



**Background:**

This case came on for hearing on December 22, 2009. It concerns the terms and conditions of employment for a successor Agreement between the parties, the Employer and Union noted above, for a bargaining unit described in the parties' predecessor Collective Bargaining Agreement, namely, the parties' 01-01-05 to 12-31-07 Agreement. This predecessor Agreement describes the bargaining unit at Article 2 – Recognition, as follows:

“The Township recognizes the Union as the sole and exclusive bargaining agent with exclusive bargaining rights for the full time, uniformed career employees of the Fire and EMS department excluding the Chief, Assistant Chief and any administrative office staff. ...”

As required by O.R.C. Chapter 4117, both parties (the Employer and the Union) submitted timely pre-hearing statements to the undersigned and to each other. These statements reflect that the bargaining unit is comprised of approximately ten (10) full time employees. The bargaining unit's duties include fire safety, prevention, and suppression services for the Township. Both parties have also submitted substantial documentary evidence to support the respective positions they have taken with respect to the issues which remain unresolved. In this regard, the parties' predecessor Agreement [see page twenty-six (26) thereof], by its terms, expired “at midnight December 31<sup>st</sup>, 2007.” It appears that nonetheless the parties have applied and continued the terms of the expired predecessor contract to date. The predecessor contract contained some thirty-six (36) Articles setting forth the terms and conditions of employment of the bargaining unit. The parties have reached a tentative agreement with respect to a great many

Articles describing the bargaining unit's terms and conditions of employment, but came into this proceeding with some fifteen (15) unresolved issues, to wit: Article 7 – Layoff/Recall; Article 17 – Wages; Article 20 – Training and Education; Article 23 – Insurance; Article 25 – Discipline; Article 32 – Minimum Manpower; Article 35 – Vacancies/Promotions; Article 36 – Duration; and the following “new” provisions proposed by the Union: Article 32 – Minimum Staffing (supplanting the current contract's Article 32 – Minimum Manpower); Article 33 – Mandate; Article 35 – Vacancies; Article 36, new section 36.02 – Officers; Article 37 – Shift/Station Transfers; Article 37 – new section 37.01 – Secondary Employment; and Article 38 – Prevailing Rights/Maintenance of Benefits.

In arriving at the Recommendations made herein, the Fact Finder has taken into account and relied upon the statutory criteria set forth in O.R.C. 4117.14(G)(7)(a) through (f), to wit: the factors of past collectively bargained agreements; comparisons of the unresolved issues relative to the employees in the bargaining unit with those issues related to other public and private sector employees doing comparable work, giving consideration to factors peculiar to the area and classification involved; the interest and welfare of the public; the ability of the public employer to finance and administer the issues proposed; the effect of the adjustments on the normal standard of public service; the lawful authority of the public employer; the stipulations of the parties; and such other factors, nor confined to those above, which are normally or traditionally taken into consideration in the determination of issues submitted to mutually agreed upon dispute settlement procedures in public or in private employment whenever one or another of the parties, or both of them, invoked the applicability of such a factor.

At the outset of the process, and before opening the record for the receipt of evidence, the parties urged that the Fact Finder, act as mediator, a role indeed encouraged by the State

Employment Relations Board. I did so and in the course of extensive and intensive mediation, during which the parties argued and counter-argued their respective positions with respect to the unresolved issues, and during which they relied on their supporting evidence for their respective positions, the parties, with the assistance of the undersigned, acting as mediator, through the diligent good faith efforts of their respective negotiating teams, reached tentative agreement on some of their unresolved issues. Moreover, in the course of these mediation sessions, the undersigned was satisfied that he had acquired enough information, coupled with the statutory factors outlined hereinabove to formulate the Recommendations made herein, without the added expense of reconvening the parties for the purpose of opening the record for a formal receipt of the parties' evidence and arguments with respect thereto.

Following a full day of mediation, Counsel for the Employer agreed that following the holidays he would reduce the results of the mediation into Contract language, and/or note where the parties still had some differences with respect to the issues going into Fact Finding. Counsel did so, and forwarded language on Article 7 – Layoff/Recall; Article 17 – Wages (for years one and two of the parties' successor Contract); Article 20 – Training & Education; Article 23 – Insurance; Article 25 – Discipline; and Article 36 – Duration. With respect to Article 32 – Minimum Manpower, Counsel for the Township noted as follows: “The above provision [i.e. ‘Article 32A. Minimum number of personnel on station will be 7 at any time’] reflects current [contract] language on this Article. The Employer stated that it would maintain current language as part of the economic package and as a condition for acceptance of the package. The Union asked that the Fact Finder proffer a Recommendation on this issue as it [i.e., the Union] has changed the provision entirely and has re-named it Minimum Staffing.”

With respect to Article 35 – Promotions of the current Contract, Counsel for the

Township notes as follows: “Article 35 (and 36, if applicable) (Vacancies and) Promotions:

- A. Open positions will be posted in 30 days.
- B. Job description and duties will be posted.
- C. Applications will be turned into the Chief, with consideration being made to full time employees first.
- D. Labor Management committee will investigate, interview and process through an approved testing procedure.
- E. All promotions will be made by the Trustees with recommendation by the Chief of the department and the labor management committee.
- F. Open Positions: Full time and Officer Positions shall be filled within 120 days of opening.”

Counsel goes on to note as follows:

“The above provision reflects current language on this Article. The Employer and the Union asked that the Fact Finder proffer a Recommendation on this issue.”

With respect to the specifics of Article 36 – Duration, Counsel noted as follows:

“A. This agreement shall be effective January 1, 2010, and shall remain in full force and effect until December 31, 2012, unless otherwise terminated as provided herein.

- B. If either party desires to modify, amend or terminate this agreement, it shall give written notice of such intent no earlier than one hundred and twenty (120) calendar days prior to the expiration date nor later than ninety (90) calendar days prior to the expiration date of this Agreement. Such motions shall be by certified mail with the return receipt requested. The parties shall commence negotiations within two

(2) calendar weeks upon receiving notice of intent. The parties may also amend this agreement at any other time in writing by the Labor Management Committee process as outlined.”

Counsel goes on to note: “The parties agreed to the language for this Article.”

Concerning the Union’s proposal for a “new” provision and Article entitled “Officers,” Counsel for the Township notes: “The Employer stated that it believed this provision would be dropped as part of the economic package and as a condition for acceptance of the [economic] package. The Union asked that the Fact Finder proffer a recommendation on this issue.”

Concerning the Union’s proposal for a “new” provision and Article entitled “Shift/Station Transfers,” Counsel for the Township notes as follows:

“New Article

Shift/Station Transfers

The Employer stated that it believed this provision would be dropped as part of the economic package and as a condition for acceptance [by the Employer] of the package. The Union asked that the Fact Finder proffer a recommendation on this issue.”

Concerning the Union’s proposal for a “new” provision and Article entitled “Mandate,” Counsel for the Township notes that: “The Employer stated that it believed this provision would be dropped as part of the economic package and as a condition for the acceptance of the package. The Union asked that the Fact Finder proffer a recommendation on this issue.”

Concerning the Union’s proposal for a “new” provision and Article entitled “Prevailing Rights/Maintenance of Benefits” provision, Counsel for the Township notes that: “The Employer

stated that it believed this provision would be dropped as part of the economic package and as a condition for acceptance of the package. The Union asked that the Fact Finder proffer a Recommendation on this issue.”

The aforesaid contract language provisions, comments, and notations by Counsel for the Township were e-mailed to the undersigned and Union advocates Broyles and Quinn as an e-mail attachment, the body of this e-mail stating: “Please see attached. If there are any questions or comments, please respond to all. Thanks.”

Union advocate Broyles responded as follows:

“Brett,

After review some errors were found.

1. Article 7 (Layoff/Recall) agreed as marked up
2. Article 17 (Wages)
  - a. Pay period needs modified to same as all other township employees (currently two weeks).
  - b. Top-Out wage is supposed to be 4 years.
  - c. Wages are not indicated for years 2 thru 4.
  - d. The Union only wishes a re-opener if the fact finder reports a 3 year contract.
3. Article 20 (Training/Education) agreed as marked up.
4. Article 23 (Insurance).
  - a. No provision limiting the Employee’s total out-of-pocket expenses (reference Union proposal).
  - b. The Union prefers opt out payment same as township’s cost.

5. Article 25 (Discipline).

a. References to “Township Administrator” needs removed and replaced with “Employer.”

6. Article 36 (Duration).

a. The Union prefers a 2 year contract due to existing overage.

The Union did not agree to drop any provisions for the so-called Economic Package. Since all items are equally important respectively to fair practice and safety, we believe they should be [af]forded consideration.”

In response to Union advocate Broyles’ observations, Township Counsel Geary e-mailed Advocate Broyles, copy to Mr. Quinn and the undersigned, as follows:

“We have some disagreements with these comments. Maybe we need a conference call to clear this up.” In my judgment, the parties’ differences were clear, and following the extensive mediation efforts, I was not convinced that a “conference call” would serve to clarify any matter. To the contrary, I feared that such a call might deteriorate what seemed to me to be matters the parties did concur and agree upon. Thus, in this regard, it is clear that following mediation, both parties are agreed on the language of Article 7 – Layoff/Recall as “marked up” that is, as stated and noted in Counsel Geary’s e-mail attachment. Accordingly, this language will be recommended. (See Appendix 1.) Similarly, Counsel Geary’s statement and notation concerning Article 20 – Training and Education, as per current contract, will be Recommended. (See Appendix 2.)

Additionally, the parties were particularly close concerning Article 17-Wages, even in the face of Advocate Broyle’s view that Township Counsel’s notation regarding Article 17 contained

some errors. Thus, the Union conditioned its acceptance of a wage re-opener, provided the Fact Finder recommended a three (3) year successor Contract as in fact is hereinafter Recommended, and the Union did so notwithstanding its “preference” for a two (2) year successor Contract. In my view, this was a wise decision. Thus, at the time of the re-opener, presuming a much improved economic environment, the Union will be well-positioned to seek, at a minimum, another 2.75% increase for the first six (6) months of the 3<sup>rd</sup> year, and another 2.75% for the second six (6) months of the third Contract year. There remains for consideration the party’s difference with respect to whether the top-out wage should be at 4 years, as the Union urges, or 5 years as the Employer urges. In this regard, there can be no serious question but that the bargaining unit has fallen behind comparables, both external fire fighting units and internally, its public safety forces counterpart, the Township police force. The wage increases agreed to in mediation make good progress toward rectifying these disparities and the evidence submitted indicates that, despite the difficult national economic conditions, the Township can fund the increases agreed to. The Township doesn’t claim otherwise. Indeed, I note that the Township in a letter from Township Administrative Snyder, dated April 9, 2008 to the Union leadership, noted that “a levy passage would obviously place the Township in a much better position to accommodate some of your genuine economic concerns.” (Emphasis supplied).

As I understand it, the levy in question did pass, and in any event the evidence clearly indicates that the Township can presently afford the increases the parties have agreed to. In my view whether or not “the Top-Out wage is supposed to be four (4) years [versus 5 years, as Counsel for the Township wrote up the parties’ mediated agreement concerning Article 17- Wages] (Emphasis supplied), at this juncture the Union clearly seeks a “Top-Out wage” of 4 years, while the Township seeks a “Top-Out wage” of five (5) years, as provided in the current

or predecessor Contract. In my judgment a four (4) year “Top-Out wage” represents another warranted modest step toward bringing the bargaining unit up to par and toward meeting the Union’s “genuine economic concerns.” Accordingly, such shall be Recommended. In sum the undersigned’s Recommendation with respect to Article 17-Wages, will be the write-up by Counsel for the Township following the Mediations of December 22, 2009, with the caveat that: references therein to “5+ years of service” and “the fifth year of service,” and “5 years of service” shall be deleted, and in lieu thereof said provisions shall read—“4 + years of service”; “the fourth year of service”; and “4 years of service”, respectively. (See Appendix 3).

With respect to the Union’s response to Counsel for the Township’s post-mediation write up to the effect that “wages are not indicated for years 2 thru 4,” to the contrary, wages are indicated therein for years one and two of the Contract and in light of the reopened provision for year three there are no “wages indicated” for year three. Finally, the parties did not agree to a 4 year Contract and hence there are no wages indicated for year.

Turning to Article 23-Insurance, as seen above, the Union has only two concerns with the Township Counsel’s write up. One concern is that rather than an opt-out payment of \$4000.00, the Union “prefers” an opt-out payment equal to “the Township’s cost,” which the evidence shown is in excess of \$9000.00. This preference is unrealistic. Were it provided for, the incentive to take the \$9000.00 and run would be hard to resist, especially in the current economic conditions; it would reduce the pool of Township employees insured and threaten increased premiums for those in the bargaining unit remaining covered by the Township’s program, and in premium increases for other Township employees as well. Moreover, the Township’s willingness to pay an opt-out payment of \$4000.00 was reached only after extensive mediation efforts; initially the Township was only willing to pay considerably less.

Concerning putting limits on the total out-of-pocket expenses of bargaining unit employees, as I understand it, the Township's write-up is supplying the bargaining unit the same insurance terms it provides all other Township employees. Suffice it to say that given the extra risks the bargaining unit employees take on, were they to seek separate insurance coverage, premiums would doubtless be higher, and coverage less desirable, because of said risks. Put another way, safety forces such as here are generally far better off participating in the larger employer-wide policy. This is accomplished by Counsel for the Township's write-up and it shall be Recommended. (See Appendix 4).

With respect to Article 25-Discipline the parties are in agreement, namely, as per Township Counsel's write-up, with the exception that the Union seeks the references therein to the "Township Administrator" be deleted, and that in lieu thereof the term "Employer" be substituted. The Township points out that the Township Administrator's duties include being the final decider for the Township concerning disciplinary problems with the workforce, including perform the bargaining unit. Clearly such is an administrative duty. The predecessor Contract provided for the Board of Trustees (three in number) to be the final decision makers with respect to serious discipline and/or discharge. In seeking reference in the successor Contract to this task being taken on by the "Employer," it appears that the Union does not seek the status quo, that is agrees that it should no longer be the decision of the Trustees on the one hand, but on the other hand, by use of the term "Employer," such could well be construed as including inconsistently, the Trustees.

In my view the Township's reliance on the Township Administrator is the better choice, inasmuch as the Administrator is more in touch with what is acceptable behavior in the day to day workplace. The write-up of the Township's Counsel shall be Recommended. (See Appendix #5).

Concerning Article 36-Duration, since the Union is agreed to a re-opener for a three (3) year Contract, and such re-opener is Recommended, I view the Union as essentially agreeing to a three year Contract, albeit might have “preferred” a two year Contract. Given the length of time taken to reach the agreements made here to be put into a successor contract, it makes no sense to have those lengthy efforts cover only two years. The write-up of the Township’s Counsel shall be recommended. (See Appendix #6).

This brings me to all the “new” provisions the Union seeks, and assuming without deciding, that none of these were abandoned by the Union. By virtue of being “new” it follows that the Union has the burden of persuasion that such are essential. And, by virtue of their “newness,” it was to be anticipated that extensive and detailed negotiations would be necessary. Yet the evidence fails to show that such took place. The Fact Finding forum is ill-suited to giving serious consideration to items coming up for discussion essentially for the first time in Fact Finding. Rather, it is a forum for impasse resolution, and impasse presupposes considerable efforts by the parties to reach agreement, i.e. several serious antecedent bargaining sessions dealing with the questions raised. There is no evidence here of such sessions. Indeed, the mediation sessions of December 22<sup>nd</sup> quite properly focused on the big and essential items of wages, insurance, and discipline, all of which the parties came to virtually agree, as seen above.

This is not to say that any of these “new” items sought by the Union are merely frivolous or otherwise patently unfounded. They may be revisited in the next round of negotiations. But presently, for whatever reason, and whoever may be responsible or share responsibility, the unassailable fact remains that there is no longer time to negotiate, work out, trade-off, what-have-you, these refinements. Given the lapse of time between the predecessor and the successor Contract, it is imperative that the parties put in place their successor Contract. In my judgment,

the Recommendations made herein address the essentials and bring about meaningful improvements. The bargaining teams and advocates for both parties are to be commended for their performance and efforts. The truly serious economic issues and disciplinary provisions have been responsibly addressed by the parties.

A few specific observations with respect to the Union-proposed “new” provisions are in order. Thus, as the township maintains, most of these provisions constitute significant inroads into, and would amount to a significant erosion of management’s traditional prerogatives. They would have had more appeal to a neutral party had they been offered in trade to the Employer for more modest economic demands. Just the opposite is true here. In the absence of some quid pro quo for such inroads, neutrals are generally reluctant to recommend or award same. And, as the Township points out, the proposal on secondary employment that the Employer make every effort to work around the employee’s secondary employment appears to elevate one’s secondary employment over that of one’s primary employment, a bizarre proposition for the Employer to buy into. In my non-binding view, the parties’ disciplinary article affords employees the protection of just cause vis a vis the Employer’s stretch in its policy manual to require pre-approval of secondary employment, which apparently is the source of the Union’s Secondary Employment Article. And while several of the “new” provisions are relative to safety concerns, no instances of safety failures/problems encountered were brought to the fore. Supporting evidence concerned goals and optimum safety standards only.

Concerning Article 32-Minimum Manpower, the current Contract’s provisions will be recommended. (See Appendix #7).

Concerning Article 35-Promotions, the current Contract’s provisions are recommended. Although these provisions have generated some grievances, in my view better utilization of the

Labor-Management Committee could avert resort to the grievance procedure. Moreover, in my view, albeit non-binding, the Township's seeking an express provision declaring that "the Employer has the power to declare a vacancy" is unnecessary since numerous reported arbitration decisions hold that such authority is an attribute of Management's inherent rights. (See Appendix #8).

Recommendations:

It is Recommended that all tentative agreements reached prior to December 22, 2009 be incorporated into the parties' successor Agreement.

It is further:

Recommended that the parties' successor Agreement read as per Attachments 1, 2, 3, 4, 5, 6, 7, and 8, appended hereto.

All "new" provisions sought by Union are not recommended for incorporation into the parties' successor Agreement.

This concludes the Fact Finder's Report and Recommendations.

February 3, 2010

  
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Frank A. Keenan  
Fact Finder

# APPENDIX #1

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## ARTICLE 7 LAYOFF/RECALL

- A. Layoff. In the event the Township should decide to layoff Fire & EMS Department personnel, the employee(s) with the least seniority shall be laid off first. In the event an employee is laid off, he/she may elect to receive payment for earned but unused vacation, personal and/or holiday pay; sick leave conversion as determined by Article thirty one (31) of this agreement. The established orders in which layoffs within the same classification occur within the Fire & EMS Dept. are as follows,
- 1) Part-Time employees
  - 2) Probationary employees
  - 3) Full-Time employees
- B. Recall. Employees who are on lay-off shall be placed on a recall list for one (1) calendar year and shall be recalled in reverse order of their layoff with the last employee laid off being the first to be called back and continuing in the like manner until the required number of employees has been obtained.
- C. Recall Notification. No new employee shall be hired until all employees who have been laid off and who still have recall rights have been given the opportunity to return to work. Laid off employees will be notified by registered mail at their last known address to return to work within twenty-one (21) calendar days. Failure to report within the time limit removes them from the recall list.

## APPENDIX #2

### ARTICLE 20-TRAINING AND EDUCATION

- A. The Township and the employees recognize the benefits of continued education and training for professional growth and development. Employees are encouraged to pursue knowledge and participate in their formal education efforts. In order to assist the employee, the Township will provide any participating Bargaining Member with tuition assistance as follows:
1. The employee will submit a written request to the Chief of the Fire & EMS Department or his designee and the Township prior to the start of the course for which reimbursement is sought. Requests for reimbursement will not be unreasonably denied, upon proof of successful completion of the course(s);
  2. The course pursued must be related to the fire science or emergency medical service field or be a required course leading to a formal degree from an accredited academic institution in fire science or emergency medical services or other areas that will benefit the Township.
  3. The employee will pay all initial fees, including books and will submit proof of attendance or completion except as noted in C of this section. The employee must maintain a minimum of a 2.0/C grade point average on a 4.0/A grading scale where applicable. In the event of a pass/fail grading system, the employee must maintain a passing grade.
  4. Employees must have completed (1) year of full-time service with Goshen Township to qualify for tuition reimbursement.
- B. The maximum reimbursement possible for a degree program will be;
- 90% for an A grade
  - 80% for a B grade
  - 70% for a C grade
- C. Upon proof of such expense and completion of course(s) as described in Paragraph A, the Township will reimburse an employee the cost of the books for each course(s) with the following conditions: (1) the books become property of the township; and (2) employee will be reimbursed when books are returned in good condition.
- D. The Township will pay for all courses as required by the Township and/or the State of Ohio as a requisite to maintain a professional license/certificate or to maintain or advance in employment. These courses are either prepaid or reimbursed at one hundred (100)%. Employees are allowed up to (48) hours of non-mandatory training to better the department and their self. Employee will be given time off to attend, or be paid at a rate of time and one half (1-1/2), method of payment shall be comp time. Proof of hours spent is needed to receive comp time. A passing grade or a certificated of completion will be given to the EMS assistant chief.

# APPENDIX #3

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## ARTICLE 17 WAGES

- A. The Trustees, of the Township of Goshen, Clermont County, Ohio, has established for the appropriate classifications ~~as ordain~~ wage rates under this Agreement. A schedule of those rates is found in subsection F of this Article ~~marked as "Appendix A", attached hereto and made a part hereof.~~
- B. All fire bargaining unit employees shall be paid twice a month. All new employees in the Fire Department shall start at the appropriate pay scale ~~in Appendix A~~ according to their classification and years of full time service.
- C. All new employees will be cross-trained and be of the classification of Paramedic/Firefighter (240) before accepted as a full time employee.
- D. Contract Period:
1. Wage Rates shall be effective January 1, 2010 ~~Contract Year 1 shall begin (01/01/05 through 12/31/07)~~
- E. Salary Adjustment
1. The salary of each employee shall be adjusted on the first pay period of the Contract year. For the purposes of this article, January 1 of the year of hire (as noted by the Seniority list from Article 6) shall be the anniversary date for each employee regardless of actual start date.
- F. Schedule of Wage Rates (1/1/2010 – 6/30/2010)

Base Entry Rate	\$33,910.00
Non-Probationary Fire Fighter/Medic (1+ years service)	\$34,840.00
Senior Fire Fighter/Medic (4+ years service)*	\$38,550.00
Lieutenant (\$3,000 over Senior FF rate)**	\$41,550.00
Captain (\$4,000 over Senior FF rate)***	\$42,550.00

Schedule of Wage Rates (2.75%) (7/1/2010 – 12/31/2010)

Base Entry Rate	\$34,842.53
Non-Probationary Fire Fighter/Medic (1+ years service)	\$35,798.10
Senior Fire Fighter/Medic (4+ years service)*	\$39,610.13
Lieutenant (\$3,000 over Senior FF rate)**	\$42,610.13
Captain (\$4,000 over Senior FF rate)***	\$43,610.13

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Schedule of Wage Rates (2.75%) (1/1/2011 – 6/30/2011)

Base Entry Rate	\$35,800.70
Non-Probationary Fire Fighter/Medic (1+ years service)	\$36,782.55
Senior Fire Fighter/Medic (4+ years service)*	\$40,699.41
Lieutenant (\$3,000 over Senior FF rate)**	\$43,699.41
Captain (\$4,000 over Senior FF rate)***	\$44,699.41

Schedule of Wage Rates (2.75%) (7/1/2011 – 12/31/2011)

Base Entry Rate	\$36,785.22
Non-Probationary Fire Fighter/Medic (1+ years service)	\$37,794.07
Senior Fire Fighter/Medic (4+ years service)*	\$41,818.64
Lieutenant (\$3,000 over Senior FF rate)**	\$44,818.64
Captain (\$4,000 over Senior FF rate)***	\$45,818.64

\*Current employees in Senior Fire Fighter/Medic status will get the raise but have one year to secure the Fire Safety Inspector certification and Driver/Engineer status on all GTF&E vehicles. In the future, Senior Fire Fighter/Medic employees must have the certification and driver status prior to the ~~4th~~ 5th year of service to receive the Senior rate; otherwise, they shall remain at the Non-probationary rate until they become certified and eligible to drive.

\*\*The current Lieutenant makes more than the established rate, so she would receive a 2.75% increase and be grandfathered into the system; however, she will not be eligible for future wage increases until she meets the Senior Fire Fighter/Medic qualifications. Future Lieutenants would start at the established rate so long as he or she meets the qualifications of a Senior Fire Fighter/Medic (i.e., 4 years of service, Fire Safety Inspector certification, and Driver/Engineer status).

\*\*\*The current Captain makes more than the established rate, so he would receive a 2.75% increase and be grandfathered into the system; however, he would not be eligible for future wage increases unless he met the Senior Fire Fighter/Medic qualifications. Future Captains would start at the established rate so long as he or she meets the qualifications of a Senior Fire Fighter/Medic (i.e., 4 years of service, Fire Safety Inspector certification, and Driver/Engineer status).

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For the beginning of the pay period that includes January 1, 2012, the Parties agree to a wage re-opener negotiated pursuant to the statutory procedures set forth in Chapter 4117 of the Revised Code. Any language agreed upon in the re-opener shall be included as an Addendum to this Agreement.

## APPENDIX #4

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### **ARTICLE 23** **INSURANCE**

- A. All full-time regular employees are entitled to receive health insurance coverage, 95% of which is to be paid by the Township at the beginning of this contract term. The amount of an employee's contribution may be increased no more than 10% annually, at the discretion of the Township Trustees.
- B. Employees in the bargaining unit will be entitled to the same coverage as other Township employees, provided by the same insurance carrier(s). The choice of insurance carrier(s) shall be solely within the discretion of the Employer. Current insurance policies for medical, dental, liability, disability and cancer will be in effect unless changed by the Township Trustees. If the Township anticipates a change in the insurance carriers or the type and scope of coverage, the Union will be notified in advance and permitted to meet and confer with the Employer on such potential changes before the Township initiates any change.
- C. All full time employees have the option to accept the medical insurance (through self or spouse) provided in this Article, or to decline such coverage and receive a lump sum annual payment of four thousand dollars (\$4,000.00) ~~One Thousand Dollars (\$1,000.00)~~. All payments provided for in this paragraph shall be made on or before the fifteenth (15<sup>th</sup>) day of December of each calendar year.

# APPENDIX #5

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## ARTICLE 25 DISCIPLINE

- A. The tenure of every bargaining unit member shall be during good behavior and efficient service. No non-probationary bargaining unit employee shall be disciplined except for those grounds set forth in Article 25 (B).
- B. Any employee may be disciplined for the following infractions: incompetence; inefficiency; dishonesty; consumption of alcohol or illegal prescription medications while on duty; immoral conduct; insubordination; discourteous treatment of the public; neglect of duty; absence without leave; and any other failure of good behavior or any other acts of misfeasance, malfeasance, or nonfeasance which adversely affects the ability of the Township to provide services to the public. No employee shall be disciplined except for just cause. The Township may take this type of action while the employee is on duty, working under the colors of the Township; or off-duty representing himself as an employee of the Fire & EMS Department. The employee may not be disciplined for actions on his own time that do not reflect directly on the Fire & EMS Department or do not violate any State or Federal statutory provisions.
- C. In initiating discipline, the Township agrees to the following forms of discipline.
1. Verbal warning;
  2. Written reprimand;
  3. Suspension without pay, for up to 10 tours of duty;
  4. Reduction in classification or Discharge.

Except in gross misconduct, the Township agrees to use progressive discipline.

- D. Gross misconduct is defined for purposes of this Agreement as any infraction which endangers the health and safety of any Township officer or employee or citizen; any action which subjects the Township to civil or criminal liability of any form; repeated absences without leave; and any other conduct of the employee which the Township feels could prevent the Township from providing services to the Township.
- E. ~~For infractions involving suspension of one (1) tour of duty, said discipline shall be at the sole discretion of the Township Trustees. For infractions involving suspension of two (2) to three (3) tours of duty, said discipline shall be at the sole discretion of the Township Trustees.~~ Before initiating discipline, the supervisor recommending discipline shall attempt to resolve the infraction by discussing the infraction with the employee. The Employer may issue verbal warnings or written reprimands without prior notice where the Employer feels that immediate discipline is warranted.

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- F. In cases where the Employer ~~Fire Chief or his designee~~, determines that any suspension, reduction in classification or discharge may be the appropriate discipline remedy, it they shall notify the employee of the charges supporting the discipline requested. The employee may request full disclosure of all statements and related documents or other evidence supporting the disciplinary action. The Employer will provide copies at no cost to the employee. Within forty-eight (48) hours of receipt of this notification, the employee must notify the Employer in writing whether the employee intends to contest the suspension or discharge. A pre-disciplinary conference will be scheduled between the employee, a Union representative (if the employee desires) and the Township Administrator ~~Fire Chief or his designee, and an appointed Township designee~~ no sooner than five (5) working days from when the notice from the employee is received.

At the pre-disciplinary conference, the Township designee shall act as a neutral hearing officer. The Township designee shall take evidence from both the Fire Chief or his designee, and the employee as to the nature of the infraction and the reasons why suspension or discharge is warranted. The employee may appear at this pre-disciplinary conference with or without a representative and may, without penalty, either participate or not participate in the presentation of evidence.

The employee may waive a pre-disciplinary conference by filing a written waiver with the Township designee along with his notice to contest his suspension or discharge.

At the pre-disciplinary conference, the employee shall have the right to call witnesses on his behalf or present any other evidence he feels is warranted in his defense. In addition, the employee may cross-examine witnesses, including the Fire Chief or his designee. The employee shall be entitled to one continuance of the pre-disciplinary conference for a period not less than five (5) days nor more than ten (10) days.

The pre-disciplinary conference will be recorded at the request of either party.

Either party may provide a written brief to the Township designee prior to the pre-disciplinary hearing provided the other party is also provided a copy.

Within seventy-two (72) hours of the conclusion of the pre-disciplinary conference, the Township designee will issue a written opinion of the findings and recommendations to the Township Administrator who will then decide appropriate discipline. ~~The Township designee shall have authority to suspend an employee for up to three (3) tours of duty if said suspension is the appropriate measure of discipline.~~

~~If suspension of more than three (3) tours of duty, reduction in classification or discharge is recommended, the Township designee will transmit this recommendation to the Board of Trustees for action at their next regularly scheduled meeting or at a special meeting, called for that purpose. The employee has a right to appear at the scheduled meeting of the Board of Trustees, with or without representation, to contest the recommendation of~~

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~~the Township designee. At the meeting, the Board of Trustees will review all materials and testimony submitted by the employee. Fire Chief or his designee, and the Township designee, and may call such other witnesses as the Board determines necessary to make a decision. Upon review of this information, the Board of Trustees will either accept, with or without modifications, or reject with or without modifications, the recommendations of the Township designee. The employee has a right to have this meeting held in an open or closed session pursuant to Section 121.22(G)(1) of the Ohio Revised Code.~~

- G. The afore-stated Article does not apply to employees who have failed to complete the probationary period. In those cases, the employee serves at the will of the employer and may be disciplined or discharged for any reason with just cause.

APPENDIX #6

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**ARTICLE 36**  
**DURATION**

- A. This agreement shall be effective January 1, 2010 as of 01-01-05 and shall remain in full force and effect until December 31, 2012 ~~-12-31-07~~ unless otherwise terminated as provided herein.
- B. If either party desires to modify, amend or terminate this agreement, it shall give written notice of such intent no earlier than one hundred and twenty (120) calendar days prior to the expiration date nor later than ninety (90) calendar days prior to the expiration date of this Agreement. Such motions shall be by certified mail with the return receipt requested. The parties shall commence negotiations within two (2) calendar weeks upon receiving notice of intent. The parties may also amend this agreement at any other time in writing by the Labor Management Committee process as outlined.

APPENDIX # 7

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ARTICLE 32  
MINIMUM MANPOWER

- A. Minimum number of personnel on station will be 7 at any time.

## APPENDIX # 8

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### ARTICLE 35- PROMOTIONS

- A. Open positions will be posted 30 days
- B. Job description and duties will be posted.
- C. Applications will be turned into Chief, with consideration being made to full time employees first.
- D. Labor management committee will investigate, interview and process through an approved testing procedure.
- E. All promotions will be made by the Trustees with recommendation by the Chief of the department and the labor management committee.
- F. Open Positions: Full time and Officer Positions shall be filled within 120 days of opening.