

INTRODUCTION

The City of New Franklin (herein also "Employer" or "City") and International Association of Fire Fighters, Local 2885, (herein "Union") are parties to the Collective Bargaining Agreement effective September 1, 2006, and expiring August 31, 2009. (herein "Agreement")

The undersigned was appointed Fact Finder in this dispute by the State Employment Relations Board (SERB) on November 25, 2009, pursuant to the Ohio Administrative Code, OAC 4117-9-05 (D) for fact finding and recommendations on open issues for a replacement Agreement. The parties agreed to extend the date of the Fact Finder Report and Recommendations to January 15, 2010, but have not agreed to retroactivity of any financial provision.

The bargaining unit herein consists of 12 members of a unit of comprised of all employees of the City's Fire Department, except for the Chief, Assistant Chief and all part-time employees, and represented by the Union. The Fire Department's duties are typical of other local fire departments, and include, among other things, fire suppression and emergency medical service. All members of the unit are also paramedics with the exception of one lieutenant. There are currently filled three lieutenant positions but no filled captain positions.

The City, is governed by an elected Mayor, an elected Clerk, Treasurer, and seven elected City Council members. It is comprised of 26.6 square miles of southern Summit County, Ohio, and is home to approximately 15,000 residents.¹

The Parties commenced bargaining on July 17, 2009, when a verbal outline of proposals was given by the Union representative to the City representative. Four meetings were held between the City representative and the negotiation committee with the Mayor attending one of those. The last was held October 1, 2009. The parties selected the fact finder on November 24, 2009.

¹ New Franklin Village and Franklin Township merged, effective January 1, 2005, and became New Franklin Village. The Village transformed into the City on March 5, 2006.

HEARING

There has been a timely agreement by the parties to extend the fact-finding hearing date to a mutually agreed date as provided under Ohio Administrative Code, Rule 4117-9-05(G). Pre-hearing statements of the issues were submitted by December 16, 2009, with proposals and exhibits in conformity with OAC 4117-9-05(F). With unresolved issues still pending, a fact finding session was conducted on December 17, 2009, with the parties and counsel and the undersigned on December 17, 2009, at the City Hall in New Franklin, Ohio. Both parties attended and elaborated upon their positions regarding the issues remaining at impasse through their representatives.

In attendance were the following. For the Union were: James Heim, President of Local 2885 and chief spokesman; Richard Higgins; Pat Kapper and Brad Miller, all Negotiating team Members. Mr. Miller was absent for afternoon Fact Finding hearing. In attendance for the Employer was: Al Bollas, Mayor. The Employer was represented by Thomas Evan Green, Esq.

A mediation session was conducted followed by a hearing in the afternoon at which testimony and exhibits were received in evidence. The record consists of the testimony at hearing, the exhibits admitted in evidence and the pre-hearing statements of the parties. There were three joint exhibits (JX)² The Union presented exhibits (UX)³ and the City presented exhibits (CX).⁴

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- JX A Agreement between City of New Franklin and IAFF Local 2885, effective September 1, 2006, until August 31, 2009
 - JX B Agreement between City of New Franklin and OPBA (Patrol Corporal), effective October 1, 2009, until September 30, 2010
 - JX C Agreement between City of New Franklin and OPBA (Sergeants Lieutenants), effective October 1, 2009, until September 30, 2010

³ Although the following were admitted into evidence without objection and referred to on the record in testimony, the following identification is being made for the purpose of this Report

- UX 1 2009 Fact Finder Info
- UX 2 Article 25 Holidays Exhibits - excerpts from
 - a Agreement between City of New Franklin and OPBA (Patrol Corporal), effective October 1, 2009, until September 30, 2010
 - b Agreement between City of New Franklin and OPBA (Sergeants Lieutenants), effective October 1, 2009, until September 30, 2010

- c. Agreement between City of Barberton and IAFF Local 329, effective January 1, 2009, until December 31, 2010
- d. Agreement between Coventry Township and IAFF Local 2286, effective January 16, 2008, until January 31, 2011
- e. Agreement between City of Fairlawn and IAFF Local 4164, effective January 1, 2009, until December 31, 2010
- f. Agreement between City of Tallmadge and IAFF Local 2764, effective January 1, 2007, until December 31, 2009
- UX 3 Article 18 Exhibits, excerpts from
 - a. Agreement between City of New Franklin and OPBA (Patrol Corporal), effective October 1, 2009, until September 30, 2010
 - b. Agreement between City of Green and IAFF Local 2964, effective 2008 (dates not given)
 - c. Agreement between City of Barberton and IAFF Local 329, effective January 1, 2009, until December 31, 2010
 - d. Agreement between Coventry Township and IAFF Local 2286, effective January 16, 2008, until January 31, 2011

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The City's exhibits were included in a notebook consisting of indexed subparts identified as Tab 1: "Comparables," Tab 2: "Economic Information," Tab 3: "Support for Internal Comparables" and Tab 4: "Support for External Comparables." The first two are generally summaries and the latter two are excerpts from other agreements of the City or other communities. Although the following were admitted into evidence without objection and referred to on the record in testimony, the following identification is being made for the purpose of this Report:

- CX 1 Tab 1 Wages (Article 18, Sec. 2)
- CX 2 Tab 1 Company Officer Differential (Article 18, Sec. 2)
- CX 3 Tab 1 Pension Contribution (Article 18, new Sec. 5)
- CX 4 Tab 1 Personal Leave (Article 25, Sec. 2)
- CX 5 Tab 1 Municipality Population - Geographical Area
- CX 6 Tab 2 New Franklin Fire Fighter Compensation Sept 1, 2009 though Aug. 31, 2009 [*These are annual figures, stated dates are a typographical error*]
- CX 7 Tab 2 Revenues: General Revenue Fund 2007 - 2008/ First Eleven Months 2009
- CX 8 Tab 3 Agreement between City of New Franklin and Teamsters Local #348, effective October 1, 2008, until September 30, 2011
- CX 9 Tab 3 Agreement between City of New Franklin and OPBA (Patrol Corporal), effective October 1, 2009, until September 30, 2010
- CX 10 Tab 3 Agreement between City of New Franklin and OPBA (Sergeants/Lieutenants), effective October 1, 2009, until September 30, 2010
- CX 11 Tab 3 City of New Franklin - Summit County, Ohio Personnel Policies and Procedures adopted January 2, 2009
- CX 10 Tab 3 Agreement between City of New Franklin and OPBA (Sergeants/Lieutenants), effective October 1, 2009, until September 30, 2010
- CX 11 Tab 4 Agreement between City of Barberton and IAFF Local 329, effective January 1, 2009, until December 31, 2010
- CX 12 Tab 4 Agreement between Bath Township and IAFF Local 4130, effective January 1, 2009, until December 31, 2010
- CX 13 Tab 4 Agreement between Copley Township and IAFF Local 3130, effective January 1, 2005, until December 31, 2007
- CX 14 Tab 4 Agreement between Coventry Township and IAFF Local 2286, effective January 16, 2008, until January 31, 2011
- CX 15 Tab 4 Agreement between City of Cuyahoga Falls and IAFF Local 497, effective July 1, 2008, until January 1, 2011
- CX 16 Tab 4 Agreement between City of Fairlawn and IAFF Local 4164, effective January 1, 2009, until December 31, 2010

MEDIATION

The parties agreed to mediation and proceeded with the assistance of the Fact Finder to address certain of the open issues identified pre-hearing. The Union and City also reached a number of agreements by 12:00 p.m. on December 17, 2009, session. A Fact Finding hearing was then commenced on the remaining issues with the parties and counsel and the undersigned.

ISSUES

All articles were agreed to remain unchanged as of December 17, 2009, with the exception of the following issues remaining for consideration by the Fact Finder:

Article 17 Working Hours - Section 2
Article 18 Salaries - Sections 2, 3A, and *new* 5
Article 23 Clothing Allowance - Section 1
Article 24 Separation Compensation - Section 1
Article 25 Holiday Leave - Sections 2 and 3
Article 26 Vacations - Section 3
Article 27 Bereavement Leave - Section 1, 2, and 3
Article 29 Sick Leave - Sections 6 and 7
Article 30 Medical Health and Life Insurance - Section *various*
Article 43 Length of Agreement
Article 44.A Accumulate Time Sell Backs - Section 6
Article 45 Quality Assurance - *new*

Of these, Articles 18 and 25 became the subject of the hearing while others were resolved otherwise.

The parties requested a report and recommendation on all issues.

CX 17	Tab 4	Agreement between Jackson Township and IAFF Local 2280, effective January 1, 2009, until December 31, 2011
CX 18	Tab 4	Agreement between City of Kent and IAFF Local 721, effective September 1, 2009, until August 31, 2011
CX 19	Tab 4	Agreement between City of North Canton and IAFF Local 3489, effective August 1, 2006, until July 31, 2009
CX 20	Tab 4	Agreement between Springfield Township and IAFF Local 3640, effective January 1, 2008, until December 31, 2010
CX 21	Tab 4	Agreement between City of Stow and IAFF Local 1662, effective April 1, 2005, until March 30, 2008
CX 22	Tab 4	Agreement between City of Lullmadge and IAFF Local 2764, effective January 1, 2007, until December 31, 2009
CX 23	Tab 4	Agreement between Conley Township and IAFF Local 3130, effective January 1, 2009, until December 31, 2010
CX 24	Tab 4	Agreement between City of Stow and IAFF Local 1662, effective April 1, 2008, until March 30, 2011

CRITERIA

In compliance with Ohio Revised Code § 4117.14C(4)(c) and Ohio Administrative Code Rule 4117-9-05(J) and 4117-9-05(K), the Fact Finder considered the following in making the findings and recommendations contained in this report

1. Past collective bargaining agreements 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 area and classification involved;
3. The interest 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 public 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 issues submitted to mutually agreed-upon dispute settlement procedures in the public service or in private employment.

In as much as this proceeding is an advisory interest arbitration, the general standards of interest arbitration are part of what the sixth criteria refers to. Those are located in ELKOURI & ELKOURI HOW ARBITRATION WORKS (Sixth Edition, Ruben, Editor, BNA, 2003) at pp1358-1364.

As quoted therein, note:

"... [interest arbitration] calls for a determination, upon considerations of policy, fairness, and expediency, of what the contract rights ought to be. In submitting this case to arbitration, the parties have merely extended their negotiations – they have left it to this board to determine what they should, by negotiation, have agreed upon. We take it that the fundamental inquiry, as to each issue, is: what should the parties themselves, as reasonable men, have voluntarily agreed to?" *Twin City Rapid Transit Co.* 7 LA 845 at 848 (McCoy *et al.* 1947)

As a public sector statutory proceeding in the nature of advisory Fact-Finding under the Ohio's law, the interest of the public is a third element in the balance of equities. ELKOURI at p. 1361. The criteria operative in this fact finding, except as stated otherwise below, are chiefly the fifth and sixth.

DISCUSSION AND RECOMMENDATIONS

Note: Unless identified as "new", changes are shown as underlining for addition and cancellation for omission.

ISSUE: Article 17 Working Hours - Section 2 (Use of banked overtime)

CONTRACT SECTIONS:

2. Overtime shall be paid for hours worked in excess of fifty-three (53) hour workweek. The hours that have been accumulated since September 1, 1989 shall be banked and shall be used with proper notification. Use of banked hours shall be in ~~whole~~ 1/4 hours and shall not be unreasonably denied.

POSITIONS: The Union: The Union proposes the change. The members do not always need to use full hours. When that happens, forcing them to use a full hour costs the City more than necessary. The quarter hour usage gives the City and the member more flexibility without additional expense.

POSITIONS: The Employer: The City opposes this proposal as inconsistent with internal and external comparable benefits. The language is identical to that of the road employees. The current language has been in place since 1997 without any difficulty. However, the City agreed to the proposal in mediation.

FINDINGS AND RECOMMENDATION: The Fact-Finder considers with the agreement of the City to the Union's proposal, the issue is resolved between the parties. Section 2 shall become:

2. Overtime shall be paid for hours worked in excess of fifty-three (53) hour workweek. The hours that have been accumulated since September 1, 1989 shall be banked and shall be used with proper notification. Use of banked hours shall be in ~~whole~~ 1/4 hours and shall not be unreasonably denied.

ISSUE: Article 18 Salaries - Section 2
Related: Memorandum of Understanding

CONTRACT SECTIONS: The current language of Section 2 is as follows:

2. From September 1, 2006 through August 30, 2009, the following pay scale shall be in effect.

Rank	9/1/06	9/1/07	9/1/08
Firefighter/EMT/Basic	\$46,833.81	\$48,238.83	\$49,685.99
Firefighter/EMT/Intermediate	\$48,583.80	\$50,041.32	\$51,542.56
Firefighter/EMT/Paramedic	\$50,578.79	\$52,096.15	\$53,659.04
Hourly Rate	\$18.35	\$18.90	\$19.47
Hourly Rate Company Officer (4.5% Bonus)	\$19.18	\$19.75	\$20.35
Lieutenant/EMT/Basic	\$49,409.67	\$51,374.35	\$53,412.44
Lieutenant/EMT/Intermediate	\$51,255.91	\$53,294.00	\$55,408.25
Lieutenant/EMT/Paramedic	\$53,360.62	\$55,482.40	\$57,683.46
Captain/EMT/Basic	\$50,464.12	\$51,978.04	\$53,537.38
Captain/EMT/Intermediate	\$52,865.21	\$54,451.17	\$56,084.71
Captain/EMT/Paramedic	\$54,209.14	\$55,835.41	\$57,510.47

Salaries reflect a 3% annual increase in all ranks. Annual salary for lieutenants in the Intermediate and Paramedic classification reflects a 5.5% differential beginning 9/1/2006, a 6.5% differential beginning 9/1/2007 and a 7.5% differential beginning 9/1/2008. Hourly rate for Company Officer (senior firefighter out of classification pay) reflects a 4.5% differential for hours worked out of classification for the term of the agreement.

POSITIONS: The Union: The Union in its pre hearing statement proposed a zero percent (0%) wage increase effective September 1, 2009, five percent (5%) effective July 1, 2010 and five percent (5%) effective September 1, 2011 with the exception of the Captain rank. The Captain rate was adjusted to maintain the seven and one half percent (7 ½%) increase between the ranks and yielded about a four percent (4%) annual increase with that adjustment. The written proposal was as follows:

2. From September 1, 2006 through August 31, 2009, the following pay scale shall be in effect.

[NOTE: Table shows the proposed new rates without showing deletions of the old rates. It reflects deletions only as made to the table structure in the proposal.]

Rank	9/1/09	9/1/10	9/1/11
Firefighter/EMT/Basic	\$49,685.99	\$52,170.29	\$54,778.80
Firefighter/EMT/Intermediate	\$51,542.56	\$54,119.69	\$56,825.67
Firefighter/EMT/Paramedic	\$53,659.04	\$56,341.99	\$59,159.09
Hourly Rate	\$18.35	\$18.90	\$19.47
Hourly Rate - Company Officer (4.5% Bonus)	\$19.18	\$19.75	\$20.35
Lieutenant/EMT/Basic	\$53,412.44	\$56,083.06	\$58,887.21
Lieutenant/EMT/Intermediate	\$55,408.25	\$58,178.66	\$61,087.59
Lieutenant/EMT/Paramedic	\$57,683.46	\$60,567.63	\$63,596.01
Captain/EMT/Basic	\$57,418.37	\$60,289.29	\$63,303.75
Captain/EMT/Intermediate	\$59,563.87	\$62,542.06	\$65,669.16
Captain/EMT/Paramedic	\$62,009.72	\$65,110.20	\$68,365.71

Salaries reflect a 3% annual increase in all ranks. Annual salary for lieutenants in the Intermediate and Paramedic classification reflects a 5.5% differential beginning 9/1/2006, a 6.5% differential beginning 9/1/2007 and a 7.5% differential beginning 9/1/2008. The table above reflects all the salary increases for the next three years.

... [see next issue]

Through mediation the Union modified its proposal to 0% - 3 1/2% - 3 1/2% for the relative years which is what it urged at the Fact Finding hearing on the record. The deletions of the hourly rates from the table was proposed since they were redundant of the language in Section 2.

POSITIONS: The Employer: The City has proposed a one year contract without a wage increase (ie. zero percent, 0%) for the rates in the table of Section 2. In this poor economy, the City's revenues are decreasing, not increasing, and they surely are not in line with the Union's proposals.

However, in recognition of added out of pocket expense to adjust to the new healthcare program during the first year of the program, the City proposed the following as a

Memorandum of Understanding

The City of New Franklin ("City") and New Franklin Firefighters, North, IAFF Local 2885, AFL-CIO, CLC ("Union") agree that if the Union negotiating committee tentatively agrees to the City's August 28, 2009 package proposal on or before August 28, 2009, and in turn, the parties' tentative agreement is ratified by the Union membership on or before August 30, 2009, and later ratified by City Council, the City agrees to pay, on the _____ pay date in _____ 20____, to each employee in the bargaining unit represented by the Union, a lump sum payment of Five Hundred Dollars (\$500.00). This payment shall be made on a separate check, minus all deductions required by law.

This was the original proposal and the City recognizes the text requires adjustment of the dates. It represents the equivalent of about one percent (1%) on wages but is not included in the accruals for other financial benefits as it is not a wage payment.

At the Fact Finding hearing on the record, in recognition that the term of the agreement was open for recommendation, the City proposed that any increase not be more than one or two percent in the third year only. The City's wages proposal is similar to the one year contracts recently approved by the City and OPBA for the City's unionized police officers, in which wage rates were not raised in a one year contract. The Road Department employees received wages increases of two percent (2%) per year for three years. Those negotiations began in mid-2008, before the effects of the slumping economy were readily apparent. External comparables favor the City. The City's wages proposal (i.e., current wages plus lump sum payment) is comparable to the wage scales in other nearby communities.

FINDINGS AND RECOMMENDATION: In support of their respective positions, the parties have presented internal and external comparable wage information. The City produced its 2007-2008 General Revenues Account with the year to date for 2009. The Fact-Finder finds retroactivity was resolved because the parties failed to agree that any wage adjustments be

retroactive. This was on the basis that both parties proposed a wage freeze for the 2009 contract year. The Fact-Finder has carefully considered all of the evidence presented by the parties, and finds as follows.

The Fact-Finder recommends that bargaining unit members receive a no increase for the contract year of 2009-10 and in the future, one (1%) percent increase effective September 1, 2010 and two (2%) percent increase effective September 1, 2011. In addition the Fact finder recommends the \$500 cash stipend similar to the City's proposal. Other adjustments also being recommended to the wage table have no financial effect.

WAGE FREEZE. Both parties propose a 2009 wage freeze with a variation. The City is offering a stipend of \$500 to compensate for the adjustments to the new healthcare program. The Union is requesting a 4% pension pick-up during the first year consistent with OPBA's pick-up and that of other communities. In effect neither are actually a wage freeze except in the most literal sense. The parties did not agree to retroactivity so all the financial improvements must be prospective. The stipend or signing bonus, although mathematically equivalent to 1% increase on the hourly rate for one year if made in 2009, is being received in 2010, the last half of the first contract year. That is the equivalent to mid-year increase of 2% after a first half year wage freeze, although it works out to the same annual dollar total.

The financial necessity of the freeze is recognized by both parties, at least implicitly, in their proposals. The City demonstrated that the General Revenues are decreasing. The recent three year trend of the General Fund is (rounded millions) 2007: 2.4M; 2008: 2.25M; 2009: 2.17M (11 months). While the latter is 2.35M annualized mathematically, the December year over year experience is not in the record to indicate that December is an average month. What is more critical to the City are the income tax receipts also showing a three year down trend but more severe: (rounded thousands) 2007: 925K; 2008: 951K; 2009: 681K (11 months).

Mathematically annualized the latter is 738K. That is an expected decrease of at least 20% compared to the 2007 and 2008 levels. The community has no major employers, no sizeable commercial areas and no freeway access. It is supported by residents and some small businesses.

Tax revenues generally follow the economy by about one year. The current recession struck the national economy hardest in 2009 and unemployment continues at a high stable level (10%). Employment, the source of income tax has had a large toll locally shown by the revenue trend even before the worst of the one year lag is recognized in tax collections next year. The minimal conclusion is that income tax revenues of 2007 and 2008 are not expected to be seen again in 2010 and would have to rebuild off a new low base figure. The City is not urging that it is financially unable to fund financial changes to the current agreement but that prudence requires that it to avoid new expenses in the face of a slumping economy, nationally and locally.

The Union refers to the recent successful fire district levy and the ambulance fees. It concedes the latter is restricted to fire station capital improvements. However, both demonstrate that the fire service is "paying its way" as opposed to other city services and ought not suffer the same way from general revenue trends. On a macro economic level the Union notes there are signs of improvement, or improved forecasts in the national recession.

The City rejoins that the levy was a renewal of an old issue which, while beneficial as opposed to a failed levy, cannot increase revenues. It may actually reduce revenues slightly over long periods due to being limited by the terms of the original levy.

A prospective 20% or more tax revenue decline for 2009 and possibly more in 2010 requires the prudence of no current increase. The police unit agreed to a one year freeze and the fire unit tacitly agrees to one also. Consequently that will be recommended.

CASH STIPEND. The City is offering a stipend of \$500 to compensate for the adjustments to the new healthcare program. Those are out of pocket expenses. There is no premium sharing arrangement. The offer of a stipend in lieu of wages to compensate for those expenses is reasonable. It is in the form of a contingent cost reimbursement for the first year of the program. The City's proposal for new healthcare language, which has been agreed, provides for a re-opener in the event costs escalate above a defined level. (10% of COBRA) That makes the first year cost adjustment non-recurring since future cost increases can be addressed later. That provides additional basis for the sum as stipend rather than as a wage. It will be recommended but will not be stated as a signing bonus as the City proposal provides.

FUTURE INCREASES. The Union proposal of 0-3 ½ -3 ½ would take the Firefighter Basic rate from \$19.47 to \$20.15 in 2010 and \$20.86 in 2011. In its comparisons, the Union notes that this hourly rate, in most cases even the rate in 2011, is lower than the current rates in other communities. (Eg. Union 2009 \$19.47 vs. range of \$20.99 Copley to \$28.22 Norton) The fire service average of the six other communities is \$23.20. The New Franklin police are paid \$24.75. Citing these Union makes the case that its members are underpaid in the relative local labor market.

Opposing any increase at all, the City notes that constellation of communities cited by the Union include inappropriate comparisons. The City of Green had three 10% increases from 2009-11. It is the location of a major airport, commercial area and freeways. Fairlawn has very large commercial areas and Barberton is a much larger and older city with industry. More to the point, the comparisons fail to account for the workweek and the proposed \$500 stipend. The Union works a normal week of 53 hours as opposed to 48 in Barberton or Copley. Cuyahoga Falls and Springfield have a range of 40 to 52 hours. The City also demonstrated that the 2009 W-2 amounts including the stipend are based on a 53 hour week which produces

higher annual pay than Fire Fighters Barberton, Coventry, Cuyahoga Falls and Springfield. (There are some exceptions in the demonstrations for supervisors.)

On review of the evidence presented it is found that of the communities cited Springfield, Coventry and Copley are the most appropriate comparators, even though Copley has more commercial development than the City. (The financial data of Copley was not contained in the excerpts presented.) A summary of three year increases for the 2009-2011 term are:

Fire Units	2009	2010	2011
Union Proposal	0.0	3.5	3.5
City Proposal	1.0 success	0.0	3.0 or 2.0
Barberton	3.0	3.0	3.0
Copley	Unknown	Unknown	Unknown
Coventry	3.5	3.5	3.5
Green	10.0	10.0	10.0
Springfield (1.0M)	Unknown	0.0	1.0
Cuyahoga Falls	Unknown	2.25	2.25
Fairlawn	3.0	3.0	NA
Tallmadge	3.0	NA	NA

"Unknown" is not shown in the exhibits and "NA" is not yet agreed

A critical fact in all the above is that they were all negotiated and agreed before the crash of the autumn of 2008 and the depths of the recession in spring 2009 and more particularly depressed the employment market of autumn 2009. It is clear that the 3% levels shown above would not be agreed under those circumstances. Even given that, the appropriate comparator case of Springfield limited its increases in the pre-recession period by freezing new hires and trainees and budgeting increases to various ranks to 1.0% and 1.5% in the third year.

The issue of whether there would be a one or more year agreement was originally contested and caused the break in negotiations that brought about this fact finding. It is decided elsewhere that the three year agreement would be appropriate. Given that, the recommendation for a three year agreement with a wage freeze as recommended and stipend decided above, further increases are recommended on the anniversary in 2010 and 2011.

The 2010 increase will be 1%. This is based on the financial prudence argument of the City and to a lesser degree the comparisons to Springfield. However, more persuasive are the escalation of the healthcare costs. The agreed program allows for a re-opener if costs increase by 10% of the COBRA rate. If the City is an astute administrator of the program, it might not go over 10%. Nonetheless there may still be increases that are less than the COBRA 10%. The likelihood of no increased costs is nil. Hence employees will have to shoulder something and that something may or may not cause a re-opener. The evaluation of the modest changes in the program this year was set by the City at about 1%. That sets the floor for next year since the current costs will be continuing and will likely be enhanced by some factor. Therefore, 1% is being recommended for 2010 that will institutionalize the 2009 stipend. So doing, the actual labor cost value of the 1% will be actually more than that because it will be added to the accruals of other financial benefits of the agreement.

The basis for not more than the 1% is that the decline of general revenues appear highly likely. The northern Ohio economy has been harder hit than the national, meaning the local unemployment in 2009 must be significantly over 10%. The 20% income tax decline suggests a that level but that is conjecture at this point. Applying the rubric that tax receipts follow the economy by a year, the loss of 10% employment will reduce the already reducing income tax receipts of the City in 2010 perhaps by that amount or more.

For the following year a 2% increase is recommended. Given the state of the economy in early 2010 there is no reason to be very optimistic for late 2011. The recommendation is not being made from any forecast of improvement in the local or national economy. Rather it is based almost solely on the City's alternative proposal of 2% or 3% in the third year. Since 1% was "spent" already in 2010 for good reason, the 2% is the remainder. Certainly the 3.5% proposed by the Union is even farther out in feasibility. That is emphasized by Barberton, Coventry and Fairlawn agreeing to that level in the much better days prior to 2008.

CAPTAIN RANK. The Union's only first year rate changes are proposed to the Captain rank. The department currently has no one fulfilling the captain rank. It is unclear whether that is a temporary or permanent fact. In addition, the parties did not agree in the last negotiations to changing the differential between Firefighter and Captain. The current Agreement reflected increases of the differential for Lieutenant from 5/5%, 6.5% to 7.5%. For Captain, the differential changed in the last contract term only as an artifact of the annual increases. As a result the following was found as to formulae among the rank differentials: (FF = Firefighter; LT = Lieutenant)

<u>Contract Yr.</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>
Lieutenant	FF x 1055%	FF x 1065%	FF x 1075%
Captain	FF x 1075%	FF x 1075%	FF x 1077%
	LT x 102%	LT x 1012%	LT x 1002%

This is not uniform. For example, a Captain EMT/Paramedic (\$ 57,510) makes less than a Lieutenant EMT/Paramedic (\$57,683). The differences between lieutenant and captain have generally grown smaller but have mostly been neglected. The Union's proposal seeks to establish a 7 ½% differential between lieutenant and captain ranks over opposition by the City.

There is no reasonable ground now to increase the Captain rate to a 7 ½% differential to Lieutenant. The parties have agreed that the responsibility of Lieutenant deserves a premium

of 7 1/2% over a Fire Fighter. However, the difference in responsibility between Lieutenant and Captain has not been quantified in the bargaining history in the same way. There must be differences, abstractly speaking since there is no incumbent Captain. Whatever those differences may be, there is no recent agreement as to the premium deserved for them. Without any incumbents, this is not the time to create abstract pay schemes. The only reason to do so now, is to produce an elegantly consistent formula by using 7 1/2% between each rank. That is an academic exercise and is not recommended.

Rather the bargaining history shows that there has been a rough 2% premium between the Lieutenant and Captain which had eroded by the effect of annual increases and lack of attention to the inter-rank premium. The restoration of the 2% premium is recommended and will begin in 2010 in light of the lateness in the first contract year. The stated captain rates will, in other words, receive a wage freeze as well for 2009.

TABLE. The Union's proposed deletions on the table will be accepted as cause of confusion in relation to the language recommended. In addition, Section 2 will be subdivided with the table and its introduction being Section 2.A, and the rank differential becoming Section 2.B, and the Company Officer becoming Section 2.C.

RECOMMENDATIONS: The following are recommended.

Item I: The Table of Article 18 Section 2 shall be amended with the following deletions indicated:

Hourly Rate	\$18.35	\$18.90	\$19.47
Hourly Rate Company Officer (4.5% Bonus)	\$19.18	\$19.75	\$20.35

Item II: Memorandum of Understanding:

The City of New Franklin ("City") and New Franklin Firefighters, North, IAFF Local 2885, AFL-CIO, CLC ("Union") agree that after execution by the Parties of the replacement Agreement to the one

expiring August 31, 2009, provided that it include this Memorandum, the City agrees to pay to each employee in the bargaining unit represented by the Union, on the first succeeding payroll date after March 1, 2010, a lump sum payment of Five Hundred Dollars (\$500.00). This payment shall be made on a separate check, minus all deductions required by law.

Item III:

2. A. From September 1, ~~2006~~ 2009 through August ~~30,31~~ 2009 2012, the following pay scale shall be in effect.

Classification	9/1/09	9/1/10	9/1/11
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[INSERT TABLE TO BE CALCULATED]

Salaries above reflect a 3% annual increase for in all ranks firefighters in the Basic, Intermediate and Paramedic classifications of 0.0% beginning 9/1/2009; 1.0% beginning 9/1/2010; and 2.0% beginning 9/1/2011 .

- (2) Annual salary for lieutenants in the Basic, Intermediate and Paramedic classifications reflects a 5.5% differential beginning 9/1/2006, a 6.5% differential beginning 9/1/2007 and a 7.5% differential to firefighters in the Basic, Intermediate and Paramedic classifications respectively beginning 9/1/2008 . Annual salary for captains in the Basic, Intermediate and Paramedic classifications reflect a 2.0% differential to lieutenants in the Basic, Intermediate and Paramedic classifications respectively.

- (3) [see next issue]

ISSUE: Article 18 Salaries - Section 2 (partial) (OIC or Company Officer)

CONTRACT SECTIONS: Last sentence of Section 2 to be amended as follows:

Hourly rate for Company Officer (senior firefighter out of classification pay) reflects a ~~4.5%~~ 7.5% differential for hours worked out of classification for the term of the agreement.

POSITIONS: The Union: The Union made this proposal. Currently the member's pay to serve as company officer (officer in charge) when a lieutenant is absent is adjusted by 4 ½%. Since the member is doing the lieutenant's full job he should receive the full pay. However the pay differential between the ranks is 7.5% (eg. 2008 rates of Lieutenant Medic vs. Firefighter Medic). The original proposal recognized the current agreed rank differential of 7.5% and requires the payment of the full differential when the member is acting in the lieutenant's place. The Union revised this proposal in mediation to be six percent (6%) and urged that position at the Fact Finding hearing on the record. The Union proposal to adjust the rate differential between lieutenant and the captain ranks to 7.5% was considered in the prior issue as were the deletions on the Union's proposed table.

POSITIONS: The Employer: The City opposes as additional direct cost of over \$6,400.00. Payment to an employee of a differential when his/her supervisor is off work is of no value to the City. Externally, the current Company Officer differential is comparable to the benefit offered firefighters in other nearby communities.

FINDINGS AND RECOMMENDATION: After duly considering all of the evidence presented by the parties, the Fact-Finder finds the Union's position, to be well taken.

The City has the benefit of maintaining the chain of command when a supervisory officer is absent. That is a critical function in safety service particularly when the unit is in action. The payment of the rate otherwise due the absent supervisor seems only just. There is

no articulable reason not to pay for the service when considered in reference to the member substituting. The basis for such a lesser payment is budgetary or financial on the City's part. So saying that does not mean to imply that such considerations are inconsequential. The parties have agreed that the responsibility of Lieutenant deserves a premium of 7 ½% over a Fire Fighter. The Company Officer pay ought to reflect the scale of difference. Some one performing those services on a temporary basis deserves the similar rate.

However, a temporary lieutenant does not fulfill the entire responsibility of a permanent lieutenant. The leadership, experience and the habit of discretion of a permanent lieutenant in performing his duties should not be susceptible of mechanical substitution if he is performing well. While the Company Officer deserves something similar since his service is similar, it is not identical. The Union's revised position captures this rationale very well and will be recommended.

The Fact Finder recommends the following changes to the current language as to the Company Officer pay.

The last sentence of Article 18 Section 2 shall be amended as follows:

Hourly rate for Company Officer (senior firefighter out of classification pay) reflects a ~~4.5%~~ 6.0% differential for hours worked out of classification for the term of the agreement.

ISSUE: Article 18 Salaries - Section 3A (Longevity pay)

CONTRACT SECTIONS: Amend Section 3A to become:

3.A. Bargaining unit employees who have completed five (5) years of full-time service with the Department shall be entitled to remuneration in the amount of ~~one percent (1%)~~ one and one-quarter percent (1.25%) of the employee's base pay. Bargaining unit employees who have completed ten (10) years of full-time service with the Department shall be entitled to remuneration in the amount of ~~one and one-half percent (1.5%)~~ two percent (2.0%) of the employee's base pay. Bargaining unit employees who have completed fifteen (15) years of full-time service with the Department shall be entitled to remuneration in the amount of ~~two percent (2%)~~ two and one-half percent (2.5%) of the employee's base pay.

POSITIONS: The Union: The Union proposes the change. The proposal increases the longevity by 0.25% per year which it saw as part of the exchange for its agreement to a first year wage freeze. The Union dropped the proposal in mediation.

POSITIONS: The Employer: The Employer opposes as additional direct cost of \$14,000. The City also opposes this proposal as inconsistent with internal comparable benefits which are identical to the current language. External comparisons for longevity in nearby communities favor the City.

FINDINGS AND RECOMMENDATION: The Fact-Finder considers with the withdrawal of the Union's proposal, the issue is resolved between the parties. Current contract language is recommended.

ISSUE: Article 18 Salaries - (*new*) Section 5 (Pension pick up)

CONTRACT SECTIONS: Amend Article 18 to add new Section 5 as follows:

5. Police and Fire Pick-up: The City will "pick-up" or pay five (5%) percent of the employee's share of the contribution to the Police and Fire Pension Plan Beginning 9/1/2009.

POSITIONS: The Union: The Union made this proposal. The proposal increases mirrors the pickup given to the police department during the last agreement cycle. The Union revised this proposal in mediation to be four percent (4%) and urged that position at the Fact Finding hearing on the record. The Union considers it as part of the exchange for its agreement to a first year wage freeze and has dropped other proposals to compensate for the loss of a wage increase. (Art. 18 Sec. 3A)

The Union counters the City's argument that the OPBA's agreed to a one year freeze in exchange for the pickup in 2008 by referring to the one year contract with a freeze in 2009. In the last agreement the City gave the police an additional 1 1/4 hours per week added to the duty hours which are paid at 150%. In other words, just as the police have received something during the current freeze, the pick up should be granted in this unit which also agreed to a one year freeze.

POSITIONS: The Employer: The Employer opposes this as an additional cost. The City has calculated the approximate cost of this proposal to be nearly \$180,000.00. The City also opposes this proposal as inconsistent with external comparable benefits. The City does not pick-up any portion of the employees' retirement contribution for its Road Department or non-bargaining unit employees. While the City does pick-up four percent (4%) of the OPBA-represented employees' share of contributions, that benefit was agreed upon during a year in which the wages were frozen for the department. Externally, firefighters in other nearby

communities either do not receive a pension pickup or do so only by a wage reduction of an equal amount.

FINDINGS AND RECOMMENDATION: After duly considering all of the evidence presented by the parties, the Fact-Finder finds the City's position to be well taken.

The cost is out of scale with what is being considered in this declining economy. The City's estimate of \$180,000 for this benefit alone is the equivalent of all the cash payments to unit on an annual basis over and above base pay. The direct compensation (base pay) for the unit is \$792,017. When added to the pay codes that are over and above base pay, the total is over \$972,000. (Note, this does not include the employer's labor costs on a budgetary basis for accrued financial benefits like paid time off, health care etc.) Base pay accounts for 80% of compensation and the rest is 20%. This proposed benefit would equal all the other payments combined over and beyond base pay. Such a comparison demonstrates the reason why other communities pay the pick up amount if the salary is reduced. (Cf. North Canton)

The police received the agreement to pension pick up in lieu of a wage increase in 2008. Here such a *quid pro quo* is not present. The compensation recommended here is not a wage freeze. The stipend is the equivalent of 2% for a half year. Without the predicate wage freeze, the *quid pro quo* for the pick up is not present.

The Union's reliance on the additional duty hours of the police is misplaced. In the 2009 agreement, the police workweek increased by 1.25 hours per week or 65 hours per year. Since it is paid at 150%, this is the equivalent of 97.5 hours of annual pay more than previously. With the rate applied of \$24.75 it appears that the officer receives an additional \$2,413.13 annually. That is an additional 4 1/2% added to the officer's W-2 of \$51,482 (annual base rate). The Union counts that as a raise.

It is not. The additional sum is not paid for the same work. If it were, it would be a raise. It is paid for additional work. That is a quantum difference. The bargained exchange is work for money, not merely additional money for the same work. The addition of the overtime premium of 50% is not a raise either. That is a statutory mandate for that type of work. It is not a wage increase.

The Union's concern that it is not receiving consideration for the wage freeze is also misplaced. This Recommendation, largely based on the mediated agreement of the City to Union proposals, or compromises thereof, show that the unit is receiving other consideration for the wage freeze. (Cf. Appendix)

The proposed change is not being recommended.

ISSUE: Article 23 Clothing Allowance - Section 1

CONTRACT SECTIONS: Amend Section 1:

1. The clothing allowance shall be ~~\$800~~ \$1,093.75 per bargaining unit member for calendar year ~~2007~~ 2010; this amount shall be increased to ~~\$825~~ \$1,125 for ~~2008~~ 2011, and ~~\$850~~ \$1,154.25 for 2009 2012.

POSITIONS: The Union: The Union proposes the change. The allowance does not cover the necessary annual costs incurred by members. The amount needs regular adjustment.

POSITIONS: The Employer: The Employer opposes this as additional cost. By the third year the amount would have increased 25% under the proposal. Past increases were on the order of \$25.00 annually making the proposal out of scale with bargaining history. The City also opposes this proposal as inconsistent with external comparable benefits. However, the City agreed to compromise the clothing allowance to become \$900.00 in 2009 but not the annual increases as proposed and the Union agreed.

FINDINGS AND RECOMMENDATION: After consideration, the Fact-Finder finds the City's agreement to the \$900.00 increase in the clothing allowance to be a reasonable accommodation. The Fact-Finder considers with that compromise of the proposal, the issue is resolved between the parties is recommended with no additional change. Section 1 shall become:

1. The clothing allowance shall be ~~\$800~~ \$900.00 per bargaining unit member for beginning calendar year ~~2007~~ 2010; this amount shall be increased to ~~\$825~~ for 2008, and ~~\$850~~ for 2009.

ISSUE: Article 24 Separation Compensation - Section 1

CONTRACT SECTIONS: Amend Section 1:

1. A bargaining unit member who resigns or retires is eligible to be and shall be compensated accordingly in a cash lump sum calculated at present rates of compensation contained within this Agreement for all his or her accumulated overtime, compensatory time, holiday time, vacation time plus up to a maximum of ~~eight hundred (800)~~ one thousand (1000) hours of accumulated sick time.

POSITIONS: The Union: The Union proposes the change. The proposal increases the maximum sick leave that can be cashed out upon retirement or resignation. The Union dropped the proposal in mediation.

POSITIONS: The Employer: The Employer opposes as additional cost. The City also opposes this proposal as inconsistent with external comparable benefits. External comparisons for sick leave cash outs in nearby communities favor the City. However, the City agreed to compromise the amount to be cashed out to become 825 hours in 2009 and the Union agreed.

FINDINGS AND RECOMMENDATION: After consideration, the Fact-Finder finds the City's agreement to the increase in the amount of time compensated at separation to be a reasonable accommodation. The Fact-Finder considers with that compromise of the proposal, the issue is resolved between the parties is recommended with no additional change. Section

1 shall become:

1. A bargaining unit member who resigns or retires is eligible to be and shall be compensated accordingly in a cash lump sum calculated at present rates of compensation contained within this Agreement for all his or her accumulated overtime, compensatory time, holiday time, vacation time plus up to a maximum of eight hundred twenty five (800)-(825) hours of accumulated sick time.

ISSUE: Article 25 Holiday Leave - Sections 2 and 3 (Personal days and worked holidays)

CONTRACT SECTIONS: Amend Sections 2 and 3 as follows:

2. On January 1 of each contract year, bargaining unit members shall receive a bank of ~~two hundred eighty-eight (288)~~ three hundred twelve (312) hours of holiday and personal leave time to be scheduled throughout the course of the year. Any bargaining unit member who terminates employment for any reason, and who has taken holiday hours in advance of the date said hours would have been earned during the contract year, shall reimburse the City in an amount equal to bargaining unit member's regular rate of pay for such hours. Repayment shall be made through direct payment or payroll deduction from the bargaining unit member's separation compensation, if any. All holidays must be taken in time off of no less than four (4) hour increments or in receipt of twenty-four (24) hours pay in lieu of time off during the pay period the scheduled holiday falls.

3. A bargaining unit member who is scheduled to work on one of the above holidays listed in Section 1 shall be paid ~~sixteen (16) hours at his overtime rate of pay and eight (8) hours at his regular rate of pay. The sixteen (16) hours paid at the overtime rate shall be 0800 to 0000 hours~~ twenty-four (24) hours at his overtime rate of pay from 0800 to 0800 hours.

POSITIONS: The Union: The Union proposes the change. The bank limit increase changes the personal days from two to three days thus creating a new bank limit to 312. That is a total of 10 holidays plus three personal days at 24 hours. It is not an inordinate allotment. For members who work holidays, there should be a recognition of the shift hour differences. The member should be paid overtime for the whole shift of 24 hours if he works.

POSITIONS: The Employer: The Employer opposes as additional cost. The City also opposes this proposal as inconsistent with internal and external comparable benefits. The road employees have two personal days. External comparisons for working holidays and personal days in other fire units favor the City.

FINDINGS AND RECOMMENDATION: After duly considering all of the evidence presented by the parties, the Fact-Finder finds the City's position to be well taken. In the present economic conditions, additional cost in terms of paid time off is not indicated. The

Union refers to the police allotment of 3 personal days. However, the cost of the police day is a third of the fire unit day. The two personal days available to the unit are the equivalent of four police days in cost.

The increase of the premium for the worked holiday to overtime for the entire shift is likewise not financially prudent. However, the latter is also not reasonable in light of comparisons to other employees. The current scheme pays 16 hours at 150% which is to say 24 hours for 16 hours of work. The 8 hour balance is paid at straight time. The total premium paid for working a holiday is therefore 32 hours for 24 hours. The net premium is 133% $[(32 - 24) / 24 = .33]$ That is to say, time and one third as opposed to time and one half (ie overtime). Considering 33% of the time worked on routine basis is stand-by (sleep) time that is not unreasonable. Since the worked holiday does not deplete the employee's bank, he has an additional 24 hours allocable to the holiday making the premium 233%. At an hourly rate of approximately \$20.00 that is over \$1,000 to work the holiday. No change is recommended.

ISSUE: Article 26 Vacations - *new* Section 3 (Carry over)

CONTRACT SECTIONS: Add a *new* Section 3:

3. All Bargaining unit members may carry over and up to seventy-two (72) hours of vacation to the next year.

POSITIONS: The Union: The Union proposes the change. Many members do not make full use of the vacation they earn. Since it is earned, they should be permitted to use it.

POSITIONS: The Employer: The Employer opposes as additional cost. The City also opposes this proposal as inconsistent with internal comparable benefits. The road and non-bargaining employees have no carry over. However, the City agreed to the proposal with the compromise that the amount to be carried over would become 48 hours in 2009 and the Union agreed.

FINDINGS AND RECOMMENDATION: After consideration, the Fact-Finder finds the City's agreement to the 48 hours carry over to be a reasonable accommodation. The Fact-Finder considers with that compromise of the proposal, the issue as resolved between the parties is recommended with no additional change. New Section 3 shall be added as follows:

3. All Bargaining unit members may carry over and up to forty eight (48) hours of vacation to the next year.

ISSUE: Article 27 Bereavement Leave - various

CONTRACT SECTIONS:

1. Bargaining unit members shall be allowed three (3) ~~calendar shift~~ days off immediately following the death of one of the following members of the immediate family without loss of pay. Immediate family shall be defined as: Spouse, child, foster child, parent, foster parents, stepmother, stepfather, sister, brother, mother-in-law, father-in-law, grandmother, grandfather, grandmother-in-law, grandfather-in-law, grandchildren, sister-in-law, brother-in-law, aunt, uncle or any blood relative living in the household of the bargaining unit member.

~~2. In the case of the death of a grandmother, grandfather, grandmother-in-law, grandfather-in-law, grandchildren, sister-in-law, brother-in-law, aunt or uncle, the bargaining unit member shall, if scheduled to work the day of the funeral, receive that calendar day off without loss of pay.~~

~~3.2~~ The employer shall grant additional time off to the bargaining unit member for bereavement leave which shall be charged to the bargaining unit member's accumulated sick leave, one (1) hour for each hour used, up to two (2) days. Additional time may be granted at the discretion of the Fire Chief or the Mayor.

POSITIONS: The Union:

The Union proposes the change. The leave would become four rather than three days for all relations listed in the article. There is no reasonable basis to have a two tier benefit based on the degree of relation. In addition the proposal recognizes that the shift time is 24 hours.

POSITIONS: The Employer: The City generally opposes the increase of hours for budgetary reasons. The City also opposes this proposal as inconsistent with internal comparable benefits.

The road and non bargaining are similar to current language. The police receive between two and four based on relationship. The list of relations is consistent across all groups. External examples of the Union's proposal could not be found. However, some external units use sick leave for bereavement purposes. In recognition to the slight difference with the police unit, the City agreed to increase the leave of Section 1 to four (4) calendar days not shift days, with no other change and the Union agreed.

FINDINGS AND RECOMMENDATION: After consideration, the Fact-Finder finds the City's agreement to four (4) calendar days in Section 1 without any other change to be a reasonable accommodation. In the event the Section 2 relatives are members of the household of the member, they would be subject to the Section 1 leave by current language. The Fact-Finder considers with that compromise of the proposal, the issue is resolved between the parties. The amended section shall become:

1. Bargaining unit members shall be allowed ~~three (3)~~ four (4) calendar days off immediately following the death of one of the following members of the immediate family without loss of pay. Immediate family shall be defined as: Spouse, child, foster child, parent, foster parents, stepmother, stepfather, sister, brother, mother-in-law, father-in-law, or any blood relative living in the household of the bargaining unit member.

No additional change is recommended

ISSUE: Article 29 Sick Leave - Sections 6 and 7 (Sick hours bank)

CONTRACT SECTIONS: Amend Sections 6 and 7 as follows:

6. The maximum accumulation of sick leave hours shall be ~~four thousand one hundred thirty-four (4,134) hours~~ four thousand five hundred (4,500).

7. As an incentive not to use sick leave the following plan shall be adopted:

· No sick days used in the fiscal year	\$400.00 <u>\$600.00</u>
· One (1) sick day used in the prior fiscal year	\$300.00 <u>\$500.00</u>
· Two (2) sick days used in the prior fiscal year	\$200.00 <u>\$400.00</u>

Payment for this plan shall be made in the first pay in January by separate check.

Sick days shall be defined as 24 hours of sick time.

POSITIONS: The Union: The Union proposes the change. The proposal would increase sick leave by having a higher bank limit available and increase the accrual rate by defining the day consistent with the shift period of 24 hours. Since the work shift is 24 hours, the coordination with sick time being the same measure is logical. The incentive levels also increase in light of the Union's offered first year wage freeze.

POSITIONS: The Employer: The City generally opposes the increase of hours for budgetary reasons. It all adds cost without necessity. However, the City agreed to compromise the increase of each incentive level by \$100.00 not the \$200.00 proposed and the Union agreed.

FINDINGS AND RECOMMENDATION: After consideration, the Fact-Finder finds the City's agreement to the \$100.00 increase to each incentive level to be a reasonable accommodation. The Fact-Finder considers with that compromise of the proposal, the issue is resolved between the parties is recommended with no additional change. Sections 6 and 7 shall be amended as follows:

6. The maximum accumulation of sick leave hours shall be four thousand one hundred thirty-four (4,134) hours.

7. As an incentive not to use sick leave the following plan shall be adopted:

- No sick days used in the fiscal year ~~\$400.00~~ \$500.00
- One (1) sick day used in the prior fiscal year ~~\$300.00~~ \$400.00
- Two (2) sick days used in the prior fiscal year ~~\$200.00~~ \$300.00

Payment for this plan shall be made in the first pay in January by separate check.

ISSUE: Article 30 Medical Health and Life Insurance - Sections (various)

CONTRACT SECTIONS: The current benefit is as follows:

1. During the term of this Agreement, the City will offer to the bargaining unit members a hospitalization plan substantially similar to that in effect upon execution of this Agreement (unless revised by mutual agreement hereunder). Currently, the City network is provided by Emerald Health. The Union will be provided a minimum of thirty (30) days written notice prior to any future change in network providers. There will be a \$5 deductible for the purchase of generic drugs, a \$20 deductible for the purchase of brand formulary drugs and a \$35 deductible for non-formulary drugs. Bargaining unit members must use mail order services for prescription orders in excess of 21 days.
2. The City shall provide coverage for the dependents of bargaining unit members. Benefits and eligibility for bargaining unit members and dependents are subject to any restrictions imposed by the insurance provider.
3. The City shall provide life insurance coverage in the amount of \$50,000 for each member of the bargaining unit at no cost to the employee.

POSITIONS: The Union: In the Fact Finding pre hearing statement the Union had not identified this as an open issue. Prior to the mediation on the morning of December 17, the Union had opposed portions of the City's proposal. During the mediation, the Union confirmed that its opposition would be dropped as various agreements developed in that process.

POSITIONS: The Employer: The City proposed the same healthcare program that had previously been agreed in other units and adopted for non-bargaining employees. The program continues to be self insured by the City and offered without premium sharing to the employees. The changes are cost saving measures primarily in copays and deductibles. The following are the applicable changes to Article 30, Sections 1, 2, and 3 to amended to become Sections 1 through 9:

1. During the term of this Agreement, the City will offer to the bargaining unit members a hospitalization plan substantially similar to that in effect upon execution of this Agreement (~~unless revised by mutual agreement hereunder~~). Currently, the City network is provided by Emerald Health. The Union will be

provided a minimum of thirty (30) days written notice prior to any change in network providers.

2. Annual employee deductibles will be as follows:
 - Per covered person – \$250.00 for in network services; \$500.00 for out of network services.
 - Per covered family unit – \$500.00 for in network services; \$1,000.00 for out of network services.
3. There will be a \$5 co-pay deductible for the purchase of generic drugs, a \$20 co-pay deductible for the purchase of brand formulary drugs and a \$35 co-pay deductible for non-formulary maintenance drugs. Bargaining unit members must use mail order services for prescription orders in excess of ~~21~~30 days' supply. There will be a \$125.00 co-pay for all emergency room visits.
4. Coverage will continue to be provided for prescribed occupational therapy, but only up to a maximum of 20 annual visits. There will be a \$10.00 co-pay for all occupational therapy visits.
5. Coverage will continue to be provided for prescribed speech therapy, but only up to a maximum of 20 annual visits. There will be a \$10.00 co-pay for all speech therapy visits.
6. Coverage will continue to be provided for prescribed physical therapy, but only up to a maximum of 20 annual visits. There will be a \$10.00 co-pay for all physical therapy visits.
7. If the cost of self-insuring or insuring the hospitalization plan, as measured by the monthly COBRA rate for family coverage, increases more than 10% in any one year as of or after October 1, 2008, this Agreement will be re-opened for the limited purpose of negotiating the medical and health insurance benefits set forth in this Article, including but not limited to alternative coverage and/or employee unit cost contribution participation which reduces the City's cost of providing benefits to the prior year's level. For the purposes of this Section only, the parties will consider the October 1, 2008 monthly COBRA rate for family coverage to be \$1,625.00.
- 8.2. The City shall provide coverage for the dependents of bargaining unit members. Benefits and eligibility for bargaining unit members and dependents are subject to any restrictions imposed by the insurance provider.
- 9.3. The City shall provide life insurance coverage in the amount of fifty thousand dollars (\$50,000.00) for each member of the bargaining unit at no cost to the employee.

FINDINGS AND RECOMMENDATION: The City is unique in the contemporary healthcare market in not requiring premium payments and being able to offer modest copays relative to other programs. The re-opener based on a trigger of 10% increase of COBRA payments is a reasonable safeguard for the members. The Fact-Finder recommends that the City's proposal be adopted.

ISSUE: Article 43 Length of Agreement

CONTRACT SECTIONS:

This Agreement shall be effective the 1st day of September, ~~2006~~ 2009 and shall remain in full force and effect until the 31st day of August ~~2009~~ 2012. It shall be automatically renewed thereafter from year to year unless either party shall notify the other in writing at least sixty (60) days prior to the anniversary date that it desires to modify this Agreement.

POSITIONS: The Union: The Union proposes the replacement agreement maintain a three year term from September 1, 2009 through August 31, 2012. The Union has established that this contractual term has historically been accepted by the parties. It also notes that the City's refusal to agree to more than one year precipitated the fact finding. The result would be that the replacement agreement would come into effect in 2010 only months before negotiations would need to begin for a replacement to a one year agreement.

POSITIONS: The Employer: The City has expressed the position that the agreement should be one year in light of economic uncertainties facing the community. It emphasized the police union agreement to a one year term. It also cited the one year delay of the effects of the recession on revenues that could produce adverse budget conditions next year if three years of liabilities were fixed in a replacement agreement. In making its case on the open issues at hearing, the City expressed reluctant agreement during its rebuttal case to three year term.

FINDINGS AND RECOMMENDATION: The issue of whether there would be a one or more year agreement was strenuously contested and caused the break in negotiations that brought about the fact finding here. Confusion over the Union's position on the healthcare issue contributed. Since the health care program with a re-opener looks toward a multi year arrangement, the clarification of the Union's position at hearing supports a term of more than one year.

After consideration, the Fact-Finder finds the City's agreement to a three year term to be a reasonable accommodation. The City's concession as well as the timing of the fact finding and the implicit multi year term of the health care program all support this. The Fact-Finder considers with that compromise of the proposal, the issue is resolved between the parties is recommended. The term of the Agreement be September 1, 2009 through August 31, 2012:

This Agreement shall be effective the 1st day of September, ~~2006~~ 2009 and shall remain in full force and effect until the 31st day of August ~~2009~~ 2012. It shall be automatically renewed thereafter from year to year unless either party shall notify the other in writing at least sixty (60) days prior to the anniversary date that it desires to modify this Agreement.

ISSUE: Article 44. Accumulated Time Sell Backs - Section 6

CONTRACT SECTIONS: Amend Article 44 as follows:

In November of any contract year, a bargaining unit member may sell back, to the City, at the bargaining unit member's regular rate of pay, accumulated compensatory time, holiday time, or unused vacation time up to a total of ~~one hundred forty-four (144) hours~~ one hundred sixty-eight (168). Payment for holidays designated in Article 25, Section 1 received in advance of said payout will not count toward the ~~one hundred forty-four (144)~~ hour limit. The request shall be made in the pay period prior to November 1 on the appropriate form and shall be paid on the first pay in December by separate check.

POSITIONS: The Union:

The Union proposes to increase the amount that a member may sell back by 24 hours the equivalent of one shift. The Union dropped the proposal in mediation.

POSITIONS: The Employer: The City opposes this proposal as inconsistent with internal comparable benefits. The police and non bargaining units sell back at a lower level and road employees not at all.

FINDINGS AND RECOMMENDATION: The Fact-Finder considers with the withdrawal of the Union's proposal, the issue is resolved between the parties. No change is recommended.

ISSUE: Article 45 Quality Assurance - *new*

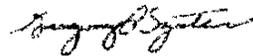
CONTRACT SECTIONS: New Article to be added with adjusted number listing to Articles thereafter.

Quality Assurance. Upon completion or acquisition of properly documented New Franklin EMS billing related medical reports, the EMT responsible for and any EMT who participates in the transport of the patient to the hospital will receive thirty dollar (\$30) bonus per incident.

POSITIONS: The Union: This was adapted from a Las Vegas agreement. It was intended to incentivize quality of billing which is both to the City's and member's benefit. The Union dropped the proposal in mediation.

POSITIONS: The Employer: The Employer opposes as additional cost for work already part of the member's duties. The new article would pay a bonus of \$30.00 per every employee per transport who properly locate and fill out forms for EMS billing.

FINDINGS AND RECOMMENDATION: The Fact-Finder considers with the withdrawal of the Union's proposal, the issue is resolved between the parties. No change is recommended.



Gregory P. Szuter, Fact Finder
Made and entered at Cleveland, Ohio
January 15, 2010

PROOF OF SERVICE:

Per stipulation of the parties the foregoing has been send by U.S. Mail (ordinary) on January 15, 2010, to IAFF Local 2885 c/o James Heim and City of New Franklin c/o Thomas Evan Green, Esq. per addresses shown on the cover with advance copy via email on the same date to both.

APPENDIX

The following is the transcript of the proposed new agreement language contained in the Report and Recommendations for the agreement of the City of New Franklin and IAFF Local 2885 effective September 1, 2009. The calculations for the wage table (Article 18) as shown are not part of the Report and Recommendations but are attempted here subject to calculation and verification by the parties consistent with the formula recommended in the language.

Article 17

2. Overtime shall be paid for hours worked in excess of fifty-three (53) hour workweek. The hours that have been accumulated since September 1, 1989 shall be banked and shall be used with proper notification. Use of banked hours shall be in ~~whole~~ 1/4 hours and shall not be unreasonably denied.

Article 18

2. A. From September 1, 2006 through August ~~30~~, 31 2009, the following pay scale shall be in effect.

[The table shows the supposed new rates subject to calculation and verification by the parties.]

Rank	9/1/09	9/1/10	9/1/11
Firefighter/EMT/Basic	\$49,685.99	\$50,182.85	\$51,186.15
Firefighter/EMT/Intermediate	\$51,542.56	\$52,057.99	\$53,099.14
Firefighter/EMT/Paramedic	\$53,659.04	\$54,195.63	\$55,279.54
Hourly Rate	\$18.35	\$18.90	\$19.47
Hourly Rate Company Officer (4.5% Bonus)	\$19.18	\$19.75	\$20.35
Lieutenant/EMT/Basic	\$53,412.44	\$53,946.56	\$55,025.11
Lieutenant/EMT/Intermediate	\$55,408.25	\$55,962.34	\$57,081.56
Lieutenant/EMT/Paramedic	\$57,683.46	\$58,260.38	\$59,425.51
Captain/EMT/Basic	\$53,537.38	\$55,025.49	\$56,125.61
Captain/EMT/Intermediate	\$56,084.71	\$57,081.59	\$58,723.19
Captain/EMT/Paramedic	\$57,510.47	\$59,425.59	\$60,614.02

Salaries above reflect a 3% annual increase for in all ranks firefighters in the Basic, Intermediate and Paramedic classifications of 0.0% beginning 9/1/2009; 1.0% beginning 9/1/2010; and 2.0% beginning 9/1/2011.

2. Annual salary for lieutenants in the Basic, Intermediate and Paramedic classifications reflects ~~a 5.5% differential beginning 9/1/2006, a 6.5% differential beginning 9/1/2007 and a 7.5% differential to~~ firefighters in the Basic, Intermediate and Paramedic classifications respectively beginning 9/1/2008 . Annual salary for captains in the Basic, Intermediate and Paramedic classifications reflect a 2.0% differential to lieutenants in the Basic, Intermediate and Paramedic classifications respectively.
3. Hourly rate for Company Officer (senior firefighter out of classification pay) reflects a ~~4.5%~~ 6.0% differential for hours worked out of classification for the term of the agreement.

Memorandum of Understanding

The City of New Franklin ("City") and New Franklin Firefighters, North, IAFF Local 2885, AFL-CIO, CLC ("Union") agree that after execution by the Parties of the replacement Agreement to the one expiring August 31, 2009, provided that it include this Memorandum, the City agrees to pay to each employee in the bargaining unit represented by the Union, on the first succeeding payroll date after March 1, 2010, a lump sum payment of Five Hundred Dollars (\$500.00). This payment shall be made on a separate check, minus all deductions required by law.

Article 23

1. The clothing allowance shall be ~~\$800~~ \$900.00 per bargaining unit member ~~for beginning calendar year 2007~~ 2010; this amount shall be increased to \$825 for 2008, and \$850 for 2009.

Article 24

1 A bargaining unit member who resigns or retires is eligible to be and shall be compensated accordingly in a cash lump sum calculated at present rates of compensation contained within this Agreement for all his or her accumulated overtime, compensatory time, holiday time, vacation time plus up to a maximum of eight hundred ~~twenty five (800)~~ (825) hours of accumulated sick time.

Article 26

3. All Bargaining unit members may carry over and up to forty eight (48) hours of vacation to the next year.

Article 27

1. Bargaining unit members shall be allowed ~~three (3)~~ four (4) calendar days off immediately following the death of one of the following members of the immediate family without loss of pay. Immediate family shall be defined as: Spouse, child, foster child, parent, foster parents, stepmother, stepfather, sister, brother, mother-in-law, father-in-law, or any blood relative living in the household of the bargaining unit member.

Article 29

6. The maximum accumulation of sick leave hours shall be four thousand one hundred thirty-four (4,134) hours.

7. As an incentive not to use sick leave the following plan shall be adopted:

- No sick days used in the fiscal year ~~\$400.00~~ \$500.00
- One (1) sick day used in the prior fiscal year ~~\$300.00~~ \$400.00
- Two (2) sick days used in the prior fiscal year ~~\$200.00~~ \$300.00
- Payment for this plan shall be made in the first pay in January by separate check.

Article 30 :

1. During the term of this Agreement, the City will offer to the bargaining unit members a hospitalization plan substantially similar to that in effect upon execution of this Agreement (~~unless revised by mutual agreement hereunder~~). Currently, the City network is provided by Emerald Health. The Union will be provided a minimum of thirty (30) days written notice prior to any change in network providers.
2. Annual employee deductibles will be as follows:
 - Per covered person – \$250.00 for in network services; \$500.00 for out of network services.
 - Per covered family unit – \$500.00 for in network services; \$1,000.00 for out of network services.
3. There will be a \$5 co-pay deductible for the purchase of generic drugs, a \$20 co-pay deductible for the purchase of brand formulary drugs and a \$35 co-pay deductible for non-formulary maintenance drugs. Bargaining unit members must use mail order services for prescription orders in excess of ~~21~~ 30 days' supply. There will be a \$125.00 co-pay for all emergency room visits.
4. Coverage will continue to be provided for prescribed occupational therapy, but only up to a maximum of 20 annual visits. There will be a \$10.00 co-pay for all occupational therapy visits.

5. Coverage will continue to be provided for prescribed speech therapy, but only up to a maximum of 20 annual visits. There will be a \$10.00 co-pay for all speech therapy visits.
6. Coverage will continue to be provided for prescribed physical therapy, but only up to a maximum of 20 annual visits. There will be a \$10.00 co-pay for all physical therapy visits.
7. If the cost of self-insuring or insuring the hospitalization plan, as measured by the monthly COBRA rate for family coverage, increases more than 10% in any one year as of or after October 1, 2008, this Agreement will be re-opened for the limited purpose of negotiating the medical and health insurance benefits set forth in this Article, including but not limited to alternative coverage and/or employee unit cost contribution participation which reduces the City's cost of providing benefits to the prior year's level. For the purposes of this Section only, the parties will consider the October 1, 2008 monthly COBRA rate for family coverage to be \$1,625.00.
- 8.2. The City shall provide coverage for the dependents of bargaining unit members. Benefits and eligibility for bargaining unit members and dependents are subject to any restrictions imposed by the insurance provider.
- 9.3. The City shall provide life insurance coverage in the amount of fifty thousand dollars (\$50,000.00) for each member of the bargaining unit at no cost to the employee.

Article 43

This Agreement shall be effective the 1st day of September, ~~2006~~ 2009 and shall remain in full force and effect until the 31st day of August ~~2009~~ 2012. It shall be automatically renewed thereafter from year to year unless either party shall notify the other in writing at least sixty (60) days prior to the anniversary date that it desires to modify this Agreement.

GREGORY P. SZUTER, ESQ

ARBITRATOR MEDIATOR

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January 15, 2010

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STATE EMPLOYMENT
RELATIONS BOARD
2010 JAN 20 P 1:32

RE: Case No(s). 09-MED-06-0709
International Association of Firefighters, Local 2885 and City of New Franklin

Dear Representatives:

Please find enclosed the Fact Finder's Report and Recommendations in the above matter that has been sent this date via email attachment to the above addresses as stipulated. A hard copy is being mailed concurrently to you and SERB. Also by hard copy only, counsel will be receiving the invoice for services in connection with matter. Thank you for allowing me to assist the bargaining parties in this manner.

Very truly yours,

Gregory P. Szuter

cc.
✓ Admr. Bureau of Mediation (SERB)
GPS\MMI