The City did not budget a 4% increase for 2007 and 2008, as argued by the Union. Finance Director Taylor, substantiated by Budget Management Specialist Heiser, testified that the Division of Fire submitted a 3% budget assumption for 2007 and 2008.

Firefighters are not comparable to Police Officers, and a comparison is inappropriate, argues the City. There has not been parity between the Columbus Police and Fire for over twenty years, they say. Firefighters should be compared to other Firefighters, and according to the City's comparables, they are being paid higher than other regional fire departments. Suburban fire departments, per the City, are not comparable, because of their small size and their affluent tax base. According to the Employer, they have used a consistent set of jurisdictions as comparables, for many years (EE-38,39,40,41). Those comparables support that a 3% increase for top step Firefighters, shows Columbus earning more than all others except for Washington DC. Furthermore, states the Employer, when compared with local jurisdictions on an hourly rate basis, Columbus is the highest.

#### **DISCUSSION:**

This is not an ability to pay issue, as such, it is an ability to pay how much issue. The Employer is not claiming they can't pay anything, they argue that they should not be required to pay more than their offer. Extensive evidence and testimony has been introduced on this issue.

Much to do has been made about City budget declarations, and what they mean (UE-8 & 9). The 2007 and 2008 Budget books depict, under Expenditure Assumptions, a four percent assumption for personnel costs (excluding insurance costs). The Union claims that is evidence that the City can grant their 2007 and 2008 proposal. They assumed it in their budgets. That's not what "it" means, claims the Employer. Columbus actually budgeted a base wage increase of 3% for 2007 and 2008, per EE-33, and testimony from Mr. Taylor and Ms. Heiser. However, the real question before the fact finder on this issue is: can the Employer pay more?

The City's evidence (EE-33) and the approved City Budgets for 2007 and 2008 conflict, in the Fact Finder's opinion. Division Summary Charts 12-9, in the Budgets, tell a different story than EE-33. Furthermore, City Auditor Dorrian testified that he thought the Union's 14% over three years was "a little bit too high". "I may or may not agree with the City's position, but I think 14% is on the high side". Growth in income tax revenues was also estimated at 4% for 2008 and 5% thereafter, which like inflation, is sometimes difficult to get a handle on.

The comparables submitted by the parties (UE-1-1A, UE-14, EE-37, 38,39,43) exhibit a disparity in non-area examples, as well as divergent perspectives for area examples. In non-area comparables, the Union selected cities of similar population, however, nearly all

are high cost of living areas. And the City claims a historical usage of their selected cities, "akin" to Columbus. Using the City's non-area jurisdictions, Columbus is "ahead of the pack". On the other-hand, the Union's non-area examples show Columbus behind. The area jurisdictions, with five identical selections, are not reconciled regarding FLSA overtime earnings, however they do show Columbus very competitive on an hourly rate basis.

It is argued by the City, that internal comparables should not be considered, ie. no parity between police and firefighters. On the one-hand, relative to wage rates, I agree, on the other, regarding amounts of wage increases granted, I cannot. The Firefighter's brief's argument, is accurate and persuasive. For many contracts, their (FF's) contract wage increases and timing have mirrored the Police Division. This is further exemplified by the recently expired Firefighter contract, reached by negotiations, which followed the increases and timing of the FOP contract(Jt.-1).

Additionally, bargaining history exhibits that six of the last eight years, the firefighters received a 4% wage increase. The two years below 4% were immediately following the two worst years in income tax revenue, since 1961 (UE-1,1C). Evidence also shows that since the turn of the century, the growth in annual income tax revenue has declined to an average slightly over 3% (EE-28C). Hopefully the projections for the future will be as accurate as the 2007 projection (UE 1,1B).

#### **FINDINGS AND RECOMMENDATION:**

The fact finder, for the above reasons, is not convinced that the City cannot offer more than 8% over three years. However, based on SERB settlement data(EE-43), declining income tax revenue growth, representing 60% plus of the General Fund revenue, and internal wage increase comparables, I find the 14% Union proposal excessive.

The Union's bargaining history argument and past FOP and IAFF settlements, exemplified in Joint Exhibit #1, are compelling.

I recommend that **Section 12.1. Fire Pay Plan (A) Wages of ARTICLE 12**, be adjusted to reflect the following:

- (1) Retroactive to the pay period which includes June 1, 2007 a three percent (3%) wage increase. The rates on page 21 of the 2004-2007 Agreement are to be adjusted accordingly.
- (2) Effective at the beginning of the pay period which includes June 1, 2008, a three percent (3%) wage increase. The Pay Plan wages contained in (1) above are to be adjusted accordingly.
- (3) Effective at the beginning of the pay period which includes June 1, 2009, a four percent (4%) wage increase. The Pay Plan wages contained in (2) above are to be adjusted accordingly.

I further recommend that **Section 12.4. Pension Pick-up (A)**, be adjusted as follows:

The portion of the employee contribution to the Ohio Police Fire Pension Fund (herein referred to as the "Fund") be equal to seven percent (7%) of the employees earned compensation effective with the pay period that includes June 1, 2008, shall be picked up (assumed and paid) on behalf of the employee, and in lieu of payment by the employee, by the City of Columbus. Effective with the pay period that includes June 1, 2009, contributions to the "Fund" be equal to seven and one-half percent (7.5%) of the employees earned compensation shall be picked up (assumed and paid) on behalf of the employee, and in lieu of payment by the employee, by the City of Columbus. Any remaining portion of the employee contribution which might exist shall be continue to be paid by the employee.

### **Section 12.2 Paramedic Differential**

Per Union proposal: Change **Section 12.2 (A)(1)** to read as follows, and add **Section 12.2. (A)(2)**

- (A)(1) Each employee who is a certified paramedic, Captain or below in rank, shall be paid a differential equal to eight percent (8%) of his hourly rate of pay (using the hourly rate which does not include any other differential which might apply). This differential shall be paid to paramedics holding a forty (40) hour assignment only if paramedic certification is a requirement of the assignment.
- (2) Paramedics who have received the above eight percent (8%) differential for six (6) years, and who are assigned to a forty-eight (48) hour assignment involving paramedic functions, shall be paid an additional differential of one percent (1) during the seventh (7<sup>th</sup>) year of service as a certified paramedic, and additional differentials of one percent (1) during each additional year of such service, to a maximum eight (8) additional percent (8%), ie., to a maximum of sixteen percent (16%) paramedic differential. (All calculations will use the hourly rate which does not any other differential which might apply.) The effective date of the commencement of this additional differential shall be the seventh (7<sup>th</sup>) and subsequent anniversaries of original paramedic certification. This additional differential will apply to ranks above that of Firefighter only if the assignment held requires paramedic certification.

### **UNION POSITION:**

The Union through its Exhibit #1 tab 3B and its post hearing brief argues that their proposal to increase the differential is necessary and cost effective.

This paramedic longevity increase of one (1) additional year from years seven through fourteen is justified because senior paramedics are more efficient and need less

supervision. However, they are dropping their P-card in increasing numbers. Increased medic runs by nearly 43,000 per year and commensurate stress have contributed to their requests for reassignment.

Increased compensation, per the Firefighters, is necessary to attract and retain quality paramedics. Because of the aforementioned, the Division has had to force firefighters into these roles.

Senior paramedics are leaders. They supervise, train, instruct and mentor paramedic students. By retaining the senior paramedics through the incentive, according to the Union, would result in a zero net cost to the Division UE 1-3(A)(B).

The incentive is designed to reverse the P-card dropping trend and improve morale. In order to have effective public service you need experienced, motivated 911 responders. Their proposal is not out of line with their five submitted comparables, claims the Union.

#### **EMPLOYER POSITION:**

The City argues that they do not have the ability to finance the Union's proposal. Employer Exhibit 29, estimates the cumulative cost to be \$5.1 million. A Union claim of net zero cost for this proposal is illogical, claims the Employer. There is no evidence to substantiate their claims of reduced training costs and retention of already trained personnel.

It is speculative, per the Employer, that paramedics will not drop P-cards, since Section 12.2 (C) permits a 2% reduction. Furthermore, observes the City, paramedic trained firefighters, without working as paramedics will be eligible for the increased differential.

The City also lists eleven claimed comparables with only one, Washington DC, paying their firefighter/paramedics a greater base salary.

#### **DISCUSSION:**

It is interesting to the fact finder that the P-card dropping option (12.2 (C) ) was a new addition to the current contract. It must have been a concern of the Union's based on Union Exhibit 1-3C& D. There is no denying that there has been a 70% increase in medic runs since 2003 to 2006, with approximately four percent of the firefighter/paramedics requesting to drop their P-card.

The fact finder is not convinced that the Union's argument of a net zero cost is appropriate. There is no convincing evidence that the increased compensation will eliminate the allowed 2% P-card drops. Furthermore, by compensating the non-working P-card paramedics, is tantamount to granting up to an 8% wage increase to a meaningful portion of the workforce. Additionally, according to testimony of Chief Cox and President Reall, there is, and will be, a continuing need for newly trained paramedics.

Union Exhibit 1-3E, acknowledges EMS job stress as high, and suggests that there be in-service programs to assist in managing job related stress. However, this type of a program could add to “out of company” training.

Comparables submitted by the City coupled with SERB comparable data suggest that Columbus Firefighter/Paramedics are generally paid more than others performing a similar function.

It is unfortunate, in the fact finder’s opinion, that the Union saw a need to negotiate a P-card drop provision in 2004. But considering the significant increase in medic runs, it is understandable. With inadequate general population healthcare coverage, and Doctor’s Office’s “call 911 answering machines, as Union observed reasons for increased runs, relief doesn’t seem to be in sight.

**FINDING AND RECOMMENDATION:**

**Section 12.2 (A) Paramedic Differential**

Current language.

**Section 12.2. (B) Staffing and Training**

The Employer is proposing to change the first and fourth sentences of the third paragraph to read as follows:

When the Fire Chief decides that additional certified paramedics are needed to meet Division needs, he shall first solicit volunteers **by unit** for such certification training, and from those Journeyman Firefighters and promoted rank employees who volunteer, he shall select those to be trained.

The Chief shall so direct the least senior Journeyman Firefighter(s) **or the least senior Journeyman Firefighter(s) by unit** to paramedic training.

**EMPLOYER POSITION:**

According to the City there is an imbalance between units of paramedics, and they are spending a great deal of money on paramedic overtime (EE-25). Unit 3, per the City, is understaffed relative to the other two units. They believe that with this one proposal, albeit a long-term approach, the overtime and imbalance will be reduced.

**UNION POSITION:**

This proposal, according to the Union could open “pandora’s box”, to many disputes. This proposal fails to set ground rules, guidelines, restrictions or definitions that would be necessary to exercise authority, says the Union.

Paramedic school is nine months. During a nine month period, within the contract, there are usually four transfer opportunities, thus not meaningfully impacting unit balance, argues the Union.

They point out that Chief Cox testified that the City currently meets, by temporary transfer, full paramedic staffing daily (Tr.339&551). The alleged Unit 3 imbalance is more management caused than anything else, they claim.

It was also pointed out that Employer testimony admitted that the Division was thirty to forty paramedics short(Tr.573). Without training new paramedics, no solution is forthcoming, says the Union.

### **DISCUSSION:**

The Firefighters and the City both want highly motivated, experienced, compatible paramedics. One chooses a restricted selection method, and the other, dollar motivation, plus multiple contract changes. With the Firefighters it's, seniority and temporary transfer rules, and with the City it's, restricted selection by unit. The filling of personnel needs throughout the Division has been described by both partys' witnesses, as an extremely complex process. The complexity is contributed to by safety needs, public service, certification, qualifications, 24-7 operation, training and many other issues. Notwithstanding, the parties have created this personnel movement system over many years, and if changes and improvements are to be made, there is nobody more qualified, than they to make them.

### **FINDING AND RECOMMENDATION:**

Chief Cox testified that the Division is thirty to forty paramedics short. In the fact finder's opinion, a new class of paramedics should be the first step to resolving the unit disparity (Tr. 574&575).

### **ARTICLE 12 Section 12.2 (B)---**current language.

#### **Section 12.2. (C) Paramedic Differential**

Per Union proposal, add last paragraph to read as follows:

Officers shall not be utilized as Paramedic Staffing except during the hours of 0800-1800 Monday through Friday (not including holidays).

### **UNION POSITION:**

The Firefighters want officers restricted from paramedic duties from 6pm through 8am, for crew safety purposes. They want the officers at the scene focused on safety and not paramedic rescue functions. They argue that this change would reduce paramedic

turnover, improve job satisfaction and overall morale. Officers cannot supervise safe operations of their crew while attending to a patient, they assert.

By utilizing officers as paramedics, the firefighter/paramedic is relegated to full time EMS duty. Therefore, they are unable to rotate to other equipment that would offer training opportunities and study, which could lead to promotion. "Burn-out", is also a problem, alleges the Union, when an employee is constantly working EMS duty.

It is further asserted by the Firefighters, that the City has adequate staffing to grant their proposal. Daytime hours would require no change, and nighttime, without the daytime training piece, adequate staffing currently exists.

Although, per the Union, using an engine officer as a paramedic, is a scene safety and patient concern, they believe that their exempting daylight hours should meet the Division's overtime concerns.

### **EMPLOYER POSITION:**

The Union's proposal of not counting officers as paramedics between 6pm and 8am, is unreasonable, per the Employer. Most importantly, they argue, the Union presented no comparables. The proposal is unnecessary, and would directly impact a "mutual" goal of crew continuity. To comply with the Union proposal, according to Chief Cox, the City would have to move more firefighters around (Tr. 508). With the addition of this proposal, instead of two moves of firefighter/paramedics at 4pm and 8pm, an additional move would have to occur at 6pm(Monday through Friday), excessive per the Employer.

Finally, according to the City, the compliance cost of approximately \$7 million is prohibitive. Additionally, the officers restricted from paramedic service would still be paid the 8% stipend, not of interest to the City.

### **DISCUSSION:**

There was no evidence submitted to substantiate the Union's position that a true scene safety issue existed, because of officers functioning as paramedics. However, the fact finder can certainly understand the training frustration and "burn-out" potential of not being able to rotate off EMS duty.

Although, it was alleged by the Union, that their proposal could be accomplished with current staffing, there was no Employer acknowledgement. The question is; what would be the consequences to "non-company" Employer assigned duties and responsibilities? (TR 525-29).

The Firefighters did not submit any costing info., the City stated that it could cost up to \$7 million. Chief Cox testified that a minimum cost would be \$4 million (Tr. 529). Witness Cox, did not see scene safety being jeopardized by current policy. If an officer/paramedic

was needed on patient care, he could temporarily assign safety command to a firefighter that was present (Tr. 510).

The Fire Division appears to be on a continuous “merry-go-round”; with Kelly days, leaves, position to position, and SOP staffing safety policies (Tr. 498). To add more, sans a clearly defined safety or public service issue, would be irresponsible, in my opinion. Morale, costs, family disruption, etc., all need to be considered by those who know the intricacy and complexity of the system.

#### **FINDING AND RECOMMENDATION:**

Do not include the Union’s proposed last paragraph to **Section 12.2. (C)**.

#### **ARTICLE 16—SERVICE CREDIT AND PROFESSIONAL TIME**

The Union proposed to increase to increase service Credit payments in **Section 16. 1 (E)**, for Firefighters, Lieutenants, Captains, Battalion Chiefs, deputy Chiefs and assistant Chiefs, by \$50 for 2007, \$50 for 2008, and \$100 for 2009.

#### **UNION POSITION:**

They argue that it is simply part of the wage package, and the bargaining history shows that increases have occurred each time a new agreement was reached (UE-13). In fact, according to the Union’s brief, the average annual increase since 1998 has been \$70.

The Union also believes that a Service Credit increase was included as part of the City’s Budget, when reference is made to Personnel Expenditures (UE-8 &9). Furthermore, argues the Union, internal comparables, with the police show that their longevity increase is from \$100 to \$250 above similarly ranked Fire personnel.

#### **EMPLOYER POSITION:**

The City is proposing current language. They claim that they do not have the ability to finance the Union’s proposal of a 16 to 20 percent increase. Employer Exhibit 29A, shows a total three year cost of \$673,747.

According to the Employer, the Firefighters have a very generous service credit benefit, in comparison to all other City employee groups. Additionally, external comparable data was not provided by the Union. The Firefighters received major improvement in this benefit the last contract, and there is no basis for change in this contract, argues the City.

#### **DISCUSSION:**

According to the history of this benefit, substantial increases were negotiated between 1998 and 2004, \$450 to \$500, depending on which contract. Since 2004 the rate of annual increase has moderated (UE-13). The amount of this negotiated benefit is somewhat unique to the organization, and is a public sector phenomenon. In reviewing Employer

Exhibit # 46, the Firefighters are substantially above all other City bargaining units, except the FOP. However, when comparing the FOP/IAFF benefit, the five year benchmark increments, the IAFF are above at the beginning and substantially the same at years 10-15-20 and 25. No proposal was made to expand the benefit above the twenty-five year level. In the existing FOP/City contract there was one interim contract adjustment of \$50. Although there is bargaining history of substantial increases, evidence show that the IAFF benefit is substantially above all non-Public Safety employees, and has basically caught up to the FOP.

#### **FINDING AND RECOMMENDATION:**

Even in bad times for the City (2001), longevity was increased, however, in the fact finder's opinion, the Union's proposal is too aggressive.

Service Credit payments for **Section 16.1 (E)(1) & (2)**, shall be increased by \$50 in 2009.

#### **ARTICLE 18---INSURANCE**

The City is proposing to change **Section 18.5 (A)(5) Medical Insurance Cost Containment** and **Section 18.9 (B) Premium Contribution** as follows:

**Section 18.5 (A)(5)** Provide coverage for routine mammograms up to a maximum of **\$125.00** subject to the deductible, coinsurance and out-of-pocket maximums according to the following frequency

**Section 18.9 (B)** Beginning monthly insurance premiums shall be an amount equal to **nine percent (9%)** of the negotiated insurance base. The negotiated insurance base shall be the total actual cost to the City of the claims and administrative fees for medical, dental, vision and prescription drugs for employees in the bargaining unit for the preceding benefit year of February 1, through January 31. The premium will be established as single and family rates. Half of the monthly premium will be deducted each pay period not to exceed the total monthly premium.

-The Union is proposing to change **Section 18.5 (A)(1) & (2)** to provide for 90/10 percent coinsurance.

-Change **18.5 (A)(4)** to provide coverage for a routine mammogram up to a maximum of \$200.00 or cover under standard co-pay with no deductible.

-**18.5 (B) Limitations:** provide for outpatient alcohol, drug and psychiatric services under standard co-pay with no deductible.

-**18.5 (O)(5)** additional services to be covered include: birth control measures as prescribed by a physician, and Habitrol or similar medications (eligible if used in conjunction with behavior modification class).

## **EMPLOYER POSITION:**

The City pointed out that although all the other bargaining units have their own distinct plans, with the exception of the IAFF, they all contribute 9% of their respective Negotiated Insurance Base. Insurance costs have increased nearly 60% since 2002, and the City's proposed 9% formulae is the most equitable way for employees to share in their insurance costs, they argue. When one looks at comparables, internal and external, their proposal is just, states the Employer. Employer Exhibit 7, with their 9%, shows the firefighters would enjoy the lowest contribution rates of any other City bargaining unit.

Furthermore, the City pointed out in its post hearing brief, that they were not asking for any significant benefits reduction. Nor did they propose to move the firefighters into a PPO as all other bargaining units.

## **UNION POSITION:**

The Union is proposing to maintain a capped premium contribution, albeit, raising the cap by \$5 increments from \$30/\$50/ month to \$40/\$70, over three years. The Union advocate, in his presentation, declared that they wanted certainty in future costs. According to the Union, they took less in wages in 2004 to maintain caps, and they have never paid a percent. Furthermore, on a net to net basis, the IAFF costs the City less than other units (UE-2A). Fire Division insurance costs have always been lower on a per employee basis than other City employees. With their current contribution plan, the firefighters are paying more compared to their costs than those currently paying 9%.

Additionally, the other bargaining unit in the Department of Public Safety (FOP), is paying 9%, however, they have a 90/10 coinsurance versus the IAFF 80/20. The firefighters, per the hearing and brief, would consider the 9% contribution, if coupled with a 90/10 coinsurance.

Some benefit level changes are also being sought by the Union. They want to increase the mammogram benefit to \$200, treat alcohol, drug and psychiatric as other insurance benefits, and amend Section 18.5(O)(5), regarding additional services. These requested benefit changes are nothing more than market related changes, they submit.

## **DISCUSSION:**

Although the different bargaining units have their distinct plans, the general benefit levels are very similar (EE-8,12,13). Internal comparables, especially medical insurance, are very convincing to this fact finder.

When I look within the Department of Public Safety, regarding medical premiums and benefits, evidence exhibits the FOP at 9% premium contribution/ month, and the IAFF capped at \$30/\$50 per month. However, the Police have a 90/10 coinsurance and the Firefighters have a 80/20 percent. But the Firefighters do not participate in the PPO program along with all others.

Is there a quid-pro-quo between 90/10 and a PPO, I think not. To move from an 80/20 to 90/10 is simply a “money change process”. However, to be required to move into a PPO network and away from current medical providers can be traumatic, and would need at minimum, transition time. Depending on the nature of the illness, out-of-network penalties can be overwhelming, and medical provider changes can be major.

**FINDING AND RECOMMENDATION:**

Proposed benefit changes: current Agreement, except increase **Section 18.5 (A)(5)** per Employer proposal to \$125.00

**Section 18.9 (B) formerly 18.10 Premium Contributions**

Beginning the month following the month this Agreement is accepted by the parties, the monthly premium shall be \$35 single and \$75 family or 9% of the negotiated insurance base whichever is less. Beginning June 2009 the monthly premium shall be \$40 single , and \$85 family or 9% of the negotiated insurance base whichever is less. The negotiated insurance base shall be the total actual cost to the City of the claims and administrative fees for medical, dental, vision and prescription drugs for employees in the bargaining unit for the preceding benefit year of February 1 through January 31. The premium will be established as single and family rates. Half of the monthly premium will be deducted each pay period not to exceed the total monthly premium.

**ARTICLE 19—MAINTENANCE ALLOWANCE AND TURNOUT GEAR**

**Section 19.5 (A)(B)** The Union is proposing to increase the current Maintenance Allowance of \$800 by \$100 for the first payment due in January 2009 and an additional \$100 for the first payment due in January 2010.

**UNION POSITION:**

The bargaining history, argues the Union, includes periodic increases to this benefit. A \$200 increase was included in the recently expired contract. The benefit is paid in a lump-sum, however, as explained by the Union, it equates to \$66.67/ month, insufficient in their opinion. The City’s budgets for 2007 and 2008 anticipated an increase as part of Personnel Expenditures, claims the Union. Their budgets would support and additional \$100, they argue. Furthermore, as per Union brief, Auditor Dorrian confirmed that the City will begin treating uniform benefits as taxable, thus a 29% withholding charge will be deducted. The Union requests the fact finder to recommend their proposal.

## **EMPLOYER POSITION:**

The City is proposing no change to the current contract. They claim that they do not have the ability to finance the firefighters nearly one-half million dollar proposal. Nor do they see it as reasonable or fiscally responsible.

Additionally, argues the Employer, the current uniform allowance is extremely generous, when compared either internally or externally. A rejection of the Firefighters is requested.

## **DISCUSSION:**

A review of the internal and external comparable evidence shows that the Columbus Firefighters are above nearly all others (EE-47,48,49). The only exception is a \$50 difference between the City's uniformed Police Officers. The Uniformed Police Officers received one \$50 increase in their current contract.

## **FINDING AND RECOMMENDATION:**

The fact finder is of the opinion, that the Firefighters proposal is out of line with comparable data. However, considering the anticipated taxing of the benefit, I recommend increasing the Maintenance Allowance in **Section 19.5(A)& (B) to \$850 and \$1400, for the payment due in January 2009.**

## **ARTICLE 36—TOUR OF DUTY AND HOURS OF WORK**

The Employer is proposing to modify Section 36.5, 36.6, as follows:

### **Section 36.5 Kelly Day Scheduling**

Add to current language after (4):

**Firefighter Kelly days shall be drawn by department seniority and individual unit assignment. Firefighters assigned to the same apparatus and unit shall be restricted from having the same Kelly day as a crew member of greater seniority with the following exceptions:**

- (1) When more than seven (7) firefighters are permanently assigned to the same apparatus, additional Kelly days will be utilized. Division seniority will be used to determine the first duplication of a Kelly day per apparatus.**
- (2) additional firefighters may be assigned to the same Kelly days on the same apparatus as the availability of unique Kelly day choices are exhausted from the Kelly day pool.**

- (3) Unassigned firefighters shall not be restricted under this unit assignment limitation.**

**Section 36.6 Hours of Operation for Battalion Chief, Deputy Chief, EMS Supervisors and Fire Alarm Office.**

The beginning and ending hours of the three (3) platoon twenty-four (24) hour shift for Battalion Chief, and Deputy Chief, shall start at 0700 hours in the morning of their regular assigned shift and shall end at 0700 hours the following morning.

**(EMS Supervisors and the Fire Alarm Office personnel were deleted)**

**EMPLOYER POSITION:**

**36.5**—The current system of drawing Kelly days by departmental seniority creates difficulty, claims the City. They state that the existing system has entire crews off on the same day, which causes increased overtime costs and scheduling difficulties. If all off, crew continuity, important for safety and efficiency, can and is disrupted by using the current system, notes the City. Employer Exhibit 20 is an actual example of a firefighter crew with enough seniority for all to be off the same day. This actual situation requires the Division to replace the whole crew every twenty-one days (Tr-289).

As a result of the City's actual example, firefighters are repeatedly working with different individuals, and no "crew continuity" is achieved. Crew continuity allows the firefighters to understand the apparatus, know the neighborhoods, hydrants, streets, buildings, and other non-Columbus firefighters working in the area. This change would allow for a better and safer fire division, argues the City.

The Union, in their Exhibit 1, tb 3, referencing paramedic vacancies and temporary transfer shuffles, causes less than optimal crew performance, points out the City. Furthermore, according to the testimony of Union President Reall, crew continuity is critical (Tr 494).

According to the City, their Kelly day proposal returns the contract to an earlier used process, using rank, departmental seniority, limited to one (1) firefighter off per engine and ladder company per day.

By recommending the City's proposal there would be a drastic reduction of Kelly day repeats, and the need for transfers (EE-21). Therefore, the Employer requests the fact finder to support their proposal.

**UNION POSITION:**

**36.5** The Union states that the City wants to "stand seniority on its ear", by limiting the number of personnel off by apparatus. In exchange for seniority selection of time off as the current contract provides, the City has a cap on number per day and the unrestricted right to transfer personnel to properly operate the fire division, exclaims the Union. The senior twenty percent, who now get their choice of day off, would lose that privilege.

Not only is the City's proposal an affront to the bargaining history, it is, in the firefighter's opinion, a frontal attack on seniority. Subsequent to the signing of the 2004 contract, talks were continued on this topic, without an agreed upon solution, notes the Union. Chief Cox, in his testimony, conceded that Kelly day selection was not the only cause for temporary transfers. Even under his proposed system some apparatus would have multiple personnel off on the same day(Tr. 340-42).

### **DISCUSSION;**

This provision of Kelly day selection by seniority has been a part of the Agreement for more than ten years. And according to testimony, they have bargained on the process many times and for many hours.

In the fact finder's opinion, the City's proposal would cause a drastic change in the current Kelly day selection system. Furthermore, Chief Cox, was not sure what total impact their proposal would have. He stated that "we would be willing to modify the language" (Tr. 322). Not, in the fact finder's opinion, a good way to implement a new contract provision. As stated earlier in this Report, an accreditation investigation was conducted, and the Division was found to be exemplary, in its mission of fire suppression.

### **FINDING AND RECOMMENDATION:**

No change to current contract.

### **EMPLOYER POSITION: 36.6**

Per the hearing and the post hearing brief, this proposal is in order to reduce overtime. Historically, EMS Supervisors assisted Battalion Chiefs in selecting medic assignments, beginning at 0700. According to the City, having two people making the selection is too cumbersome, and when the seven EMS Supervisors (Paramedics) are required to be away for training, their replacements must be paid overtime.

Furthermore, the seventeen Fire Alarm Office personnel working 0700 to 0700 need training, drug testing and physicals, and their replacements have to be paid overtime. The City is requesting a one hour starting time adjustment for these employees, alleviating its need to pay unnecessary overtime.

### **UNION POSITION:**

As stated in their brief, the union is opposed to the proposal for two reasons. First, a disruption to seventy-two employee's lives, and secondly, from an efficiency of operation perspective. The Union states that the reason for starting these employees at 0700 has not changed.

EMS Supervisors, still need the advantage of the early start for familiarization and preparation, for their responsibilities over multiple locations. There are multiple reasons personnel transferred into the FAO, and knowing those needs as early as possible, allow for a quicker fix, argues the Union. Furthermore, an FAO replacement who shows up at 0800 is already behind the “curve”, asserts the Union.

**DISCUSSION:**

There was no concrete evidence or testimony submitted to demonstrate a real need, nor was there was there any cost savings data made available (Tr367). According to testimony, the shift starting time change for the FAO was made in the 1970’s when they were located in City Hall. They have not been in City Hall for a long time, however, no changes have been made heretofore.

**FINDING AND RECOMMENDATION:**

The fact finder is not convinced that a contractual change is all of the sudden needed at this time.

**Section 36.6**---current language.

**ARTICLE 40—DURATION OF CONTRACT**

Although this was not submitted to be changed at the time of the hearing, the dates need to be changed.

**FINDING AND RECOMMENDATION:**

**Section 40.1. Contract Duration**

Change June 1, 2004 to June 1, 2007 and May 31, 2007 to May 31, 2010 respectively.

**SUMMARY**

The Fact Finder enjoyed meeting and working with the parties. This will affirm the foregoing Report consisting of 24 pages, and recommendations contained therein, are made in this matter of Fact Finding by the below signed Fact Finder. If there is found conflict in the Report between the Fact Finder’s Discussion and Recommendations, the Recommendations shall prevail. All matters of tentative agreement are recommended to be included in the Agreement. All provisions of the Collective Bargaining Agreement that neither party proposed revisions to, are to be carried forward into the new Collective Bargaining Agreement unchanged.

To the best of my knowledge, said Report and its recommendations complies with applicable provisions of ORC 4117 and related Rules and Regulations adopted by the State Employment Relations Board.

This concludes the Fact Finding Report.

Respectfully submitted and issued this 30<sup>th</sup> day of April 2008.

A handwritten signature in cursive script, appearing to read "E. William Lewis".

E. William Lewis  
Fact Finder

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the forgoing Fact Finder's Report was sent by regular U.S. mail, or hand delivered to:

Edward Turner, Administrator  
Bureau of Mediation  
State Employment Relations Board  
65 East State Street, 12<sup>th</sup> floor  
Columbus, Ohio 43215-4213

And

Ronald G. Linville, Esq.  
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And

William C. Moul, Esq.  
Thompson Hine LLP  
10 West Broad Street, suite 700  
Columbus, Ohio 43215

This 30<sup>th</sup> day of April, 2008



E. William Lewis  
Fact Finder