

STATE EMPLOYMENT RELATIONS BOARD

STATE OF OHIO

IN THE MATTER OF FACT-FINDING BETWEEN

CITY OF BARBERTON

AND INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS LOCAL 329

FINDINGS AND RECOMMENDATIONS

CASE NO.: 10-MED-09-1074

**WILLIAM C. BINNING PH.D.
FACT-FINDER**

FOR CITY OF BARBERTON

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FOR IAFF LOCAL 329

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The undersigned was appointed Fact-finder by the State Employment Relations Board (SERB) pursuant to Section 4117.14 (C) (3) of the Ohio Revised Code.

The first meeting of the parties with the Fact-finder was scheduled for a full day of mediation on May 12, 2011. The mediation started at 10 am and lasted throughout the day. A great deal of progress was made, however not all issues were resolved.

HEARING ON JULY 7, 2011

The parties met at 10:00 a.m. and worked continuously until 6:00 p.m. and all of the outstanding issues were addressed.

Prior to the opening of the hearing the Fact-finder, as he obligated to do, under SERB rules offered to mediate. The parties tentatively agreed to some of the language they had been discussing since the last mediation session. A formal hearing was opened to consider the remaining issues.

The following issues remained unresolved:

1. Management Rights Section 1 (4) Minimum Manning
2. Wages
3. Overtime Rates
4. Holidays
5. Uniform Maintenance, Reimbursement and Safety Gear
6. Life Insurance
7. Medical Insurance
8. MOU Limited Contractual Adjustments
9. MOU 2080 Rate Suspension
10. Side letter Part Time Personnel
11. Duration

CRITERIA

In compliance with the Ohio Revised Code Section 4117:14 and Ohio Administrative Code Rule 4117-9-05 (j) and 4117-9-05 (k), the Fact-finder considered the following criteria 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 the 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, 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 determination of the issues submitted to mutually agreed upon dispute settlement procedures in the public service or in private employment.**

ISSUE 1

ARTICLE 6 MANAGEMENT RIGHTS SECTION 1 (4) (2ND SENTENCE) MINIMUM MANNING

CITY POSITION

The Employer proposes "...to eliminate the burdensome requirement of a minimum manning clause." (City, Position on Outstanding Issues p. 3) The City argues that this is a subject of permissive bargaining. The City also presented external comparables for this language. The City introduces extensive language from other Fact-findings and Conciliations on this issue.

UNION POSITION

The Union wants to maintain current language.

DISCUSSION AND RECOMMENDATION

The advocate for the City is correct. It is this Fact-finder's view that minimum manning is a subject of permissive bargaining. The City advocate gives convincing evidence, even citing a current member of the SERB Board, N. Eugene Brundige, who while serving as a Fact-finder issued an opinion that stated "This makes the matter of staffing a permissive subject of bargaining..." (City Binder p. 000013). The point is well made, however the City of Barberton choose at some point in the past to negotiate minimum manning and it is in the Barberton Contract, and now it cannot be simply dismissed as "permissive". The City choose to make it a subject of bargaining, and must be treated as such.

The City also presented data on fire calls. (City Binder Exhibit J 3) Fire calls might be on the decline, however these Fire Fighters now provide ambulance service and total call volume is up (Union Binder Tab 9 call volume). The Fire Department also collects some revenue for the City with the provision of that ambulance service. To this Fact-finder a manning of 9 to fight fires and provide ambulance service does not seem excessive for a municipality the size of Barberton.

The significant issue about minimum manning for the City of Barberton is not the legal question of whether it is a permissive matter of bargaining but rather the cost in overtime. The overtime cost is displayed on City Binder p. 000057. Barberton is in no position to incur any significant increased overtime cost. It is likely that Barberton's financial problems are structural not temporary and that the fiscal problems will be exacerbated by the new state budget of Ohio, with the cuts in the local government fund.

What struck this Fact-finder is that the Memorandum of Understanding agreements for fiscal relief for the City, by Barberton and the Fire Fighters did not include reduction nor abolishment of minimum manning. It was the overtime payment cost and the concession on the rate paid for overtime, which was one of the key concessions and is addressed below.

Recommendation: The Union position. Existing Contract language on minimum manning.

PLEASE NOTE THE FACT-FINDER IS CHANGING THE ORDER OF THE ISSUES BECAUSE ISSUE 3 AND 4 RELATE TO ISSUE 1 ABOVE.

ISSUE 3

OVERTIME RATES

CITY POSITION

The Employer proposes “that all supplemental pays be based upon the employee’s hourly rate of 2496 rather than the enhanced rate of 2080. As a result of an MOU “as soon as the waiver expires the Employer will immediately experience a thirty percent (30%) cost increase on every overtime hour that it pays suppression personnel under the contract.” (See City Final Position on outstanding issues p.4)

UNION POSITION

The Union wants current contract language put back into effect.

DISCUSSION AND RECOMMENDATION

In the Memorandum of Understanding agreed to by the parties and dated December 29, 2010. (See Union Binder Tab 3). The parties reached some accommodation that is viewed as temporary. The Union agreed to the 2496 rate for overtime to save the jobs of the members. The City wants this concession to be permanent and embedded in the next Contract. The Union hopes that the finances of the City will improve and they will regain their old rate. That is not possible at this time. This Fact-finder cannot see the financial future for the next three years. Therefore the recommendation is a continuation of the MOU language on 2496 & 2080 Overtime Rates until December 31, 2013. This concession is necessary to support the recommendation on minimum manning above. The MOU language is recommended so that it is read as a concession and has a sunset characteristic.

Recommendation: See Issue 9 below. Memorandum of Understanding 2080 Rate Suspension. The existing contract language will continue in the new contract but will be pre-empted by the life of the MOU recommended in Issue 9 below.

ISSUE 4

ARTICLE 20 HOLIDAYS

CITY POSITION

The City proposes “to pay work on holidays at the employee’s current hourly rate of 2496 rather than the enhanced rate of 2080. This is in line with the enhanced rate of 2080 hours.” (See City, Final Position Statement p. 4) Similar to the Issue above on overtime rates, there is an MOU dated December 29, 2010, where the Union gave concessions on Holiday pay.

UNION POSITION

The Union supports existing contract language.

DISCUSSION AND RECOMMENDATION

Although the significance of the Holiday pay cost to the City is not clear, it must have some significance since they make it a key issue as part of an MOU dated March 12, 2010 and then repeated it in a subsequent MOU dated December 29, 2010. See Union Binder, MOUs) The Fact-finder recommends the concessionary language of that December 29, 2010 MOU.

RECOMMENDATION:

HOLIDAY COMPENSATION

Recommendation See Issue 8 and 9 below. Existing contract language will remain in the new contract but will be pre-empted for the life of the recommended extension of the Memorandum of Understanding in Issue 8.

ISSUE 2 WAGE RATES

CITY POSITION

The City offers a wage rate of

Year One 0%

Year Two 0%

Year Three 1%

The City argues the financial condition of the City and offers internal comparables.

UNION POSITION

The Unions proposes

Year one 0%

Year Two 2%

Year Three 3%

The Union also proposes a wage reopener for the city if the “City finances are such that the 2012 or the 2013 wage rates contained herein could result in layoff of bargaining unit members, the City may, in its sole discretion, file a Notice to Negotiate on or before October 1 2011...” (Union, Final Position on Outstanding Issues p.4)

DISCUSSION AND RECOMMENDATION

Recognizing the financial stress of Barberton, but also to give some modest protection to the erosion of the Fire Fighters base salary, the following raise is the recommendation over the three years contract.

Recommendation:

Year one 0%

Year two 1%

Year three 1%

The wage reopener language is not recommended.

ISSUE 5 UNIFORM MAINTENANCE REIMBURSEMENT AND SAFETY GEAR

CITY POSITION

The city proposes that “to reduce the uniform maintenance payment in the first year of the contract to six hundred dollars (\$600) temporarily, but raise it back to its current level on one thousand two hundred dollars (\$1,200) in the second year of the agreement.” (City, Final Position on Outstanding Issues p 5). The City argues it needs immediate financial relief.

UNION POSITION

The Union supports Current Contract language.

DISCUSSION AND RECOMMENDATION

This issue is not found in any of the recent MOUs designed to provide the City with financial relief.

The Union language is recommended: Current Contract language.

ISSUE 6

ARTICLE 24 LIFE INSURANCE

CITY POSITION

The City proposes to eliminate the “life insurance benefit for retirees after December 30 2013.” (Union Final Position p. 5).

UNION POSITION

The Union supports Current Contract language.

DISCUSSION AND RECOMMENDATION

These are the sort of benefits that a City like Barberton can no longer afford. Not sure why the date is December 30 and not December 31, 2013.

Recommendation: The City’s language is recommended and the date is to be stated as December 31, 2013.

ARTICLE 25 MEDICAL INSURANCE

UNION POSITION

Section 25.1 Coverage and Premium” Upon the first day of the month following the completion of one (1) month of service medical dental, vision and prescription coverage shall **be available for all ~~apply to~~ full-time employees, their spouse and eligible dependents. **The Employer will offer to bargaining unit employees a medical plan including prescription, dental, and vision coverage through a group plan. Changes to the plan and benefit levels may be made as provided under the terms of this article.”** (Union Final Position p 7)**

CITY POSITION

Section 25.1 Coverage and Premium” Upon the first day of the month following the completion of one (1) month of service medical, dental, vision and prescription coverage shall ~~apply~~ **be available to full-time employees, their spouse and eligible dependents. **The Employer will offer to bargaining unit employees a medical plan including prescription, dental, and vision coverage through a group plan. Cost containment measures may be adopted by the Employer in consideration of projected costs, market availability of coverages, and utilization, consistent with the provisions of Sections 25.3 and 25.4 herein. Additional changes to the plan and benefit levels may be made as selected through the insurance committee as provided under the terms of this article. “** (City, Binder p. 000156).**

DISCUSSION AND RECOMMENDATION

There was very little discussion of the differences between these two proposed changes in this language from the existing language. It is assumed the language changes are a product of what changes they are proposing below, which are not recommended in their entirety for either party.

Recommendation: Existing Contract language.

ARTICLE 25. 2 EMPLOYEE CONTRIBUTIONS

CITY POSITION

Section 25.2 Contributions Effective January 1, 2012 the Employer and participating employees shall contribute the following base monthly amounts for coverage under the employer's insurance plan;

<u>Base Monthly Contribution</u>	<u>EMPLOYER</u>	<u>EMPLOYEE</u>	<u>TOTAL CONTRIBUTION</u>
Single Contribution	\$583.49	\$108.33	\$691.82
Family Contribution	\$1057.68	\$195.33	\$1,252.68

Plan contributions will continue unchanged for calendar year 2011. Should the plan costs for 2012 exceed the total base monthly contribution amounts set forth above, the Employer agrees to absorb up to an additional fifty dollars (\$50) for single coverage and up to an additional one hundred dollars (\$100) for family coverage and \$1,352.68 for family coverage; any additional costs for coverage in 2012; above \$741.82 for single coverage and \$1,352.68 for family coverage shall be split equally between the Employer and employee.

Commencing in January 2013, any costs above the 2012 total contribution amount shall be shared equally with the employer contributing fifty percent (50%) and the employee contributing fifty percent (50%) of such additional (excess) cost in order to continue participation.

Employer agrees to establish a Section 125 plan in order to make said deductions pre-tax. (City Binder p001156 amended)

The Employer offers what it deems an equitable health plan "... with the goal of empowering employees as educated consumers of the plan. Under this arrangement, a base

contribution amount would be established at the current amounts. The Employer agrees that plan contributions will not increase in 2011. The Employer also agrees to absorb any increase up to fifty dollars (\$50) for single coverage and one hundred dollars (\$100) for family coverage in 2012. Any increase in subsequent years above the 2012 rates would be split equally between the parties. Control would be shifted to a union dominated committee that would have broad, sweeping power in the area of insurance.” According to the City advocate, this language has been agreed to by the police department units. (City Final Position p. 5)

“The insurance committee would be empowered to control insurance costs by actively managing the plan, evaluating options, and setting plan design.” (id)

The City is proposing “to eliminate retiree health care coverage for employees who retire after December 30, 2013.” (Id.)

UNION POSITION

The Union has concerns with the City’s proposal because of the uncertainty of their health care premium liability over time and offer data showing how much more they would have had to pay in premiums under the City’s proposal if the City’s proposal had been in place over the past 10 years. (Union Binder Tab 14)

The Union recognizes that they need to pick up some of the premium costs since health care costs have been skyrocketing and the City can no longer carry the burden of health care alone. The first concession on this health care issue came with the MOU of December 29, 2010 where the Union agreed to make modest contributions. The union agreed to increase their contribution to \$195 a month for family and \$108.33 for single and then go to a fifteen (15%) premium payment in January 2012 (underscore by Fact-finder).

DISCUSSION AND RECOMMENDATION

This Fact-finder has never encountered a health insurance premium proposal like the one offered by management. It would be helpful if there was some experience with such a plan from some other jurisdictions, with experience in using the employer’s proposal. However, this is a fast moving business and we are not likely to see if the plan will work the way management says it will until it is implemented. Management maintains it offers tremendous potential savings because it gives the employees a major stake in the outcome. The Union sees the proposal as an enormous health care premium shift to them over time. What is needed is a trial experiment, not opinion, to see if the proposed City plan will work, but the Barberton Fire Fighters have their backs against the wall and are

making concession after concession to keep their jobs and serve the citizens of Barberton. They should not be the trial group for management's untested proposal.

The Union is proposing to move to a fifteen percent (15%) premium contribution. This is a long way from the first MOU's in 2010 where their increases in premiums were modest. The current contract language was extraordinarily modest with only token premium contributions. The Union has come a long way. They are offering one more significant concession in recognition of the fiscal problems faced by the City of Barberton to save their jobs and serve the citizens of Barberton.

Furthermore, the controversial Ohio Senate Bill 5, which is going to be challenged by a referendum in the fall 2011, will require a 15% premium share if it is upheld. This Fact-finder has no idea how this referendum will turn out, but Barberton will be ahead of the state by meeting some of the Senate Bill 5 standards, assuming the voters confirm it. Even if they do not, their proposal is much more common and predictable, and since the Union now has a significant stake in the cost of health insurance they will be motivated to seek savings in health care increased premium sharing. There is no reason the Fire Fighters Union should not participate in a health insurance committee even if their premium payment is different than the other Unions. A 15% premium share is a motivator to seek savings in health insurance.

The Union language is recommended on this issue.

SECTION 25.3 ADMINISTRATION

The 2nd issue in Medical Insurance is the Administration of the program. Both sides are recommending some sort of committee to administer the program. Administering here means selecting benefits and insurance providers not the payment of the bills. Health Care has become a financial nightmare for both the private sector and public sector. Costs continue to rise at extraordinary rapid rates even in bad economic times. Employers are now often anxious to turn this problem over to the employees. The recent GM contract is a good example. The City of Barberton is offering to empower a labor management committee to take some degree of control of the administration of health care. In this instance, The Fact-finder would prefer that the parties negotiated how they would construct this committee and what power or lack of authority it will have because it has generated the usual paranoia and mistrust and that anything the Fact-finder proposes will not alleviate those concerns. The committee needs to operate from good faith and trust if it is to have any success and there is evidence, on occasion, these committees work. Before addressing the machinations of how many and from what unit will make up the committee, it needs to be recognized that the members named to the committee by the units is more important than which unit gets more votes. Without good appointees, who operate from good faith, these committees tend to fail.

CITY PROPOSAL

The City states in its Position Statement that "The insurance committee would be empowered to control insurance costs by actively managing the plan, evaluating options and setting plan design." City Binder p. 00157) That City wants to keep control of selecting the insurer which is apparently different than the plan. Section 25.3 Administration Insurance Committee/insurance Changes "The Union acknowledges the Employer's right to seek and secure insurance carriers that most efficiently provide economical service." (See Employer Binder p.000156) .

Under the same article *The Union agrees that the City may create and maintain an insurance committee for the purpose of studying and recommending cost containment programs for medical and prescription coverage, reviewing usage, and recommending changes to the plan and benefit levels. Once created the union agrees to participate in the committee. The committee shall consist of one (1) representative from each of the bargaining units, one (1) non-bargaining unit employee and a number of management representatives of the Employer equivalent to the total number of City bargaining unit representatives participating. The insurance committee shall have the authority to recommend alternations to the plan and benefit levels and/or recommend adjustments to coverage levels through majority vote.*

Specifically, the committee may recommend any of the following options;

- A. To keep the same plan and/or benefit levels and pass on any cost increase above the levels set forth in Section 2 of this article to the parties; or*
- B. To change the plan and/or alter the benefit levels so that there is no increase in the cost of the plan; or*
- C. To change the plan and/ or alter the benefit levels, and to reduce or minimize the increase in the cost of the plan above the levels set forth in Section 2 of this article, and pass that increase along to the parties.*

Section 25.4 Recommendations of the committee cannot be unilaterally changed by the City.

Recommendations of the committee cannot be unilaterally changed by the City. Recommendations of the committee, and Employer actions to carry out those recommendations, are final and binding on all parties involved and shall not be subject to the grievance procedure or any other avenue of appeal. If, however the committee makes no recommendation by November 1 for the following plan year, the city may unilaterally adjust the plan and benefit levels as required to stay within the total base contribution costs set forth in Section 2. (HAS TO COME OUT SINCE IT IS AT ODDS WITH THE RECOMMENDED 15% contribution above)

UNION PROPOSAL

The Union proposes a different insurance committee membership than the one offered by the City because the Police have three bargaining units. The Fire Fighters want more representation for the Fire Fighters.

New language Section 25.4 Changes in Coverage Recommendations of the committee shall be implemented and shall not be subject to the grievance procedure or any other avenue of appeal. Changes shall be implemented for members of all participating bargaining units and all non-bargaining and management level employees. (Union Final Position p 8)

DISCUSSION AND RECOMMENDATION ON THE COMMITTEE AND COVERAGE RECOMMENDATIONS

The Union's interest in the number of members from each unit is understandable but it is not clear how the Police would have a different incentive for saving money than a Fire Fighter, so this request does not carry a lot of weight. Second, the pattern argument, offered by the employer, on the type of insurance coverage premium payment is not relevant since all parties with large premiums have an incentive to seek savings in health care expenditures. If the Police have accepted management's health insurance proposal, as management claims, the Police and the Firefighters, with their large premium share, will have an equal incentive to keep costs down so this is not a barrier to successful committee work if good members are appointed.

Recommendation on the Committee Structure: City language with two parts struck out of City language See below:

Recommendations of the committee cannot be unilaterally changed by the City. Recommendations of the committee, and Employer actions to carry out those recommendations, are final and binding on all parties involved and ~~shall not be subject to the grievance procedure~~ or any other avenue of appeal. If, however the committee makes no recommendation by November 1 for the following plan year, the city may unilaterally adjust the plan and benefit levels.— ~~as required to stay within the total base contribution costs set forth in Section 2.~~ (HAS TO COME OUT SINCE PROPOSED CITY CONTRIBUTION LEVELS ARE NOT RECOMMENDED FOR THE FIRE FIGHTERS)

Note the text strikes are proposed to give the Union the right to grieve since their language was not accepted. The City should not enjoy immunity from the grievance process on this issue. There was on such immunity in the last contract that I can find. Two, the total base contribution language in Section 2 is based on the City's proposed premium payment plan, which is not recommended by this Fact finder's report for the Fire Fighters.

Recommendation: With these above strikes, the City language on the Health Care committee is recommended. (underscore by the Fact-finder)

SECTION 25.5 RETIREE COVERAGE

CITY POSITION

The City is proposing to eliminate retiree health care coverage for employees who retire after December 31, 2013. Again, the December 30, 2013 date is confusing – why not December 31st.

UNION POSITION

The Union proposes current language.

DISCUSSION AND RECOMMENDATION

The State of Ohio has very generous retiree pension and health benefits for their retirees. Certainly the benefits are better than most private sector retiree benefits. The City was certainly very generous when it was fiscally healthy however those days are, at least for now, are gone - December 31 is recommended.

Recommendation: City language with December 31 date.

SECTION 25.6 SURVIVING SPOUSE COVERAGE

CITY POSITION

The City proposes to eliminate surviving spouse coverage. Which is “One-half of the premium costs of continuing hospitalization insurance of surviving spouse or dependents of deceased active employees shall be paid by the Employer. This benefit will cease upon remarriage of the surviving spouse or attainment of the date of eligibility for retirement that the deceased would have enjoyed but for the employee’s death.”

UNION POSITION

Maintain current language.

DISCUSSION AND RECOMMENDATION

These first responders put their lives on the line every day and should have some comfort that their families will have some protection. However there are problems with this language. It is antiquated. One can get married and not get spousal benefits. Second, there have to be some spousal health benefits in the pension plan. This language needs to be updated, but for now:

Recommendation: Current Contract language.

NEW SECTION 25.6

Adult Dependent (Age 26-28) Coverage Premium Rates

CITY PROPOSAL

Section 25.6 The coverage costs and formula contained in the forgoing sections does not include costs associated with Adult Dependent (ages 26-28) Coverage. These costs shall be covered by this section. Any adult dependent age 26-28 whom by law is permitted to participate in the City' plan shall be assessed a separate premium for coverage under the City's plan. That premium shall be established by the Employer.

UNION POSITION

The Union maintained this issue is addressed by federal and state law and this language is unnecessary. The City case was not clear.

DISCUSSION AND RECOMMENDATION

The Fact-finder was not persuaded there was reason to include this language.

Recommendation: Union position. Current Contract language.

COMMENT ON ISSUES 8 and 9 OFFERED BY THE CITY

The following language is offered to do two things: 1. Offer fiscal relief to the financially strapped City of Barberton, provide the Union with concession language that sunsets in the future, since it is in an MOU and not embedded in the Contract language, thus, existing contract language remains on many of these issues but for the time being that language is pre-empted by the proposed MOU. The other point is that the agreement in the MOU's were negotiated by the parties, which make them more attractive than something an outside Fact-finder can conjure up. It is recognized the Union has made substantial concessions to save jobs and that should be kept in mind by all the parties.

ISSUE 8 AND 9

MEMORANDUM OF UNDERSTANDING, LIMITED CONTRACTUAL ADJUSTMENTS

CITY POSITION

"The Employer is proposing to continue the contractual modifications as agreed to by the parties through the term of the successor agreement and during negotiations for the next successor agreement. The modifications are temporary in nature and help address the need for fiscal relief on

the part of the City.” (City Final Position p.6) The City argues it cannot afford to have these adjustments expire.

UNION POSITION

The Union prefers to revert to current language. The concessions were reviewed at the hearing. The Union indicated that if the Fact-finder recommended any or all of the concessions in the MOUs that they have a sunset characteristic, which they do, since they are not recommended as embedded as permanent contract language.

DISCUSSION AND RECOMMENDATION

The Following Memorandum of Understanding is recommended as a central part of this Fact-finding recommendation. It is the Fact-finder’s opinion that these concessions were agreed to in order to retain the minimum manning language and save the jobs of Fire Fighters. It is the view of the Fact finder that these concessions should be continued due to the precarious nature of the City of Barberton’s finances and protect the current force of the Barberton Fire Fighters. I have deleted those concessions that are no longer relevant or have been pre= empted by the recommended contract language above such as Health Care or altered or dropped by the 2nd MOU dated December 29, 2010. The City’s request as Issue 9, 2080 Rate Suspension is addressed below. Also recommended language from the MOUs dated March 3, 2010 and December 29, 2010 are included in one document. It is assumed that the language in the second MOU takes precedent.

Recommendation of Memorandum of Understanding

Memorandum of Understanding

The City of Barberton (Employer) and the Barberton Firefighter Association Local 329 (Union) agree that the following concessions (enumerated below) and contract modification made for the year 2010 and edited by the Fact-finder shall be continued during the year 2011 until such time as the parties have settled their contract. The contractual modifications as agreed to by the parties will continue through the term of the successor agreement and during negotiations for the next successor agreement. The modifications are temporary in nature and help address the need for fiscal relief on the part of the City of Barberton.

EDUCATIONAL BENEFITS/INCENTIVES

Article 23 Section 23.1 Educational Benefits. Barberton Firefighters will allow the City the concession of foregoing the 2010 contractual obligation for financial reimbursement of the entire cost of necessary charges for admission fees, textbooks and tuition.

HOLIDAY COMPENSATION

Section 20.2 Holiday Compensation. All holidays will begin at 0730 hours on the day of the holiday and will end at 0730 hours the date following the holiday. All employees who work on a holiday shall be paid one and one-half (1 1/2) times the 2496 rate for all hours worked up to twenty-one (21) hours in money in addition to their normal wages as a holiday bonus. The additional three hours, if worked, shall be paid as compensatory time off. Employees may choose to be paid the entire, or any part, of the holiday bonus as compensatory time off.

7 FIREFIGHTER CALL-BACK

Article 18 Section 18.6 Any transport assist or transport that drops in-service staffing below (7) would create a call back to bring staffing level back to seven (7). It is mutually agreed that the current language will cease to have effect.

COMPENSATORY TIME

All earned overtime for Paramedic/EMT CME and off duty fire training CE, special team training/operations, and Public Education shall be compensated by compensatory time off at the appropriate rate earned. Members may request any other earned overtime and/or holiday compensation to be paid in compensatory time off or money. All compensatory time earned and accumulated in 2010-2013 may be used as compensatory time off; any unused compensatory time shall be carried over into following years but shall at no time have cash value.

Barberton Firefighter Association Local 329 (Union) and the City of Barberton (Employer) agree to a total of (2) twenty four hour blocks of time for each 24 hour shift to be used for vacation and/or compensatory time off. The third block of vacation and/or compensatory time off will only be available at the start of each shift if it does not create a call-in. The Shift Commander may approve the third block of vacation/or compensatory time off throughout their shift provided it does not create a call in.

All other provisions of *Article 21, Vacations* and any other provisions in the Collective Bargaining Agreement referencing vacation shall remain in effect. Compensatory time off shall not be used for the purpose of vacation pick as defined in *Article 21 Section 21.2 4b*.

MEMORANDUM OF UNDERSTANDING RATE SUSPENSION

CITY POSITION

“The Employer has proposed to continue the 2080 rate suspension indefinitely with reinstatement through the negotiation process. The City’s financial position does not warrant lifting this agreed upon suspension and the thirty percent (30%) increase in the cost of each overtime hour warrants this continuation.”

UNION POSITION

The Union prefers current contract language. However if they are unable to achieve restoration of their 2010 Contract language they want the proposed language to sunset, as it does, if it is in the form of an MOU, and will end at the termination of the MOU and the terms will revert to language of the previous language.

The following language from the MOU of December 29, 2010 is to be included in this proposed omnibus MOU.

2496 & 2080 OVERTIME RATES

***Section 18.2 Applicable Rate.* Overtime occurring Monday through Saturday (non-Holiday) shall be one and one-half (1 1/2) times the 2080 rate. Overtime occurring on a Sunday or holiday shall be two (2) times the 2080 rate. It is mutually agreed all contractual 2080 rates in the Collective Bargaining Agreement shall be changed to the 2496 rate.**

LAY-OFF PROVISIONS

The City of Barberton agrees there shall be no lay –offs for the term of the successor agreement and during negotiations for the next successor agreement.

FOR THE CITY OF BARBERTON

FOR IAFF LOCAL 329 AFL-CIO

DATE_____

DATE_____

The above meets the requested proposal of the City. However as concessionary as it is for the Union, it meets their interest in having the concessions sunset since the language is not embedded in the Contract. Existing contract language remains in the contract and is temporarily suspended by the above recommended MOU, which is recommended to the parties.

ISSUE 10

SIDE LETTER, PART-TIME PERSONNEL

CITY POSITION

The City proposes a side letter for a joint labor management committee to meet and discuss issues related to part time personnel

UNION POSITION

The Union opposes such a letter and indicates it will fight part time hiring if it should occur.

DISCUSSION AND RECOMMENDATION

The concessions agreed to in the MOUs and the concessions recommended for the Fire Fighters of IAFF Local 329 for the successor contract by this Fact-finder assumes there will not be any part-time hires under this contract .

The request for the letter is denied.

ARTICLE 37 DURATION

UNION POSITION

The Union proposes to add language incorporating the wage reopener offered in Article 16.

CITY POSITION

The City is opposed to the wage reopener for Article 16.

DISCUSSION AND RECOMMENDATION

The Union language is denied. However, the following language is recommended to have the MOU coincide with the life of this recommended. Agreement.

Section 37.1 Term This Agreement and the attached MOU shall be effective from January 1, 2011, to and including December 31, 2013, and shall continue on a year-to-year basis thereafter unless within one hundred and twenty (120) days prior to the termination date either party desires to renegotiate or terminate the Agreement. The covenants, MOUs and Agreements herein contained shall bind and ensure the benefits to the parties and their representatives, successors and assigns.

Section 37.2 In Witness Whereof the City of Barberton has caused this Agreement and MOU to be executed by its Mayor and Director of Public Safety, and the Union, IAFF Local 329, AFL-CIO, CLC which has caused this Agreement to be executed by the President and Vice President (this date) 2011 pursuant to the authority granted by the Council of the City of Barberton, Ohio.

The Fact-finder respectfully submits the tentative agreement agreed to by the parties, and the recommendations stated above on the outstanding issues to the parties this 17th day of July 2011 in Mahoning County.

William C. Binning Ph.D.

Fact-finder