

STATE EMPLOYMENT RELATIONS BOARD

IN THE MATTER OF :
FACT-FINDING BETWEEN :
 :
THE CITY OF FRANKLIN : **CASE NO: 12-MED-08-0712**
 :
AND :
 :
INTERNATIONAL ASSOCIATION OF : **FACT-FINDING REPORT**
FIRE FIGHTERS LOCAL 3742 :
 :

HEARING

Hearing Dates: February 21, & March 19, 2013
Report Issued: April 11, 2013
Hearing Location: City Municipal Building
1 Benjamin Franklin Way
Franklin, Ohio

Employer Representative: Mr. Brett A. Geary, Regional Manager
Clemans Nelson & Associates, Inc.
420 W. Loveland Avenue
Loveland, Ohio 45140-2322

Other Employer Participants: Ms. Donnett Fisher, Esq., City Law Director

Union Representative: Ms. Susan D. Jansen, Esq.
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Dayton, Ohio 45402-1156

Other Union Participants: Mr. Tony R. Abston, President IAFF 3742
Mr. Michael S. Perry, Sec./Treasurer IAFF 3742

Fact-finder: William M. Slonaker, Sr., JD, MBA, SPHR

APPOINTMENT

This Fact-finder was appointed by letter dated October 29, 2012, from the Ohio State Employment Relations Board. Pursuant to the appointment, this Fact-finder was bound to conduct a Fact-finding Hearing and to serve on the Parties and SERB his written Report and recommendations on the unresolved issues. Subsequent to the appointment, the Parties agreed to an extension: "The parties agree that the fact-finding hearing must be conducted on or before 2/28/13 . . ." The Hearing was convened on February 21 and continued on March 19, 2013. The Fact-finder is to issue a report on April 11, 2013, but may request an extension if needed.

STIPULATIONS

1. That this matter is properly in Fact-finding as are the issues presented during the Hearing, all time and other requirements having been met.
2. At the Parties request, they stipulated that they wanted the Fact-finding Report sent to them as an email attachment and not in writing.

CRITERIA

Pursuant to Rule 4117-9-05(J) State Employment Relations Board, the Findings of Fact and Recommendations presented in this Report are based on reliable information relevant to the issues before the Fact-finder. In making recommendations, Fact-finders shall take into consideration the following:

1. Past collectively bargained agreements, if any between the parties;
2. Comparison of 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; and,
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.

BACKGROUND – THE PARTIES

Article 2 of the Agreement provides in-part:

Section 2.02. Employees Defined. The term employee or employees as used in this agreement shall refer to full-time paid employees assigned to the following classifications:

- A. Firefighter/EMT or Paramedic

B. Lieutenant

C. Captain

* * *

The Bargaining Unit consists of six (6) full-time, long-term employees: three (3) Captains and three (3) Lieutenants, all in supervisory positions. The same six are qualified as Firefighter/EMT (3) or as Firefighter/Paramedic (3) (for ease of reference referred to as “Full-time Firefighters” or “FTF”). The term of the Parties’ most recent Agreement is October 12, 2009 through October 11, 2012. Increases (3%) to wage rates became effective on January 1 in each of the years 2010, 2011, and 2012. However, the 2010 increase was waived by the Union.

The six FTF are supplemented from a list (EE 7T) of 45 non-full-time firefighters, some of whom are also qualified as EMTs and paramedics (for ease of reference referred to as “non-full-time firefighters” or “NFTF”). The Parties explained that the NFTF are **not** “part-time” employees, and that each sets their own schedules. Thus, they are “non-full-time.” When needed, some of the NFTF are qualified to act in a supervisory capacity. The NFTF supplement the full-time unit on a regular basis. All are dedicated to serve Franklin residents to protect life, property, and the environment through fire suppression, code enforcement, public education, confined space rescue, and hazardous material operations. The Bargaining Unit members find that their Agreement with the City helps to retain and attract a capable labor pool, to promote work performance, provide a peaceful and equitable method for adjustment of differences that may arise, ensure fair treatment, and generally provide for stable and orderly relations in the interest of the City and its residents.

The City includes approximately 11,800 residents with mean household income of about \$48,000 (2010) (EE 7H) and has about 78 full-time and about 42 part-time employees. Other bargaining units include police lieutenants, sergeants, patrol officers, dispatchers (FLEA, expires 06-30-14); clerical including tax clerk, deputy tax administrators, utility clerks, zoning and code enforcement officers, secretaries not in confidential positions, custodians, park service workers (Teamsters Local 100, 01-01-12 through 12-31-14); utility persons employed by the Service Department (Teamsters Local 100, 01-01-12 through 12-31-14). There are 30 in the FLEA bargaining unit, and 19 in the two Teamsters units.

Negotiations were held on November 08, 2012 and on February 11, 2013. The Parties in good faith participated in approximately five hours of focused mediation efforts on February 21, 2013. The Fact-finding Hearing was reconvened on March 19, 2013. The following issues identified by the Parties in their Pre-hearing Position Statements and presented during the Hearing remained unresolved at the conclusion of the Hearing. The Parties’ Tentative Agreements (hereinafter identified) are recommended for adoption as part of this Report.

Collective bargaining is an ongoing process that develops and matures through the years, through successive collective bargaining agreements, and perhaps most importantly, through the daily interactions between the members of the bargaining unit and members of management. It appears that the Parties have a mature, amicable bargaining relationship that started in the 1990s. Both appear fully committed to the residents they serve. Difficult times experienced during the

past few years (the “Great Recession”) and that continue to some degree require the best working relationship possible for the benefit of all of their various respective stakeholders.

PREFACE

Every fact-finding situation is unique as to the parties, the members of the bargaining unit, the members of management/administration, their bargaining history, and their ongoing relationship. While unique issues arise, many are similar. These days, probably the two most common and most debated issues are wages and health insurance – the two most expensive issues. While these two are common, they can have facets that complicate both settlement by the parties and formulating recommendations in fact-finding. Such is the case here. This preface is offered as background to perhaps help the reader better understand the recommendations offered to these Parties. The decision whether or not to accept the recommendations set forth in this Report will be made by persons (on both sides) not present during the Fact-finding Hearing to hear firsthand the respective positions, presentations, data, and arguments. To aid them in making their best decisions, the Fact-finder has tried to document the essence of the Parties’ positions, data, presentations, and arguments.

This Fact-finder has never encountered a situation where an employer admitted that it had ample financial resources to grant the bargaining unit members their proposed wages, insurance, and other economic proposals. Understandably, those situations will never go to fact-finding. On the other hand, especially during the past five years, employers have not had the financial means to grant much in the way of economic relief to bargaining unit members. The “Great Recession” has taken its toll and cleanup efforts are ongoing.*

However, after about five years there are numerous signs that the “Great” part of the recession is behind us. Consider a few recent, local articles (*Dayton Daily News*):

04-02 “Region’s sales tax receipts rise 5%” (“Counties throughout the area collected more in sales tax revenue in 2012 than the previous year, and the outlook for 2013 is also positive as consumers cautiously emerge from the recession and boost the region’s economy through increased spending. Sales tax collections are a closely watched barometer of the health of the retail sector, which accounts for about two-thirds of the U.S. economy.”)

04-04 “Fewer home loans in default” (“Better economic conditions and tighter underwriting standards in Ohio are leading to fewer problem loans, another signal of the state’s housing market recovery, Federal Reserve researchers said.”)

04-05 “Applications for jobless benefits increase” (“Applications are a proxy for layoffs. They have declined steadily since November, pushing the average to a five-year low three weeks ago.”)

Generally, the Union is correct that *in this case*, with this Fire Department, this City, and their unique circumstances, the four economic issues in this Fact-finding – sick leave, health insurance, holiday pay, and wages – must be viewed as a “package.” That package is at the heart of the FTF’s economic benefits. The four are not free-standing issues that can fairly be decided one-

*Consider only a few examples reported just this past week, in just one publication (*The Wall Street Journal*):

“Former Fund Directors to Settle With SEC – Action Tied to Implosion of Mutual Funds During Financial Crisis” (3-29); “AIG Says Fed Employee Reversed Testimony on BofA Case” (3-29 . . . part of a long-running battle over losses . . . incurred after purchasing troubled mortgage bonds underwritten by Countrywide and Merrill Lynch”); “Bank of America Settles With Regulator on Mortgage Losses” (4-02). A great summary of the numerous causes of the Great Recession is the 2010 book by Bethany McLean and Joe Nocera, All The Devils Are Here – The Hidden History of the Financial Crisis.

by-one, out of context with the others in this case. The four economic benefits were negotiated in the past as part of prior contracts, with give-and-take (consideration) on both sides. This complicates making recommendations, all the while considering the six above Criteria.

Another complicating consideration is that this is a rather unique Fire Department. As described above, the Bargaining Unit includes only six members, the FTF. Most staffing of tours is from a list of about 45 non-full-time-firefighters (NFTF). Since January 2, 2013, each tour is staffed with two full-time and seven non-full-time firefighters. This organization is financially advantageous to the City and its residents who pay for the services. The small size of the Bargaining Unit is not financially advantageous when it comes to the costs associated with the fact-finding/conciliation process. That is, “reopeners” for health insurance and wages would result in additional costs for the Union – and for the City. Regardless, reopeners would require the Parties to restart negotiations within a few months, whereas a three-year term for the entire Contract is standard in Ohio and will promote stability in their bargaining and working relationships.

In summary, the goal for this Fact-finder (and for the Parties should either not accept this Report) is to make recommendations that are appropriate for the reemerging, improving financial condition of the City, and with which the Parties can live with for three years without reopeners, all without causing undue hardship on either the City or the FTF. Parties to a dispute must understand that if they are going to resolve it, neither side will get all they desire, and both sides must agree to provisions with which they disagree. Further, these Parties are already six months into the term for their new Contract, *i.e.*, effective date of October 12, 2012.

Finally, this Fact-finder suggests* that numbers only collectively paint a financial picture. Rarely will one or two numbers provide “*the*” financial answer. Like an oil painting, individual brushstrokes only make sense when the viewer steps back and looks at them as a whole. This Fact-finder urges the reader to consider the Parties’ arguments and the tables summarizing their arguments in numbers, and then step back and consider them collectively, as a whole, *i.e.*, as a “package.”

*Based on the experience of having read & studied 1,000+ sets of financial statements in the private sector (non labor situations) since about 1992, trying to assess “financial stability.”

ISSUES

ISSUE 1: REGARDING ARTICLE 9 – SICK LEAVE – CITY’S PROPOSAL TO REDUCE THE NUMBER OF HOURS

CITY’S ECONOMIC PROPOSAL AND ITS ARGUMENTS

The City proposes that the following changes be made (as shown in bold):

Section 9.01. Regular full-time tour employees shall be entitled to sick leave of **thirteen and one-quarter (13.25) ~~twenty-nine (29)~~** hours with pay for each completed month of service. Regular full-time non-tour employee (40 hour employees) shall be entitled to ten (10) hours with pay for each completed month

of service. Sick leave shall be used for the purposes as prescribed in the ORC 124.38.

* * *

Section 9.04. In any one year, sick leave credits may be converted to cash under the following schedule for employees hired prior to October 11, 2006 (a “day” meaning eight [8] hours): * * *

* * *

The City notes that all six FTF are full-time tour employees and work a 2756 hour work year, resulting in 348 sick leave hours per year. By comparison, all other full-time City employees work a 2080 hour work year and accrue approximately 120 hours of sick leave. This includes non-bargaining unit employees and bargaining unit employees in the police and the two Teamsters units who accrue 4.6 hours per 80 hours ($2080 \div 80 = 26 \times 4.6 = 119.6$ hours) (EE 7A,B,C) Thus, while the FTF work 32.5% more hours than the other employees, they receive 1.9 times more sick leave hours than the others receive.

ORC 124.38 Sick Leave provides in-part, “Each of the following shall be entitled for each completed eighty hours of service to sick leave of four and six-tenths with pay: (A) Employees in the various offices of the . . . municipal . . .”

The current disparity between the FTF and other City employees traces back to some extent to the case of *Johnson v. City of Franklin, et al.*, [12th App. Dist., Warren Co., 1989 Ohio App. LEXIS 3505] when a retiring fire chief contested how 150 “days” of accumulated sick leave pay should be computed. The City said it was 150×8 hours per “day.” The retiring chief successfully argued that a “day” for the City’s firefighters (including him) was 24 hours, thus he should be paid 150×24 hours. The Court said in-part:

On June 10, 1988, plaintiff-appellant, Forrest Johnson, retired as Fire Chief of the Franklin Fire Department after twenty-eight years of service. The Franklin Administrative Code entitled Johnson to up to one hundred fifty days of accumulated sick leave pay as part of his retirement compensation. However, Johnson and the city disagreed on how many hours constituted a “day” for the purposes of retirement compensation.

The dispute originates in the different hours worked by Franklin fire fighters as opposed to other city employees. The fire department operates on a platoon system whereby employees work a twenty-four-hour shift, and then are off duty for forty-eight hours. * * *

The evidence presented at trial showed instead that fire fighters were credited and debited sick leave in twenty-four-hour increments. Based on the theory of equitable estoppel, the city must now be precluded from asserting that a day is eight hours long for purposes of disbursement of retirement benefits.

Subsequently, the Ohio statute changed to include “each completed eighty hours of service to sick leave of four and six-tenths hours”

The City acknowledges that the use of a 24-hour day for FTF predates the Parties’ first bargaining agreement (1997) and they have essentially been receiving almost three times what all other City employees have been receiving. The City argues that it is unfair for the six FTF to continue to receive 1.9 times *more* sick leave than all other 72 City employees receive for working only about 33% more hours.

Per the City’s nine comparables (EE 7E):

CITY	SICK LEAVE DAYS (HOURS)
Clayton	7 (168)
Greenville	7 (168)
Blue Ash	5 (120)
Monroe	6 (144)
Reading	7 (168)
Sharonville	6.75 (162)
Springdale	6.75 (162)
Urbana	6.6 (158.5)
Wilmington	7 (168)
Average	6.57 (157.6)
Franklin	14.5 (348)

The City recognizes that FTF work about 32.5% more hours in a year. By using the City’s proposed 13.25 hours for each completed month, the FTF will receive about 32.5% more sick leave hours than other City employees. The others (EE 7A,B,C) receive the following per year: 2080 hours ÷ 80 hours x 4.6 hours = 119.6 (*i.e.*, round to 120) hours of sick leave per year. The City’s proposal for the FTF will result in 12 months x 13.25 hours = 159 hours of sick leave per year. Thus, 159 – 120 = 39 more hours, and 39 ÷ 120 = 32.5% more sick leave for FTF. The City argues that the proposed 159 hours much better matches the City’s comparables. The City is not proposing to take away any accumulated sick leave. It is only saying that it should be accumulated in a reasonable, rational fashion in the future.

Regarding the City’s proposed addition to Section 9.04 of: “(a “day” meaning eight [8] hours)” it wants to make sure that everyone understands that a “day” is eight hours for the purposes provided in that Section. The City admits that current language in sub-paragraph E of that Section already does that, but the City wants to reinforce that by adding it to the opening provision of that Section. In other words, the City wants to document that for yearly conversion purposes in Section 9.04, a “day” is eight hours. Both Parties agree that there have been no problems or grievances over this, and that the language in sub-paragraph E “a day shall be defined as eight (8) hours” applies to the Section. With the City’s explicit representation that its proposed addition to Section 9.04 of: “(a “day” meaning eight [8] hours)” essentially duplicates the definition of a “day” already contained in sub-paragraph E, the Union agreed to the addition of the language to sub-paragraph E.

UNION'S POSITION AND ITS ARGUMENTS

In response, the Union proposes to maintain current language. Prior to 2006, the number was 30 hours and was dropped to 29 in the 2006 contract. This is a long-standing benefit, and the Union does not understand why the City proposed this change at the last minute, with no discussion or negotiation. The Union says it was surprised when the City made its proposals regarding sick leave at their last negotiation. They did not know there was an issue with sick leave until then. They believe it was in "response" to the Union's proposal regarding overtime with which they thought the Chief was in agreement. Thus, the Union suggests the City is not really concerned about its proposed changes to Article 9.

The Union acknowledges that FTF work 2756 hours during a work year, whereas all of the other City employees (bargaining and non-bargaining) work 2080 hours. The Union further notes that is a considerable difference. But even more important, the Agreement is a result of *quid pro quo* over the years, and sick leave is part of the current overall economic package. In 2006, the Union agreed to reduce 30 hours to 29 hours in Section 9.01, as part of the economic package then negotiated. This issue cannot be considered in isolation. Sick leave is an important benefit for FTF. For the City to further reduce the 29 hours, there should be some *quid pro quo* to be negotiated in other parts of the Contract. That is not part of the City's current Fact-finding proposals – in wages and health care proposals. The City is not offering any *quid pro quo* to justify its sick leave proposal.

The Union notes that it is not uncommon for a bargaining agreement to provide some benefits that differ from other bargaining agreements within the same employer. Bargaining units may agree to different benefits in lieu of some other economic benefit. Sick leave is part of the long standing negotiated package that is unique to the FTF Bargaining Unit. To take away such a unique benefit is typically accompanied by some other benefit given in exchange – but the City has not offered any such consideration in their proposals.

RECOMMENDATION

At first glance, the disparity between the sick leave provided for the FTF and for the City's other employees appears to be significant. It is significant when compared to the City's other employees, it is significant when compared to the sick leave provided to the City's comparables (see table). However, that difference has been part of the Parties' negotiated Agreement since bargaining began in 1997, and was the practice before that date. It is a longstanding part of the FTF's economic package. FTF work significantly more hours per year than do the other employees, and (but for the police) perform work fraught with significantly more danger than other City employees. Those differences are properly recognized when comparing classifications of employees. Further, over the years and up to the present, the City has paid for the difference in sick leave and there is nothing to indicate (see wage discussion below) that it cannot now continue to afford this economic benefit. While neither Party claimed otherwise, a brief review of ORC 124.38 indicates that the 80 hours of work generating 4.6 hours of sick leave is a minimum and not a limitation on the Parties agreeing otherwise.

It appears from the Fact-finding discussions that the Union may be willing to further discuss the issue of sick leave if the City offered sufficient *quid pro quo* to justify giving up the current sick leave benefit. By analogy, if your automobile is much better than others in the neighborhood,

will you/should you give it away in exchange for something much less desirable merely because your neighbors ask you to do so – without sufficient compensation in exchange? As noted, there are several reasons why the FTF have a longstanding, significantly better sick leave benefit than the other City employees and they should not have to give it away without some significant consideration – which may or may not be the subject of future contract negotiations.

The **Fact-finder recommends** that the Union’s proposal to maintain current language be accepted by the Parties, and that the City’s proposal to reduce sick leave (Section 9.01 proposal) not be accepted. However, based on the Parties’ understanding and agreement that the City’s proposed addition to Section 9.04, to wit: “(a “day” meaning eight [8] hours)” merely repeats/reinforces existing language in Section 9.04 E, which currently states in-part, “a day shall be defined as eight (8) hours” be accepted by the Parties.

ISSUE 2: REGARDING ARTICLE 24 – CITY’S PROPOSAL FOR INSURANCE & UNION’S PROPOSAL FOR INSURANCE

CITY’S ECONOMIC PROPOSAL AND ITS ARGUMENTS

The Employer proposes current language in Article 24, excepting for the following proposed changes (as shown in bold):

Section 24.02. The City of Franklin shall make available to all bargaining unit employees the same major medical/hospital care insurance plans, health insurance accounts (HSAs) and dental plans that are available to non-bargaining unit City of Franklin employees. All insurance requirements (e.g., fees, co-payments, etc.) specified for such non-bargaining unit City employees shall also be applicable to bargaining unit employees; this does not include premium contributions, described below. The City will have the right to change carriers. If an insurance buyout is offered to non-bargaining unit employees, it shall be offered to employees covered by this labor agreement on the same basis.

The participating employee shall pay **twelve and one-half percent (12½%)** ~~eleven percent (11%)~~ of the applicable premium rate in **2013 2010**, **thirteen percent (13%)** ~~eleven and one-half percent (11½%)~~ of the applicable premium rate in **2014 2011** and **thirteen and one-half percent (13½%)** ~~twelve percent (12%)~~ of the applicable premium rate in **2015 2012**. Employee contributions shall be by payroll deduction and shall be divided into two (2) equal deductions per month.

The parties shall establish a Joint Insurance Committee * * *

The City’s proposal for a one-half percent (½%) increase per year is consistent (the same) with the two Teamsters contracts and with non-bargaining employees, except the latter lag by one year. The City said it intends to continue yearly half-percent increases for all its employees until it reaches about 15%. Implementation of the Affordable Care Act may change this. The City

presented some data from SERB's 2012, 20th Annual Report on the Cost of Health Insurance in Ohio's Public Sector. (EE 7G) The Fact-finder adapted/compiled the following tables from that data.

2012 Average Monthly Medical/Prescription Premiums by Region [From Table 3.3]

Comparison Group	Av Med & Prescr Premium		Av Employee Contribution*		% of Premium Pd by Employee	
	Single	Family	Single	Family	Single	Family
Cincinnati**	\$478	\$1,282	\$55	\$154	11.6%	11.9%
Dayton***	\$484	\$1,308	\$65	\$189	12.9%	14.2%

*Includes all plans reporting, including those where employees contribute \$0

**8 counties: Butler, Warren, Clinton, Highland, Hamilton, Clermont, Brown, Adams

***11 counties: Mercer, Auglaize, Darke, Shelby, Logan, Miami, Champaign, Clark, Preble, Montgomery, Greene

The City said it associates more with the Dayton area than the Cincinnati area.

2012 Average Monthly Employee Contributions to Medical Premiums

When a Contribution is Required [From Table 4.1]

Comparison Group	Dollar Amount		% of Premium	
	Single	Family	Single	Family
Statewide	\$63	\$173	12.3%	12.9%
Cincinnati	\$60	\$178	12.6%	13.7%
Dayton	\$78	\$207	15.4%	15.6%
1-49 Eees*	\$65	\$192	13.2%	14.1%

*While the City now has about 78 full-time employees, about 20 fewer participate in the City's health insurance benefit.

The City argues that its 12½% proposal for 2013 is not out of the norm when compared to the above 2012 data.

The City does not have an HRA as proposed by the Union. The City argues that unions should not dictate the provisions of health insurance plans that cover other employees, bargaining and non-bargaining. Further, the City is unsure whether or not HRAs can provide carryovers. However, HSA monies can be carried over. The City has never guaranteed any level of contribution to HSAs. Further, for this Bargaining Unit of six to lock-in 12% employee-premium contributions for three years is unreasonable in light of the City's other employees.

Per EE 7Y, the FTF paid 12% in 2013 – not 12½% as alleged by the Union at one point. [The Union acknowledges it miscalculated the percentage based on information from the City.] EE 7Y includes the health insurance costs and copays effective 1-1-13. It shows the FTF (12%), the police (12.5% FLEA), the service (12.5%) and the clerical (12.5%) employees (two Teamsters), and the non-union (12%) employees. EE 7Y also includes the total monthly costs for health and dental. The Fact-finder adapted/compiled the following table from the City's table.

Current 2013 Total Monthly Cost – per City’s data

	Employee	Employee & children	Employee & spouse	Family
Total premium	\$628.97	\$1,105.85	\$1,347.44	\$1,860.80
12.5%	78.62	138.23	168.43	232.60
12.0%	75.48	132.70	161.69	223.30
Add Monthly Cost to Emp	\$3.14	\$5.53	\$6.74	\$9.30
Add Yearly Cost to Emp	\$37.68	\$66.36	\$80.88	\$111.60

EE 7Z is a copy of a Columbus Dispatch article (3-08-13) regarding mandatory health insurance changes going into effect in 2014 under federal law. The article quotes from a health insurance trade association, “Anytime you add benefits to a policy, it adds to the cost of health-care coverage.” The article also notes, “But the Congressional Budget Office predicts the health-care law’s requirements that all citizens have insurance or pay a fine will increase competition among insurers, which will help lower premiums for individuals.” In short, who knows? The City admitted it did not know what the effects would be on coverages and on premiums. Thus, it argues this is not the time to add to coverages, *i.e.*, HRAs. The City is “worried” that its plan will need to change – unless and until the federal government approves the City’s plan. To tinker with provisions for one union will cause problems for others.

UNION’S ECONOMIC PROPOSAL AND ITS ARGUMENTS

The Union proposes additional language be added to Section 24.02 and that changes be made to current language (as shown in bold):

Section 24.02. The City of Franklin shall make available to all bargaining unit employees the same major medical/hospital care insurance plans, health insurance accounts (HSAs) and dental plans that are available to non-bargaining unit City of Franklin employees. All insurance requirements (e.g., fees, co-payments, etc.) specified for such non-bargaining unit City employees shall also be applicable to bargaining unit employees; this does not include premium contributions, described below. The City will have the right to change carriers. If an insurance buyout is offered to non-bargaining unit employees, it shall be offered to employees covered by this labor agreement on the same basis.

Subject to the requirements of the insurer and terms of the Plan Documents, employees may choose between a Health Savings Account (HSA) or Health Reimbursement Accounts (HRA).

If an employee elects an HAS and/or HRA, the maximum annual deductible amounts shall be partially funded by the City. The City will fund 50% of the annual deductible per plan year for single plans and 50% of the annual deductible per plan year for family plans. The City funded 50% of the maximum annual deductible per plan year shall be paid each year of this

contract.

If an employee elects an HSA, the City will contribute the full 50% of the annual deductible amount for each plan year on a single annual payment basis effective at the beginning of each plan year.

If an employee elects an HRA, the City funded amounts will be eligible for rollover in an amount not to exceed the annual maximum deductible. In all subsequent years the City contribution for the HRA will be up to the above-referenced amounts and/or the annual maximum deductible; provided that, the City will not fund any amount exceeding the annual maximum deductible.

The employee will be responsible for any taxes due that result from the City's pre-funding of employee HSA accounts on January 1 of each year.

The participating employee shall pay ~~eleven percent (11%) of the applicable premium rate in 2010, eleven and one half percent (11½%) of the applicable premium rate in 2011 and~~ twelve percent (12%) of the applicable premium rate in 2012 **2013, 2014, and 2015**. Employee contributions shall be by payroll deduction and shall be divided into two (2) equal deductions per month.

The parties shall establish a Joint Insurance Committee * * *

Both Parties acknowledge that they have a high premium/high deductible plan due in large part to their recent claims history. Being a small employer, even one or two significant claims can cause major increases for a few years. Further, the City recently required employees with access to other health insurance (through a spouse's employer) to shift to that other insurance. Thus, while the City will save hundreds of thousands, it has an even smaller group for purposes of negotiating better plan premiums.

The Union notes it has worked with the City to try to find a more cost effective plan (Teamsters) but it was not available because of the number of non-Teamster bargaining unit members employed by the City. The Union corrected its position statement to acknowledge that its members paid 12% in 2012 – up to (and thus far in 2013) not 12.5%. (See EE 7Y)

The Union noted that the City implemented a high deductible plan beginning July 1, 2010. The Fact-finder constructed the following table from data noted by the Union.

CITY'S HEALTH PLAN

Effective Date	Deductible	City's Contr to HSA	Employee % of Premium	Max Out-of-Pocket	
7-1-10	\$6,000	\$3,200	53%	½% to 11%	\$6,000
7-1-11	6,000	2,500	42%	½% to 11½%	8,000
7-1-12	6,000	1,000	17%	½% to 12%	8,000

The Union argues that for 2011, the ½% increase to employees' percentage of premiums,* plus

the 0% wage increase**, and if an employee had to pay the additional \$2,000 maximum out-of-pocket, plus the \$700 reduction to the City's contribution netted a reduction of about 6.7% to the top paid Lieutenant and about 6% for a captain. The Union computed that a ½% increase in premium contributions in 2012 cost employees with a family plan an additional \$713.43 annually*** over the 2011 premium costs.

[*Union calculates the additional ½% to be \$570.88 annually for a family plan; however, this appears high and 2010 and 2011 monthly costs for a family plan were not given so as to compute. See the 2013 Total Monthly Cost table above for perspective.]

**The FTF voluntarily did not take the 3% wage increase provided in the Agreement for 2011.]

***Again, this computation appears high. See the 2013 Total Monthly Cost table above for perspective.]

The Union alleged that the City recently told its members that effective July 1, 2013, it would not make any contribution toward HSAs, however, the City clarified that it may or may not make a contribution, depending on further analyses of its expected financial condition. The Union claims that during the negotiations for the 10-12-09 through 10-11-12 Contract, it agreed to the ½% increases in each of 2010, 2011, and 2012 based in part on the City's commitment to pay 50% of the deductible into the FTF's HSA. The Union wanted the commitment as part of the new Agreement, however, the then fact-finder rejected including specific language. He did this relying on the City's stated intent to maintain HSA contributions at 50%: "The Fact Finder heard the city indicate an intent to maintain HSA contributions that in combination with the bonus incentive would equal 50% of the deductibles . . ." (09-MED-08-0808, p. 4) The City did not maintain its commitment relied on by the fact-finder and the Union. The Union argues that the contribution be revisited because it would give the FTF economic help meeting the deductible, as well as some assurance that there will be some reasonable control on high the deductible goes. That is, the City will have "skin in the game" when balancing the deductible and its contribution. A fixed contribution can act as a check on the City pushing all of the economic burden for insurance to the City's employees.

[Note: the City disputes the importance of the statement by the prior fact-finder. The City says at most it was part of his recommendation that the City rejected. Further, the City says that the Union is asking for something, *i.e.*, 50% contribution, that none of the other City employees have.]

The Union correctly noted that the City's non bargaining employees pay ½% less for 2013 than the City's bargaining employees. The following tables are adapted/compiled by the Fact-finder from tables furnished by the Union.

[Continued Next Page]

Major Health Insurance Provisions

City Fire Departments – within 40 miles & with populations +/- 2,000 of Franklin

City Fire Department	Employee Cost / Month		Deductible		Out-of-pocket Maximum	
	Single	Family	Single	Family	Single	Family
Blue Ash	\$ 0	\$ 0	\$1,500	\$3,000	\$2,500	\$5,000
Clayton	39	122	500	1,500	2,500	5,000
Monroe	58	185	2,000	4,000	5,000	10,000
Montgomery	59	188	2,500	5,000	3,500	7,000
Reading	56	174	2,500	5,000	3,500	7,000
Sharonville	44	134	4,000	8,000	4,000	8,000
Springdale	50	100	2,000	4,000	2,000	4,000
Wilmington	60	156	500	1,000	500	1,000
Averages	\$46	\$132	\$1,938	\$3,938	\$2,938	\$5,875
Franklin	76	223	3,000	6,000	4,000	8,000

[While the individual bargaining agreement years vary, the above reflect those data in effect as of the date of the instant Fact-finding Hearing.]

Health Insurance Costs

City Fire Departments – within 40 miles & with populations +/- 2,000 of Franklin

City Fire Department	Monthly Premium Family Plan			Monthly Premium Single Plan		
	Total Cost	Employer's Share	Employee's Share	Total Cost	Employer's Share	Employee's Share
Blue Ash	\$1,336	79.0%	10.0% (2014)	\$461	79.0%	10.0% (2014)
Clayton	1,739	93.0	7.0	563	93.0	7.0
Monroe	1,089	83.0	17.0	340	83.0	17.0
Montgomery	1,306	85.6	formula	457	87.0	formula
Reading	1,161	85.0	15.0	376	85.0	15.0
Sharonville	1,343	90.0	10.0	443	90.0	10.0
Springdale	1,544	93.5	set rate	509	90.2	set rate
Wilmington	1,553	90.0	10.0	597	90.0	10.0
Averages	1,384	87.4	11.5	468	87.2	11.5
Franklin	1,782	88.0	12.0	604	88.0	12.0

[While the individual bargaining agreement years vary, the above reflect those data in effect as of the date of the instant Fact-finding Hearing.]

The Union noted that under some circumstances, an employee may not be eligible for a HSA and thus would need a HRA, and that the City would have to offer it under current IRS regulations. Thus, the Union is not proposing a change to the plan, but rather an addition to reflect current legal requirements. Currently, no FTF requires an HRA. The Union acknowledged that the HRA could be required by IRS regulations, and its proposal regarding HRA could be deleted from its proposal. The Union noted that the City did not previously object to the HRA portion of the Union's proposal.

The Union points out that health insurance and wages must be viewed as a package. The "runaway" deductible and declining contribution are more than offsetting the 2010 and 2012

wage increases. The City's proposals on insurance and wages will mean that the FTF continue to go backwards. Per the Union's comparables on wages (below) the FTF are by far the lowest paid in the area.

The Union offered a document showing the current, implemented "revised rates" that differs slightly from the City's data in the cost table above. The following table is adapted from the Union's cost information. The Union also notes that the total monthly premium costs shown below include a 9.97% increase from the prior plan year.

Current 2013 Total Monthly Cost – per Union data

	Employee	Employee & children	Employee & spouse	Family
Total premium	\$603.96	\$1,026.73	\$1,268.32	\$1,781.68
12.5%	75.50	128.34	158.54	222.71
12.0%	72.48	123.21	152.20	213.80
Add Monthly Cost to Emp	\$3.02	\$5.13	\$6.34	\$8.91
Add Yearly Cost to Emp	\$36.24	\$61.56	\$76.88	\$106.92

RECOMMENDATION

The Parties share a very difficult situation regarding health insurance. In summary, due in large part to recent claims history and to the small group size, all City employees are confronted with a high premium, high deductible plan. Regarding premium sharing, as revealed in the City's data (see City related tables) its sharing proposal is not out of line with Ohio and the two nearby regions. While admittedly premiums will rise during the Contract term, a sense of the extent/proportion of a ½% increase per year to the FTF's contribution can be had from both Parties' data (see separate tables above estimating the additional costs).

Surely, the Parties will continue to work together through their Joint Insurance Committee and advisors to find a better plan. Hopefully, the City's claims experience will decrease helping them to negotiate a better plan. In the meantime, it appears reasonable that FTF continue to share in the financial grief to the same extent as the other City employees who utilize the City's health insurance plan. When deciding whether or not to continue contributions (and the amounts) to employees' HSAs, the City's four highest paid administrators (UE Resolution 2012-16) should remember that every dollar not funded hurts the lower paid employees more than them. The same applies when negotiating the maximum out-of-pocket and other plan provisions. There is no substantial reason (bargaining history, past practice or otherwise) to treat the FTF differently – which the Union's proposal for a premium contribution cap and for a specified contribution to HSAs would do. There is no real difference between the City's proposal to increase premium contributions by FTF as compared to other City employees. It is not substantially different from the Union's comparables, given this City's recent high claims experience and its downsized group.

While the City indicated its intent to move toward a 15% maximum premium contribution by employees, the Union does not need to rely on the stated intent as the next Agreement will be

negotiated before that point is reached.

The easiest part on which to make a recommendation is that part of the Union's proposal for the City to agree to provide for HRAs. Both Parties acknowledged that an HRA could be needed in the future should a City employee not qualify for a HSA. Currently, there are no such employees. Both also acknowledge that it is IRS regulations that could require an HRA and not the Parties' Contract. Thus, there does not appear to be any reason to include it in the Contract. While contracts occasionally include a reference to law (such as EEO laws) it is not necessary to refer to laws that might have some impact on the parties in the future.

Finally, a reminder that the four economic issues presented in this Fact-finding (sick leave, health insurance, holidays, and wages) are all part of the Union's economic package under the Contract.

The **Fact-finder recommends** that the City's proposal for changes to Section 24.02, second paragraph, increasing the FTF's share of premiums by ½% for each of the three years be accepted by the Parties. It is further recommended that the Union's proposal for additions and for changes to Section 24.02 not be accepted by the Parties.

ISSUE 3: REGARDING ARTICLE 26 – CITY'S PROPOSAL FOR HOLIDAYS & UNION'S PROPOSAL FOR HOLIDAYS

CITY'S ECONOMIC PROPOSAL AND ITS ARGUMENTS

The City proposes current language in Article 26, excepting for the following proposed changes (as shown in bold):

~~Section 26.05. Tour of Duty (24/48) employees, not scheduled to work on a holiday, shall be compensated an additional eight (8) hours at their regular hourly rate of pay.~~

[Note: if adopted, then the next succeeding three Sections would need to be renumbered.]

[Further note that the City proposed changes to Sections 26.04 and 26.07 B. The Parties tentatively agreed to said changes (with a modification) and are not in issue.]

The City's intent is to eliminate the possibility of "doubling up" on holiday pay. For example, under Section 26.04, a tour of duty FTF can receive an additional eight hours of pay (holiday pay) and then receive a second additional eight hours of pay (holiday pay) under the current Section 26.05. The City proposes to eliminate that second pay.

UNION'S POSITION AND ITS ARGUMENTS

The Union proposes current language, that is, no change to Section 26.05. The City proposes to eliminate this provision that has been part of the Parties' Collective Bargaining Agreement since bargaining began in 1997, and before that it was the practice. It is a long-standing piece of the FTF's benefit package. The City's proposal would eliminate holiday pay for FTF not scheduled to work on a holiday. Other City employees receive holiday pay even when they do

not work on the holiday, and they get premium pay when they do work on a holiday.

The Union notes that FTF originally received the benefit of Section 26.05 to make up for other then discrepancies in their pay – effectively as a partial pay raise in years past. The Union said that the “doubling up” of holiday pay can only happen three times each year – Thanksgiving (with the Friday after Thanksgiving), Christmas (with the Day before Christmas), and New Years (with the Day before New Years). Further, it does not happen to every FTF every holiday. The Union argued that it is fundamentally improper to try to separate out/pick apart this benefit without a meaningful, negotiated wage package. In other words, if the wage offer by the City was appropriate, the Union would consider changes to Section 26.05, as a change to the overall benefit package.

RECOMMENDATION

For essentially same reasons enumerated above regarding sick leave, the current provision for holiday pay has been part of the Parties’ negotiated Agreement since bargaining began in 1997, and was the practice before that date. It is a longstanding part of the FTF’s economic package. FTF work significantly more hours per year than do the other employees, and (but for the police) perform work fraught with significantly more danger than other City employees. Those differences are properly recognized when comparing classifications of employees. The City is not currently offering any significant *quid pro quo* as consideration for the Union to give up the holiday benefit contained in Section 26.05. Further, over the years and up to the present, the City has paid for additional holiday pay and there is nothing to indicate (see wage discussion below) that it cannot now continue to afford this economic benefit.

The **Fact-finder recommends** that the Parties not accept the City’s proposal to eliminate Section 26.05 from the Parties’ Agreement, which would have eliminated the holiday benefit provided in said Section. The Fact-finder further recommends that the Parties accept the Union’s proposal to retain Section 26.05 with its current language. [Note: the Parties entered into a Tentative Agreement regarding Section 26.04.]

ISSUE 4: REGARDING ARTICLE 38 – CITY’S PROPOSAL FOR WAGES & UNION’S PROPOSAL FOR WAGES

UNION’S ECONOMIC PROPOSAL AND ITS ARGUMENTS

The Union proposes that the following language be stricken (shown as strike through) and that the following language be added (as shown in bold):

Section 38.01. The following pay ranges for bargaining unit members of the Division of Fire within the Service of the City are hereby established.

A. Effective January 1, ~~2013~~ **2010**, the City will pay to each bargaining unit member a ~~five~~ **three** percent (~~5%~~ **3%**) base rate increase.

[Note: the dollar amounts for the three positions and four steps will need updating.]

B. Effective January 1, ~~2014~~ ~~2011~~, the City will pay to each bargaining unit member a ~~four~~ ~~three~~ percent (~~4%~~ ~~3%~~) base rate increase.

[Note: the dollar amounts for the three positions and four steps will need updating.]

C. Effective January 1, ~~2015~~ ~~2012~~, the City will pay to each bargaining unit member a ~~three~~ percent (~~3%~~) base rate increase.

[Note: the dollar amounts for the three positions and four steps will need updating.]

The Union argues that the wage increases are justified in part due to the increased duties/work load effective January 2, 2013, when the City terminated its contract with the Joint Emergency Medical Services (JEMS) and began dispatching Franklin Fire Department certified paramedics and EMT providers on medical runs. A major benefit to City residents is faster service. Previously, JEMS was dispatched from Lebanon. [Note: the shortest distance and time reported by Google Maps is 11.1 miles, and 22 minutes.] The City will bill Medicare, Medicaid or other insurance for transportation of patients. The Union explained that it anticipates that the number of runs will increase from about 750/800 to about 3,000 per year. The additional runs will expose the FTF to additional liabilities, and responsibilities.

The Union explained that the FTF were instrumental in helping to get the EMS Levy passed in 2012. The FTF went door-to-door and knocked on every registered voter's door to encourage passage. The Union introduced a flyer used in the 2012 campaign for the EMS Levy. In part, the flyer noted: "9 Firefighter-Medics On Duty 24/7 Responding for Fire and EMS." The flyer notes that the levy was "Endorsed By [3] Former Chiefs." The Union interprets this as a commitment by the City to its residents to help achieve passage of the EMS levy. Each shift includes two FTF and seven volunteers (aka "non fulltime staff," NFTF). As part of their efforts to help secure passage, the FTF entered into the MOU waiving the \$2.00 per hour stipend through October 2015 – which will be when the new Contract expires.

Based on Union comparables, the Union suggests that the FTF Captains and Lieutenants are paid significantly below average. To assist the City with passing a fire levy, and to assist with the transition of services, the FTF certified EMT Paramedics waived (until October 11, 2015) the \$2.00 per hour additional stipend (Section 38.05) when performing EMT/Paramedic functions. Further, and very significantly, FTF took the lead among all City employees in agreeing to forego their 3% wage increase scheduled to start January 1, 2011. That 3% has never been reinstated. The following table is adapted/compiled by the Fact-finder from the Union's table.

[Continued Next Page]

Hourly Wage Rates

City Fire Departments – within 40 miles & with populations +/- 2,000 of Franklin

City Fire Department	Firefighter-Paramedic			Lieutenant [1 st rank in city above Firefighter]		
	Entry Rate	Rate @ 3 Years	Top Rate	Entry Rate	Rate @ 3 Years	Top Rate
Blue Ash	\$20.96	\$22.77	\$24.06 (@5 Yrs)	\$25.76	\$28.12	\$29.82 (@ 5 Yrs)
Clayton	16.35	18.92	19.88 (@4 Yrs)	21.97	24.22 (@2 Yrs)	24.22 (@2 Yrs)
Monroe	14.70	19.40	21.29 (@4 Yrs)	22.33	23.36 (@1 Yr)	22.36 (@1 Yr)
Montgomery	20.70	(no scale)	25.70 (@ maximum)	23.70 (@ minimum)	(no scale)	29.79 (@ maximum)
Reading	20.70	23.22 (@2 Yrs)	23.22 (@2 Yrs)	26.01	26.01 (@ entry)	26.01 (@ entry)
Sharonville	20.12	26.46 (@2 Yrs)	26.46 (@2 Yrs)	21.39*	27.73* (@2 Yrs)	27.73* (@2 Yrs)
Springdale	20.08	23.25	24.41 (@4 Yrs)	24.43	28.28	29.69 (@4 Yrs)
Wilmington	18.43	20.44	22.31 (@4 Yrs)	21.39**	24.76**	26.00** (@4 Yrs)
Averages	\$19.00	\$22.06	\$23.42	\$23.37	\$26.07	\$26.95
Franklin***	13.78	16.51	16.51 (@3 Yrs)	15.20	18.22	18.22 (@3 Yrs)

[While the individual bargaining agreement years vary, the above reflect those data in effect not earlier than 4-1-12 and not later than 2-22-13.]

*Includes \$1.27/hr stipend

** Includes 6% paramedic supplement.

*** Does not include the \$2.00 hour stipend for paramedic cert – waived until October 2015; and does not include full 10% pension pickup by the City – equal to \$1.42 - \$1.88 at straight time hours.]

The Union presented a document prepared by the IAFF at the Union’s request. Based on evaluations of CAFRs (comprehensive annual financial reports – through 2011, which are the most recent ones) the Union reports that the City can afford to pay the Union’s proposed wage increases. The City’s assets to liabilities ratio was 2.5 at the end of 2011, meaning the City had general fund assets of \$2.50 for each \$1.00 in general fund liabilities, reflecting an 82.5% improvement since 2008. The general fund balance more than doubled from 2008 to 2011. Cash at the end of fiscal year 2011 was sufficient to cover more than 100% of the general fund balance which is a positive indicator. In May 2011, City voters approved an increase in the municipal tax rate from 1.5% to 2%. The City’s income tax withholding at 2% became effective with the first payroll issued after July 1, 2011. According to Moody’s on Municipals, a general fund balance of 5% of budget is generally deemed prudent. As of December 31, 2011, the City’s General Fund balance was more than 55%. The Fire Levy Fund had \$1.70 in assets for every \$1.00 in Fire Fund liabilities. Cash at the end of fiscal year 2011 was sufficient to cover more than 100% of the Fire Levy balance.

Adapted from the IAFF prepared exhibit, it appears that the City has substantially emerged from the recent “Great Recession,” at least the “Great” aspect of it. Consider the following adapted/compiled by the Fact-finder from the exhibit:

General Fund Trend

Date	Asset to Liability Ratio	General Fund Balance	Unreserved Fund Balance	General Fund Expenditures	UFB as % of Expenditures
12/07	1.18	\$1,189,773	\$1,175,034	\$10,513,422	11.2%
12/08	1.37	1,963,274	1,908,468	6,984,324	27.3
12/09	1.34	1,375,212	1,369,098	7,538,892	18.2
12/10	1.98	3,190,177	3,184,032	6,129,588	52.0
12/11	2.50	4,007,884	3,990,765	7,031,790	56.8

The Union presented detailed financial information from the Fire Fund prepared by the City. The following is adapted/compiled by the Fact-finder from that information.

Fire Fund 2013 Estimated

Beginning Balance		\$528,270	
Revenues			
Fire Levy	\$530,000		
EMS Levy	710,000		
Other	427,000		
Transfer from General	<u>750,000</u>	<u>2,417,000</u>	
Subtotal			2,945,270
Expenditures			
Personnel	\$773,888*		
Contractual Services	269,244		
Supplies & Other	179,400		
Capital Outlay	172,000**		
Trnsf to Pension Fund	61,000		
Volunteer FF	<u>1,011,964***</u>		
Subtotal			<u>2,467,496</u>
Ending Balance Fire Fund			<u>\$477,774</u>

***Personnel 2013 Estimated**

FF Salaries	\$400,671 ¹
Overtime	48,047
Longevity	6,250
Pay in lieu vacation	56,571
Holiday pay	12,360
PERS Empl share	49,151
Workers' Comp	20,889
Health Ins	125,650
Medicare	5,148
OP&F Pickup	<u>49,151</u>
Total	<u>\$773,888</u>

[¹ Includes a 3% increase from 2012 – City explained it is an across the board increase for budgeting purposes. 2012 FF Salaries was \$388,502. Thus, costs for various percentage increases (not including rollups or increased OT, pay in lieu, etc.) based on 2012 base are:

City's proposal 1 st year	1.5% x 388,502 = \$5,828
IF 3% 1 st year	3% x 388,502 = 11,655
Union's proposal 1 st year	5% x 388,502 = 19,425]

****Capital Outlay 2013 Estimated**

New Equipment	\$10,000
Bldg Purchase	100,000
Ambulance lease purchase	<u>62,000</u>
Total	<u>\$172,000</u>

[***Volunteer Firefighters (aka “Non Fulltime Staff” or NFTF – not “part-time”) increased from \$388,157 in 2012 due to adding staff in connection with EMS services starting January 1, 2013. Four NFTF were added per shift.]

CITY’S ECONOMIC PROPOSAL AND ITS ARGUMENTS

The City proposes that the following language be stricken (shown as strike through) and that the following language be added (as shown in bold):

Section 38.01. The following pay ranges for bargaining unit members of the Division of Fire within the Service of the City are hereby established.

A. Effective January 1, ~~2013~~ **2010**, the City will pay to each bargaining unit member a **one and one-half percent (1½%)** ~~three percent (3%)~~ base rate increase.

[Note: the dollar amounts for the three positions and four steps will need updating.]

B. Effective January 1, ~~2014~~ **2011**, the City will pay to each bargaining unit member a **one percent (1%)** ~~three percent (3%)~~ base rate increase.

[Note: the dollar amounts for the three positions and four steps will need updating.]

C. Effective January 1, ~~2015~~ **2012**, the City will pay to each bargaining unit member a **one percent (1%)** ~~three percent (3%)~~ base rate increase.

[Note: the dollar amounts for the three positions and four steps will need updating.]

The City further proposes the following addition:

Section 38.04. Each Bargaining unit member shall be eligible for a two dollar (\$2.00) per hour additional stipend on the employee’s base hourly rate of pay if the member is certified EMT-Paramedic, and if the member is performing EMT-paramedic functions pursuant to a City-implemented EJT-paramedic protocol. **(The provisions of this section are waived by the union and bargaining unit employees for the term of this agreement.)**

[Note: this proposed addition is essentially the same as the current MOU dated June 15, 2012, which waived the stipend until October 11, 2015.]

The City finds its proposal as putting the FTF in “same general sense” as wages for other City bargaining units. The City noted the financial uncertainty over the EMS services for personnel and for equipment. The following table is adapted/compiled by the Fact-finder from a table of data offered by the City.

Internal and External Wage Comparisons

Year	Internal Rates (%)					SERB External Rates (%)			CPI
	Clerical Unit	Service Unit	Police Unit	FTF	Non Union	Dayton Region	Cities	Fire	
2007	3.33	3.33	4.0	4.0	3.0	2.91	3.19	3.21	4.1
2008	3.0	3.0	3.5	3.25	3.0	3.0	3.18	3.33	0.1
2009	3.0	3.0	3.5	3.25	3.0	2.17	2.46	2.47	2.7
2010	3.0	3.0	3.5	3.0	3.0	1.23	1.39	1.74	1.5
2011	0.0	0.0	0.0	0.0	0.0	0.68	0.93	1.23	3.0
2012	0.5*	0.5*	1.5	3.0	0.5*	1.08	1.18	1.21	1.7
AV	2.14	2.14	2.67	2.75	2.08	1.85	2.01	2.2	2.18
2013	2.0	2.0	2.0***	1.5	2.0				
2014	2.0	2.0	2.0***	1.0	2.0				
AV**	2.1	2.1	2.5	2.38	2.06				

[*Also received 1% lump sum not added to base.]

[**Averages if City proposal recommended by Fact-finder]

[***The Union notes that the Police Sergeants and Lieutenants – i.e., the supervisors – received 2½% increases in 2013 & 14. The Union notes that all of the six FTF are all supervisors – two per tour, supervising the other seven NFTF. The police average for eight years using 2½% instead of 2% would be 2.63%]

The City is concerned about recent and continuing cuts to local government funds, and the potential that the state will take over municipal income taxes [creating a state bureaucracy] and charge a fee for doing so. The City presented a paper discussing multiple [convoluted] changes to the Local Government Fund and how calculations for distributions to cities will be made. The City presented a document showing “Distributions directly from the Local Government Fund to qualifying municipalities, reflecting change by FY12-13 state operating budget.” Cities might well perceive that the state is trying to “kill” cities. For this City it showed:

CITY’S LOCAL GOVERNMENT FUNDS

Actual Calendar Year 2010	Enacted Budget Calendar Year 2011	Enacted Budget Calendar Year 2012
\$59,994	\$57,706	\$40,136

Further, the City noted that the Ohio estate tax was eliminated. The City noted that within the past week, the Ohio Governor said that he will not dip into Ohio’s rainy day fund (\$1.9 billion) [funded in large part by local governments] to help local governments.

The City notes that while the U.S. economy generally seems to be recovering, it also seems to occasionally bounce the other way, citing continuing unknowns, such as the banking crisis in Cyprus, a European recession, a cooling Chinese economy, and others.

The City noted that it picks up and pays the FTFs’ 10% share of their pension which effectively is an additional 10% on their wage that the City pays as a benefit to the FTF.

The City offered the following comparables, all of which are near and have populations similar to that of the City. Seven of the nine are the same as offered by the Union. [Note that most of

the rates vary from those identified by the Union. The Union said it checked actual contracts for its rates and did not use SERB data.] The following table was adapted/compiled by the Fact-finder from the City's tables.

Hourly Wage Rates

City Fire Departments – within SW Ohio counties & with populations +/- 2,000 of Franklin

City Fire Department	Firefighter-Paramedic		Lieutenant or Captain [1 st rank in city above Firefighter]		Additional Paramedic Pay
	Entry Rate	Top Rate	Entry Rate	Top Rate	
Blue Ash	\$22.64	\$26.01	\$25.26	\$29.23	no
Clayton	15.21 (2011 rate)	18.48 (2011 rate)	20.74 (2012-13 rate)	22.86 (2012-13 rate)	no
Greenville	12.25	18.35	18.88	18.88	no
Monroe	14.46 (2010 rate)	20.94 (2010 rate)	21.96 (2010 rate)	22.99 (2010 rate)	no
Reading			20.02	23.22	
Sharonville	18.60 (2011 rate)	37.40 (2011 rate)	20.12 (2011 rate)	39.69 (2011 rate)	no
Springdale	19.59	26.26	23.83	31.93	
Urbana	14.16 (only FF)	19.79 (only FF)	20.78 (only FF)	22.76 (only FF)	4%
Wilmington	12.42	15.03	15.21	18.40	6%
Averages	\$16.17	\$22.78	\$20.76	\$25.55	
Franklin*	16.72	20.04	19.66	21.74	\$2/hr (starting 10/15)

[*Includes the 10% pension pickup by the City. No one else has a real pick-up.]

The City prepared Current Costs for the six FTF and the Fact-finder adapted/compiled the following table from the table supplied by the City.

Current Payroll Related Costs for the Six FTF

2012 Wages	\$314,031	
Overtime	47,105	
Holiday Pay	20,054	
Pay in Lieu	19,165	
Longevity Pay	<u>5,500</u>	
Total Pay	\$405,855	(Av per FTF = \$67,643)
Retirement Expense	97,405	
Retirement Pick Up	40,585	
Health/Life Insurance	107,700	
Workers' Comp	17,249	
Medicare	<u>3,906</u>	
Total Payroll Cost	<u>\$672,700</u>	(Av per FTF = \$112,117)

The City computed the payroll related additional costs under its and the Union's proposals. The Fact-finder adapted/compiled the following summaries from the City's computations.

Summary of Payroll Costs Associated with Each Proposal at Fact-finding

Year	City Proposal (1.5%, 1%, 1%)			Union Proposal (5%, 4%, 3%)				
	Total Pay Cost	Increase	X Yrs	Total Pay Cost Incr.	Total Pay Cost	Increase	X Yrs	Total Pay Cost Incr.
Current	\$672,700				\$672,700			
2013	681,060	\$8,360	3	\$25,080	700,567	\$27,867	3	\$83,601
2014	687,135	6,075	2	12,150	724,393	23,826	2	47,652
2015	693,266	6,131	1	6,131	743,070	18,677	1	18,677
				\$43,361				\$149,930

[Total amounts do not include any unknown increase in Health Insurance Costs, and no inclusion of \$2.00 stipend.]

Recall that the City's Fire Department has six full-time employees, two of whom serve as the two supervisors on each tour; supplemented with seven NFTF on each tour (total nine "Firefighter-Medics On Duty 24/7" as promised to the City's residents in the EMS Levy campaign. The seven NFTF are pulled from a list of about 45 NFTF personnel (EE 7T).

RECOMMENDATION

The Union's hourly wage rate comparables were based on its review of the actual contracts for the various fire units. When comparing the resulting averages with the wage rates of the City (see table) one must remember that the 10% pension pickup paid by the City was not included. It would add an additional \$1.42 - \$1.88 to the FTF's wages. As an example, if \$1.88 is added to top wage rate it would still appear that an equity adjustment(s) could be considered. However, is now an appropriate time to suggest what many would perceive as major increases (5%, 4%, 3%) to wage rates?

The City's financial condition and the Fire Fund only recently appear to be stabilizing and improving. Based on available CAFRs, the Union showed that the General Fund trend includes an asset to liability ratio of 1.18 (12/07) to 2.50 (12/11); and, the Unreserved General Fund Balance as a percentage of General Fund expenditures increased from 11.2% (12/07) to 56.8% (12/11) – see table. The 56.8% ratio is clearly a very conservative, financially responsible "reserve" for meeting the City's obligations. The General Fund helps to fund the Fire Department. The City's estimate for the Fire Fund in 2013 appears promising, with a projected ending Fire Fund balance of \$477,774. However, funds from the EMS Levy will only begin flowing during 2013. The EMS service (resulting in substantially more runs) only started a few months ago with an inherent delay in billing health insurance providers and receiving funds (see Fire Fund 2013 Estimated).

On the other hand, the City's proposal of 1.5%, 1%, and 1% is characteristic of what one might have expected a few years ago when the future of the U.S. economy was in much more doubt than now – when the recession was still "Great." The FTF received wage increases averaging 2% for the three years of the current Contract, which only just kept them even with inflation (2.07% average for 2010, 11, & 12, see Internal and External Wage table). The City's only real argument is that its proposal will tend to level the FTFs with other City employees (see same table). While wage increases within a city are commonly considered, they should not control over other relevant criteria. For example, while all other City employees will receive 2%

increases in 2013 and 2014, the City’s police supervisors (sergeants and lieutenants) will receive 2½% increases for those two years. All six members of the FTF Bargaining Unit are supervisors.

Referring to the table Summary of Payroll Costs, the City’s proposal would cost the City a *total* of about \$43,361 (including rollups) for the three-year term of the new contract. The Union’s proposal would cost the City a *total* of about \$149,930 for the three-year term. True, the Department’s work load substantially increased starting January 2, 2013, when it assumed EMS runs for the City. However, even the current Contract recognizes the additional duties by providing in Section 38.04 for a “two dollar (\$2.00) per hour additional stipend on the employee’s base hourly rate of pay if the member is certified EMT-Paramedic, and if the member is performing EMT-Paramedic functions . . .” The FTF generously, admirably, and appropriately waived that stipend through October 11, 2015, for what they found to be in the best interests of the residents of the City. In other words, they did the right thing, and the EMS Levy passed. When it kicks in, it will equate to *about* a 1% per hour increase when performing such duties.

The City’s wage proposal is clearly too low, and the Union’s proposal is clearly too high at this time. Conservatively, the City can afford to increase the wages for its FTF by 3% for *each* of the three years of the new Contract. According to the City’s calculations, that will cost about \$103,596 *total* (including rollups) for the three-year term of the new Contract.

Summary of Payroll Costs Associated with Recommended 3%

Year	Fact-finder’s Recommendation (3%, 3%, 3%)			
	Total Pay Cost	Increase	X Yrs	Total Pay Cost Incr.
Current	\$672,700			
2013	689,420	\$16,720	3	\$50,160
2014	707,060	17,640	2	35,280
2015	725,216	18,156	1	18,156
				\$103,596

[Total amounts do not include any unknown increase in Health Insurance Costs, and no inclusion of \$2.00 stipend.]

Based on the financial data presented by the Parties, the City can afford to pay the recommended wage increases.

Thus, the **Fact-finder’s recommendation** regarding wages increases is that the Parties accept increases of 3%, 3%, and 3% for each of the three years, 2013, 2014, and 2015, each increase effective on January 1 of each respective year, and retroactive to January 1, 2013 for the first of the 3% increases; and that the language of Article 38 be updated to properly reflect these wage increases.

ISSUE 5: REGARDING NEW ARTICLE XX – UNION’S PROPOSAL FOR MINIMUM MANNING & CITY’S PROPOSAL TO NOT ADD NEW ARTICLE

UNION’S NON ECONOMIC PROPOSAL AND ITS ARGUMENTS

The Union proposes that a new Article be added to the Agreement as follows shown in bold:

NEW ARTICLE
MINIMUM MANNING

The Employer will maintain a minimum staffing level at all times of two (2) full time personnel on duty. The ratio between full time and part time personnel shall not be less than one (1) full time firefighter to five (5) part-time firefighters.

The Union noted that (excepting for Kelly Days) the City is currently staffing with at least two full-time personnel, *i.e.*, FTF. The proposed addition set forth in the second sentence is primarily to better ensure safety for the personnel and for the residents of the City. The Union’s intent is that the minimum will be a total of seven “on station.”

CITY’S PROPOSAL AND ITS ARGUMENTS

The City proposes that the provision not be added. Manning is a permissive subject of bargaining, and the City has no intent of negotiating or otherwise allowing it into the Contract through this statutory process.

Aside, the City notes that the proposal would completely eliminate Kelly Days if the City must always have two FTF on staff at all times. Further, it would result in additional overtime – all without negotiating. The City sees these consequences as creating safety issues. Of course, it looks forward to growing and perhaps someday it can afford to have full-time firefighters in addition to its current full-time supervisors [Lieutenants & Captains]. Additionally, the City noted that in a prior contract negotiation, a provision requiring the City to layoff NFTF personnel first was eliminated. The City sees the Union’s current proposal as an attempt to effectively put it back into the Agreement.

The City presented three former Ohio fact-findings (00-MED-11-1318 police; 10-MED-10-08-0987 firefighters; 10-MED-10-1461 police) in support of the fact that minimum manning is a permissive subject of negotiation, not mandatory, and one that the City will not negotiate.

RECOMMENDATION

Based primarily on minimum manning being a permissive subject of negotiation, and there being no indication that the City has negotiated or is willing to enter negotiations over minimum manning, the **Fact-finder recommends** that the Parties not accept the Union’s proposal for a new Article providing for minimum manning.

ADDITIONAL RECOMMENDATION

The **Fact-finder recommends** that the Parties agree that all tentative agreements reached by them be part of their Collective Bargaining Agreement, and that all unchanged provisions of the

current Contract be maintained as current contract language and part of their Contract.

As of the end of the Fact-finding Hearing, there were tentative agreements regarding portions of existing Articles 11, 26, 40, 45, and 47. Note: the tentative agreement regarding Article 47 Duration is for the new Contract to be “effective October 12, 2012, and shall remain in force until October 11, 2015.”

[Note: the Parties agreed to extend the statutory fact-finding procedure “in regard to wages and other economics which may be awarded by a conciliator and agree the conciliator may award wages and other economics in calendar year 2013 and successive years.” Thus, a wage increase and other economics will be retroactive to January 1, 2013.]

SUMMARY OF FACT-FINDER'S RECOMMENDATIONS

See the complete recommendations under each of the issues discussed above. The following is merely a brief summary for the convenience of those who immediately turn to the end to read the outcomes without reading the proposals and the discussions.

ISSUE 1: ARTICLE 9: SICK LEAVE

Recommendation: that the Parties maintain current language – but that they accept the insert to Section 9.01, “(a “day” meaning [8] hours)”.

ISSUE 2: ARTICLE 24: INSURANCE

Recommendation: that the City’s proposal to increase the FTF’s share of premiums by ½% per each of the three years be accepted; and that the Union’s proposal for additions and for changes to Section 24.02 *not* be accepted by the Parties.

ISSUE 3: ARTICLE 26: HOLIDAYS

Recommendation: that the Parties *not* accept the City’s proposal to eliminate Section 26.05; but rather that the Parties maintain said section with its current language.

ISSUE 4: ARTICLE 38: WAGES

Recommendation: that the Parties *not* accept the City’s proposal for 1.5%, 1%, 1%; and, that the Parties *not* accept the Union’s proposal for 5%, 4%, 3%; but rather that the Parties accept 3%, 3%, 3% for each year of the term of the Agreement, retroactive to January 1, 2013.

ISSUE 5: ARTICLE XX: MINIMUM MANNING

Recommendation: that the Parties *not* accept the Union’s proposal for minimum manning.

ADDITIONAL RECOMMENDATION

That the Parties agree that all tentative agreements reached by them be part of their Collective Bargaining Agreement, and that all unchanged provisions of the current contract be maintained as current contract language and part of their collective bargaining agreement.

Note: the Fact-finder, in preparing this Report and making his Recommendations, considered the oral presentations made at the Fact-finding Hearing and supporting documentation submitted by the Parties, even though not all are referenced in this Report.

Further Note: the Fact-finder considered the Criteria set forth in Rule 4117-9-05(J).

Further Note: in many instances the Parties presented and discussed economic issues without separately breaking out, identifying, or discussing the costs of roll-ups or other roll-up considerations. They made roll-up consequences an implicit part of their respective economic proposals. Thus, this Fact-finder has not ignored the roll-up costs associated with the various economic issues, but merely (as is common practice) subsumed/incorporated them in discussing and in making recommendations regarding economic issues. This is analogous to when you negotiate to buy a new lawn mower with a price tag of \$300. You know that when you check out the sales tax will be added as part of the total cost.

THE FOREGOING RECOMMENDATIONS ARE RESPECTFULLY SUBMITTED to the Parties as a proposed settlement for their interest dispute concerning the terms and conditions of their collective bargaining agreement.

Fact-finder



William M. Slonaker, Sr., JD, MBA, SPHR