

IN THE MATTER OF FACT-FINDING  
BETWEEN

CITY OF STREETSBORO	)	CASE NO. 2017-MED-09-1079
	)	
	)	
AND	)	<u>FINDINGS</u>
	)	AND
	)	<u>RECOMMENDATIONS</u>
STREETSBORO PROFESSIONAL	)	
FIREFIGHTERS, IAFF LOCAL 4281	)	

JAMES M. MANCINI, FACT-FINDER

APPEARANCES:

FOR THE CITY

Paul A. Janis  
Law Director

FOR THE UNION

Ryan J. Lemmerbrock  
Attorney at Law

**SUBMISSION**

This matter concerns fact-finding proceedings between the City of Streetsboro (hereinafter referred to as the Employer or City) and the Streetsboro Firefighters, IAFF Local 4281 (hereinafter referred to as the Union or IAFF). The State Employment Relations Board (SERB) duly appointed the undersigned as fact-finder in this matter. The fact-finding proceedings were held on January 29, 2018.

The fact-finding proceedings were conducted pursuant to the Ohio Collective Bargaining Law as well as the rules and regulations of SERB. During the fact-finding proceedings, this fact-finder attempted mediation of the issues at impasse. The issues which remain for this fact-finder's consideration are more fully set forth in this report.

The bargaining unit consists of all full-time uniformed employees of the Streetsboro Fire Department occupying the positions of Fire Captain, Fire Lieutenant and Firefighter. Currently there are approximately 18 members of the bargaining unit consisting of four Captains, one Lieutenant, and thirteen Firefighters.

This fact-finder in rendering the following findings of fact and recommendations on the issues at impasse has taken into consideration the criteria set forth in Ohio Revised Code Section 4117(G)(6)(7). Further, this fact-finder has taken into consideration all reliable evidence presented relevant to the outstanding issues before him.

**1. ARTICLE 13, COMPENSATION (Wage Increases)**

The Union proposes that effective January 1, 2018 there be an immediate equity adjustment to the firefighters' pay which would be equivalent to an 8% increase for firefighters with 37 or more months of service, a 4% increase for firefighters with 25 to 36 months of service, and 2% increase for firefighters with 13 to 24 months of service. In addition, firefighters under the Union's proposal would receive wage increases of 3.5% effective January 1, 2018, a 3.5% effective January 1, 2019, and 3.5% effective January 1, 2020. The pay for the lieutenants and captains would be based upon the differential.

The City proposes a 1% increase in 2018, a 2% increase for 2019, and another 2% increase in wages for 2020. The City also proposed optional pay increases if there were concessions made by the Union with respect to other issues. One option would provide that if the Union accepted the City's proposals on overtime, comp time, holiday cash-out, and sick leave retirement cash-out the City would provide a 1% increase in 2018, a 3% in 2019, and 3% increase in 2020. Another option which the City proposes would be that if the Union accepted the City's proposals in overtime, comp time, holiday cash-out, and sick leave retirement cash-out, and a 28 day (54 hour week) work period, then the City would provide increases in wages of 2% in 2018, a 3.5% increase in 2019, and 3.5% increase in 2020.

The Union argues that the Streetsboro Firefighters are grossly underpaid in comparison to fulltime firefighters in the area. The top base pay for a 20 year Streetsboro firefighter is \$59,852 in comparison to the average top pay for firefighters in the area of

\$66,898. The Union points out that when considering total annual compensation at 20 years, the top paid Streetsboro Firefighter is making nearly \$8,100 less than the average area firefighters' top wage.

The Union cites a previous 7% equity adjustment which took effect for Streetsboro Firefighters in 2012. However since that time, the Streetsboro Firefighters' wages have once again fallen behind the average wage for firefighters in the area and behind the averages for firefighters throughout Ohio in comparable cities.

The Union also maintains that there is a significant wage disparity in firefighters' wages as compared to Streetsboro Police Officers. As indicated, the top pay for Streetsboro Firefighters is currently \$59,852. In comparison, the top pay for Streetsboro Police is \$68,660 which represents an \$8,807 difference with the firefighters. The Union points out that the disparity in wages between the firefighters and the police units has actually increased since 2012 when it was only \$6,251 as compared to the current difference in top pay of \$8,808.

The Union also presented the testimony of Mary Schultz, CPA, who analyzed the City of Streetsboro's finances. Ms. Schultz indicated that the City's General Fund year-end balance has increased steadily over the past few years, increasing to a 54% carryover reserve as of December 31, 2017. At the end of 2017, the General Fund had a balance of \$6,281,657. Ms. Schultz also pointed out that the General Fund income tax revenue has increased since 2012 to over 9.9 million dollars in 2017. Ms. Schultz indicated that 2018 revenue estimates indicate the City expects the income tax revenue to

continue to increase. Ms. Schultz indicated that the City has the financial resources to fund the Union's proposed wage increases. She noted that the 2018 budget allows for a 7.9% wage cost increase. Ms. Schultz indicated that the wage and benefit increases proposed by the Union would be easily affordable from the budget for 2018 and the General Fund reserve balance.

The City claims that the Union's wage proposal including that of an equity increase is totally unwarranted. The City maintains that the Union's proposed increase in wages is unjustified given that on average Streetsboro Firefighters' wages currently are at 99.9% of the mean firefighter wage in comparable communities. The Streetsboro's peer communities are the fulltime, organized fire departments in Portage County, and those immediately adjacent portions in Summit County. The City maintains that the comparables used by the Union were skewed and many of the cities cited were well outside of the immediate area. In the City's comparison, the total base compensation for a firefighter at 10 years is \$63,397 which falls about in the middle range of comparable salaries in the area.

Moreover, the wage increases received by Streetsboro Firefighters since 2013 have been comparable to those provided to firefighters in the peer communities. The City notes that the highest reported wage increase since 2013 actually occurred here when Streetsboro Firefighters received a 4.35% increase in 2015. Moreover, the Streetsboro Firefighters have received raises that have kept pace with inflation. The City also cites SERB's annual wage settlement report which shows that statewide firefighters have been

awarded average increases of 2.34% in 2016 after six straight years during which annual raises averaged less than 2%.

The City also contends that the firefighters' wages should not be compared to those provided to the police. Considering the different functions of the two bargaining units, there simply is no basis for making a wage comparison.

ANALYSIS – After careful review of the evidence presented regarding the wage issue, this fact-finder recommends that there be an equity pay adjustment for firefighters in the amount of 3% effective January 1, 2018. In addition, it is recommended that there be a 3% wage increase for firefighters retroactive to January 1, 2018, another 3% increase effective January 1, 2019, and another 3% wage increase effective January 1, 2020. It is also recommended that the current Differential Provision be retained with no change.

The evidence presented supports an equity pay adjustment for the firefighters. It was shown that the top wage for a 20 year firefighter in Streetsboro is currently \$59,852. The wage comparison of fifteen area jurisdictions shows that the firefighters' top wage in Streetboro falls approximately \$8,100 below the average for area professional firefighters. For example, the top pay for firefighters in Twinsburg is \$75,459, Aurora \$72,152, Kent \$70,784, Tallmadge \$70,616, and in Stow \$67,766. It is clear that the current top pay provided to Streetsboro Firefighters falls well below the top pay provided to firefighters in these jurisdictions. It is for that reason that this fact-finder is recommending an equity pay adjustment to bring the Streetsboro Firefighters' wages more into line with those provided to comparable firefighters in the area.

Further support for the equity pay adjustment recommendation herein is found in another fact-finder's report which was issued approximately nine years ago regarding Streetsboro Firefighters' pay. At that time, the fact-finder found that the Streetsboro's top hourly wage of \$17.63 compared to the fifteen department average in the area of \$22.49 warranted an equity pay adjustment. The fact-finder recommended a one time equity pay adjustment of 7% for the bargaining unit. Likewise, this fact-finder in the instant matter finds that an equity pay adjustment is warranted because the Streetsboro Firefighters' top hourly wage falls well below the average in the area. The Streetsboro Firefighters' top hourly wage of \$23.97 falls below the average of \$27.14 for firefighters in the area. Again, the top hourly rate for firefighters in Twinsburg, Aurora, Tallmadge, Kent and Stow are all considerably higher than the top hourly rate for Streetsboro's firefighters. As a result, this fact-finder like the previous one in 2009 finds that an equity pay adjustment for Streetsboro Firefighters is justified.

This fact-finder would like to emphasize that the comparable evidence clearly demonstrates that there is a significant disparity in pay between the Streetsboro Firefighters' top pay of \$59,852 and that of other area professional firefighters. As discussed, the top pay for firefighters here falls well below the top pay in comparable cities such as Twinsburg where firefighters receive \$75,459, Aurora \$72,152, and in Kent where the top pay is \$70,782. When one excludes townships and villages from the wage comparisons submitted, the Streetsboro Firefighters are over \$12,000 behind the average provided to firefighters in these other cities. It should be noted that the City found that it

was appropriate to increase numerous other administrative employees' salaries by thousands of dollars in 2017 in order to bring those salaries into the competitive range found in other cities. Moreover in making the rather large salary increases for several City administrative positions, the City cited a "salary comparison among area cities." Likewise, the salary comparisons presented in the instant matter clearly shows that there is a significant wage disparity between the Streetsboro Firefighters with that provided to firefighters in the area. It is for that reason this fact-finder would recommend an equity pay adjustment at the present time to bring the Streetsboro Firefighters more into line with that paid to area firefighters.

This fact-finder further finds that wage increase comparables also support the 3% increases recommended herein for Streetsboro Firefighters. The comparable evidence shows that wage increases of 3% were provided to firefighters in Kent, Solon and Tallmadge. There was also evidence that indicates in 2017 firefighters in Kent received a 3.25% increase, in Twinsburg a 3% increase, and in Tallmadge a 3% increase. It should also be noted that in neighboring Ravenna, firefighters received a 4% increase in 2017 with another 2% wage increase in 2018. Therefore, there is support in these wage increase comparables for the 3% increases recommended for Streetsboro Firefighters in this case. Again, the recommendation is that the 3% wage increases be in addition to the equity pay increase provided to bargaining unit members.

The evidence further showed that the City has the financial resources to provide for the equity pay and wage increase recommendations for Streetsboro Firefighters. It

was shown that the General Fund year-end balance for 2017 was \$6,281,000. Since 2013, the General Fund year-end balances have increased each year. As stated by Ms. Schultz, the City's General Fund year-end balance in the year 2017 represents a healthy 54% reserve. It was also established that General Fund income tax revenue has increased significantly since 2012 to over \$9,900,000 in 2017. The 2018 revenue estimates indicates that the City expects the income tax revenue to continue to increase. As Ms. Schultz stated, the 2018 budget adopted by the City allows for a 7.9% wage cost increase. Therefore, it must be held that the City has the ability to finance the recommended wage increases herein out of currently available revenue resources.

### **RECOMMENDATION**

It is the recommendation of this fact-finder that there be an equity pay adjustment for firefighters in the amount of 3% effective January 1, 2018. In addition, there are to be wage increases for firefighters of 3% effective January 1, 2018, another 3% increase on January 1, 2019, and 3% wage increase on January 1, 2020.

#### **ARTICLE 13, COMPENSATION (Wages Increases)**

**13.02 Equity Pay Adjustment – Prior to general wage increase for 2018, an equity adjustment of Three Percent (3%) shall be provided to the firefighters' wages.**

**Effective January 1, 2018 – Three Percent (3%) wage increase.**

**Effective January 1, 2019 – Three Percent (3%) wage increase.**

**Effective January 1, 2020 – Three Percent (3%) wage increase.**

**13.03 Differentials – Remain the same, current language.**

**2. ARTICLE 15, COMPENSATORY TIME (Longevity)**

The Union proposes to modify the longevity pay schedule to reflect that which is in place between the City and its police bargaining unit. It also proposes to move the Longevity Provision from the Compensatory Time Article to its own article in the CBA. The City does not support the longevity proposal made by the Union if it does not reduce some portion of any proposed wage increase. The City also would like to have the Longevity Provision provide for an extension in the number of years in the step system.

The Union maintains that its proposed Longevity Provision would benefit both parties. It would benefit the City by adding steps to the current schedule. It would also be beneficial to Union members because it would provide higher longevity pay with longer periods of service.

The City contends that its proposal to change longevity by stretching it out over more years is more reasonable. Again, the City argues that the new Longevity Provision should not simply be a way for piling on increases for bargaining unit members.

ANALYSIS – This fact-finder would recommend the Union’s longevity pay schedule, and that it be set forth in the CBA as its own article. Essentially, the longevity pay schedule recommended herein is the same as that which is in place between the City and its police bargaining unit.

It was shown that modifying the current longevity pay schedule and adopting the new longevity article would benefit both parties. The proposed schedule would

increase the time it takes a member to receive the current levels of longevity pay. For example, for a firefighter to receive an additional \$0.84 per hour, it would take 10 years rather than the current 8 years. This of course would benefit the City.

The proposed schedule would also add steps to the schedule establishing higher longevity pay for longer period of service. For example, additional pay would be provided at 12, 15 and 18 years of service. This would serve to benefit Union members.

### **RECOMMENDATION**

It is the recommendation of this fact-finder that the Longevity Pay Schedule be set forth as a new article in the CBA and reflect the new Longevity Pay Provision as proposed by the Union

#### **New Article -Longevity Pay – The Union’s proposal is recommended.**

**.01 Each member of the bargaining unit shall be eligible for the following longevity pay benefit: In accordance with the Union’s proposal.**

**.02 Current Contract Language**

**.03 Current Contract Language**

**3. ARTICLE 4, UNION MEMBERSHIP, MEETINGS & DUES (Union Leave)**

The Union proposes that upon reasonable notice, the Union President and/or his designee are to be provided with 32 hours of paid leave to engage in Union activities such as attending meetings, seminars, legal proceedings, etc. with the Fire Chief being able to require verification of the Union business in advance.

The City proposes to incorporate into the CBA the current practice which is that employees who are on duty and have Union business associated with the City may participate in those activities without taking leave subject to emergency dispatch.

The Union seeks to have the ability to allow its representatives to take leave to attend to Union related business. The current practice does not provide for leave for Union Representatives to attend to other Union related activities such as off-site meetings or conferences, etc. The Union maintains that other professional firefighter bargaining units receive leave to attend to Union related activities.

The City contends that it is unreasonable to provide 32 hours of paid time off for Union Representatives to participate in Union activities that may or may not have anything to do with the City. There is no way to verify that paid leave will actually be used for Union business. The City opposes paid leave for Union activities and instead proposes that the current practice be codified.

ANALYSIS – This fact-finder would not recommend any new provision for paid leave for Union activities. The current practice followed in the department is that employees who are on duty are permitted to attend meetings without a loss of pay subject

to emergency dispatch calls. The current practice appears to be reasonable and should be retained.

However, there was insufficient basis established by the Union or City for their proposals to establish a new provision for paid leave for Union activities. There appears to be no need as proposed by the City to incorporate the current practice into the CBA. Likewise, this fact-finder does not find that there was sufficient basis established for the Union's proposal that Union Officers be granted 32 hours of paid leave to engage in Union activities. As a result, this fact-finder does not propose any new contractual provision for paid leave for Union activities.

#### **RECOMMENDATION**

This fact-finder does not recommend any new contractual provision for paid leave for Union activities. The current practice should be retained.

#### **ARTICLE 4, UNION MEMBERSHIP, MEETINGS AND DUES**

**Union Leave – No new contractual provision.**

**4. ARTICLE 10, HOURS OF WORK (Work Period)**

The City proposes to adopt a 28-day work period under FLSA rules. Under this proposal, overtime would only be payable after actually working 240 hours in the 28-day period. The Union proposes to retain current language which provides for a 48 hour workweek.

The City contends that the 28-day work period will help offset the loss of productivity which would incur as a result of the significant wage increases requested by the Union. The 28-day work period will offset the damage to productivity by reducing the need for overtime and Kelly days.

The Union contends that there is no basis for the City's proposal to increase the firefighters' work hours by 312 every year and to elongate work periods to lessen overtime pay. The City's proposal undermines the bargain reached by the parties six years ago which provided for the current 48 hour workweek for the firefighters.

ANALYSIS – This fact-finder would not recommend any change in the current language found under Article 10 for the hours of work. There simply was insufficient basis established to make the rather significant change in the work period provision as proposed by the City. There was no comparable data submitted which would support the City's proposal to adopt a 28-day work period. It should be noted that the firefighters' current 48 hour workweek and the corresponding work period was bargained and agreed to by the parties in 2012. This fact-finder finds that it would be reasonable to maintain the current language which reflects the 48 hour workweek.

**RECOMMENDATION**

This fact-finder recommends that the current Hours of Work (Work Period) Provision be retained with no change.

**ARTICLE 10 – HOURS OF WORK (Work Period)**

**Current language, no change.**

**5. ARTICLE 13, UNIFORM ALLOWANCE**

The parties reached a tentative agreement pertaining to a new article for Uniform Allowance. However, the parties left open the question as to whether or not there should be a new article for Uniform Allowance for clarification purposes. This fact-finder would recommend that there be a new article for Uniform Allowance included in the Collective Bargaining Agreement.

**RECOMMENDATION**

This fact-finder recommends that the tentative agreement reached by the parties with respect to the Uniform Allowance be adopted and that a new article for Uniform Allowance be included in the CBA.

**NEW ARTICLE, UNIFORM ALLOWANCE**

**New Article -Uniform Allowance – Members shall receive an annual uniform allowance of \$1,200, as tentatively agreed to by the parties.**

**6. ARTICLE 14, OVERTIME (Overtime List)**

The Union proposes for Section 14.01 to clarify that bargaining unit members' longevity pay and Fire Inspector pay be included in the employee's rate of pay for purposes of determining the employee's overtime rate. The Union also proposes to modify Section 14.03 so that one overtime eligibility list is maintained as opposed to the two overtime eligibility lists currently used. The City opposes any changes in the current contract language involved.

With respect to Section 14.01, the Union states that it simply wants to confirm that the employee's longevity pay and the Fire Inspector pay are included in the calculation of the employee's overtime rate, as required by law. With respect to Section 14.03, the Union merely wants to use one overtime eligibility list rather than two to make it clear the any overtime opportunity is first offered to the employee having received the lest amount of overtime. The Union cites the City's AFSCME contract as providing for one overtime list.

The City points out that it currently fully complies with court decisions which have held that rate adders such as longevity pay and other premium pay must be included in the employee's base rate for purposes of calculating an employee's overtime rate. However, the City maintains that it would be a mistake to assume that the current court decisions could not be overruled. As a result, the City opposes any changes to Section 14.01 requiring these inclusions. The City also opposes the Union's request for one overtime list. The current provision is reasonable and should be retained.

ANALYSIS – This fact-finder recommends that Section 14.01 be modified to clarify that bargaining unit members' longevity pay and Fire Inspector pay be included in the members' rate of pay for purposes of determining the overtime rate. It is also recommended that Section 14.03 be modified so that one overtime eligibility list, rather than two, is maintained.

With respect to Section 14.01, it would be reasonable to clarify that a member's longevity pay and Fire Inspector pay is to be included in the members' rate of pay for purposes of determining the employee's overtime rate. As even the City acknowledges, there are numerous court decisions which have held that rate adders such as longevity pay and other premium pay must be included in the employee's base rate for purposes of calculating the employee's overtime rate. Therefore, it would be appropriate to clarify longevity pay and Fire Inspector pay are to be included in the firefighter's rate of pay for purposes of determining their overtime rate, as required by law.

This fact-finder would also recommend that Section 14.03, be amended to provide for one overtime eligibility list rather than the current two lists. It would be reasonable to provide for one overtime list so that any overtime opportunities be offered first to the member having received the least amount of overtime. An internal comparison with AFSCME shows that their bargaining unit uses one overtime list like that which is being recommended herein for the firefighters union.

**RECOMMENDATION**

It is the recommendation of this fact-finder that Section 14.01 be clarified to state that a firefighter's longevity pay and Fire Inspector pay be included in the members' rate of pay for purposes of determining the members' overtime rate. It is also recommended that Section 14.03 be modified to provide for one overtime eligibility list rather than the current two lists.

**ARTICLE 14, OVERTIME (Overtime List)**

**Section 14.01** – Modify to state that when a member works any more than their scheduled hours, they will be compensated 1.5 times their basic rate of pay (to include longevity pay, fire inspector pay, as applicable) for those hours worked.

**Section 14.03** – Modify to state that “a record will be maintained up to date of all fulltime members eligible for overtime. There shall be one (1) list established.

**7. ARTICLE 14, OVERTIME (Sections 14.01 and 14.04-Work Period Overtime)**

The City proposes that Section 14.01 be modified to provide that overtime would be provided if an employee works an excess of 159 hours worked in a 21 day work period.

The Union opposes any change in the current language. The City also proposes to modify Section 14.04 to change the current provision which provides that if a firefighter is called in they are to be compensated at their overtime rate for all hours worked but not less than 3 hours of pay. The City proposes instead that if employees are called in, they would receive an incentive bonus of 3 hours of pay rather than that set forth under the current agreement. The current provision provides that when a member works any more than their scheduled hours, they will be entitled to overtime.

The City maintains that the current contract language needs to be clarified to specifically state when an employee is entitled to overtime. The contract does not specify if the schedule is the 21 day work period or any hours outside of the employee's schedule. The City also points out that overtime costs will increase if the wage proposals of the Union are adopted.

The Union does not propose any change in the current language. The Union claims that the language is clear and states that when a member works any more than their scheduled hours, they are entitled to overtime.

ANALYSIS – This fact-finder does not find that there was any basis established for the City's proposed change regarding Section 14.01 or 14.04. The current language in 14.01 clearly states that when a member works any more than their scheduled hours, they

are entitled to overtime for those hours worked. There does not appear to be any need for clarification as proposed by the City. Also, Section 14.04 clearly states that if a firefighter, not on duty, is called in, they shall be compensated at their overtime rate, but not less than 3 hours pay. There likewise was insufficient basis established for any change to this provision.

**RECOMMENDATION**

It is the recommendation of this fact-finder that Section 14.01 be retained with respect to the language stating that when a member works more than their scheduled hours, they would be compensated for overtime.

**ARTICLE 14, OVERTIME (Sections 14.01 & 14.04-Work Period Overtime)**

**Section 14.01 – Current language, no change.**

**Section 14.04 – Current language, no change.**

**8. ARTICLE 14, OVERTIME (Section 14.02-Hours Worked for Purposes of Overtime)**

The City proposes to adopt the FLSA standard for defining which hours are “hours worked” for purposes of accruing overtime eligibility. The City proposes that vacation days, Kelly days, compensatory time off, holidays, and sick days are not to be counted as hours worked when determining the employee’s eligibility for overtime. The Union opposes any change to the current language.

The City contends that the current language is not mandated by FLSA and merely increases the City’s overtime expenses without any benefit to the department. The City cites as an example an employee that takes the morning off on paid sick leave to go to the dentist, then comes into work in the afternoon and works a full 8 hours, paid 4 hours of sick leave, 4 hours of employee’s straight time rate, and 4 hours at the employee’s overtime rate. The City argues that this is not reasonable.

The Union proposes to retain the current language for purposes of setting forth the hours worked which are to be used for overtime purposes. The Union claims that the current provision is reasonable and should be retained.

ANALYSIS – This fact-finder has determined that the current language should be retained with no change. Section 14.02 clearly states that the term “hours worked” shall include vacation days, Kelly days, compensatory time off, holidays, and sick days. There was insufficient basis by the City to change this provision. In all respects, the provision as stated appears to be reasonable and should be retained.

**RECOMMENDATION**

It is the recommendation of this fact-finder that Section 14.02 pertaining to the definition of “hours worked” for purposes of overtime should remain the same with no change.

**ARTICLE 14, OVERTIME (Section 14.02-Hours Worked for Purposes of Overtime)**

**Current language, no change.**

**9. ARTICLE 15, COMPENSATORY TIME (Accumulation and Carryover)**

The Union proposes to increase the amount of compensatory time that can be accumulated from 144 to 240 hours, and to increase the amount of compensatory time that can be carried over into the next year from 144 to 240 hours. The City proposes that employees shall be permitted to earn up to 240 hours of compensatory time in a calendar year, and that compensatory time earned in one year and not used by the end of the next following calendar year must be cashed out at the employee's then current base wage.

The Union contends that the Streetsboro Firefighters' current maximum on the accumulation and carryover of compensatory time is below the average of other comparable fire departments. The average maximum compensatory time accrual among fire departments in the area is 250 hours and the average carryover is 244 hours. The Union proposes that the Streetsboro Firefighters be able to accumulate and carryover 240 hours which would be in line with comparable fire departments.

The City contends that its proposal is a reasonable way for employees to earn extra time off while limiting the abuse of the banked comp time cash-out feature of the current provision. Currently, the Contract permits employees to earn up to 144 hours of compensatory time and to bank such time indefinitely. The Union's proposal to increase the earnable amount is of no benefit to the taxpayers and should be rejected.

ANALYSIS – This fact-finder would recommend that there be an increase in the amount of compensatory time which can be accumulated from 144 to 240 hours. Likewise, it is recommended that there be an increase in the amount of compensatory

time that can be carried over into the next year which would be from 144 to 240 hours.

Comp time comparables support increasing the amount of compensatory time that can be accumulated and that which can be carried over into the next year.

The comparables pertaining to compensatory time which were presented support the above recommendation. The average accumulation which is provided firefighters in comparable fire departments is 253 hours. The average carryover of comp time in these other jurisdictions is 244 hours. Therefore, it is apparent that the current maximum on the accumulation and carryover compensatory time provided to Streetsboro Firefighters is far below the average of the other comparable fire departments. Currently, Streetsboro Firefighters can accumulate 144 hours and carryover 144 hours into the next year.

This fact-finder finds that there was insufficient basis established for the additional language for the Compensatory Time Provision found in the City's proposal. The current provision states that 144 hours of compensatory time may be carried over to the next calendar year. There simply was no clear showing that the additional language proposed by the City is warranted.

### **RECOMMENDATION**

With respect to Compensatory Time, this fact-finder recommends that there be an increase in the amount of compensatory time that can be accumulated from 140 to 240 hours and that there be an increase in the amount of compensatory time that can be carried over to the next year from 144 to 240 hours.

**ARTICLE 15, COMPENSATORY TIME (Accumulation and Carryover)**

**15.03 Accumulation and Carryover**

**Increase the amount of compensatory time that can be accumulated from 144 to 240 hours, and increase the amount of compensatory time that can be carried over into the next calendar year from 144 to 240 hours.**

**10. ARTICLE 20, VACATIONS (Vacation Accrual)**

The Union proposes an increase in the amount of vacation accrual for shift employees by adding a step at 15 years and then increasing the amount of vacation at 20 years from 288 to 312 hours. For 40 hour employees, add vacation steps at 16 through 20 with 40 hour employees receiving 240 hours of vacation at 20 years.

The City opposes any change in the current vacation accrual language.

The Union contends that the Streetsboro Firefighters receive far less vacation leave throughout their careers compared to firefighters in neighboring jurisdictions. Currently, shift firefighters in Streetsboro receive 72 hours of vacation in their first two years of employment which increases to a maximum of 288 hours in their 20<sup>th</sup> year of employment. The Union maintains that the evidence shows that the average minimum amount of annual vacation received among area fire departments is 96 hours with the maximum being 312 hours. Therefore based upon comparable data, the Union seeks an increase in the Streetsboro Firefighters' vacation leave.

The City opposes the expansion of the number of vacation hours earned. The current maximum accrual is approximately equivalent to six weeks of vacation for civilian employees. The Union's proposal would increase the maximum amount of vacation to about seven weeks of vacation. Moreover, the increase in the amount of vacation would cause problems with respect to filling shifts and would increase overtime costs.

ANALYSIS – This fact-finder would not recommend any change in the current Vacation Accrual Provision. The current provision appears to provide for a reasonable amount of vacation for Streetsboro Firefighters. While comparable evidence shows that the amount of vacation provided to Streetsboro Firefighters falls below the average for the fifteen jurisdictions used in the comparison, it is important to note that there are others that provide for the same amount of vacation days to their firefighters with respect to the maximum vacation provided which is 288 hours in Streetsboro. The cities of Aurora, Macedonia, Ravenna and Bedford all provide for the same maximum number of vacation days for their firefighters. Like Streetsboro, these jurisdictions provide for a maximum of 12 days of vacation for firefighters. The evidence presented simply fails to clearly show that the vacation days provided to Streetsboro Firefighters are out of line with that given to firefighters in neighboring cities.

### **RECOMMENDATION**

It is the recommendation of this fact-finder that there be no change in the current Vacation Accrual Provision.

**ARTICLE 20, VACATIONS (Vacation Accrual) - No change, current language.**

**11. ARTICLE 20, VACATIONS and ARTICLE 21, HOLIDAYS**  
**(Selecting Vacation and Holiday Leave)**

The parties reached a tentative agreement with respect to these provisions. However, the parties left open for this fact-finder's consideration the City's proposal to eliminate language which allows employees to convert holiday time off into cash. This fact-finder does not find that there was insufficient basis established by the City for the elimination of the language set forth in Section 21.03 and 21.06 which provide for an employee to convert holiday time off into cash. The current language set forth in these provisions are to be retained.

**RECOMMENDATION**

It is the recommendation of this fact-finder that with respect to Vacations and Holidays pertaining to the selection of vacation and holiday leave that the tentative agreement reached by the parties be incorporated into their new Agreement. This would include the language set forth in Sections 21.03 and 21.06.

**ARTICLE 20, VACATIONS (Section 20.12)**

and

**ARTICLE 21, HOLIDAYS (Section 21.06)**

**(Selecting Vacation and Holiday Leave)** – Adopt tentative agreement reached.

**ANNUAL HOLIDAY CASH-OUT** – Section 21.03 and 21.06 – Current language, no change.

**12. ARTICLE 21, HOLIDAYS (Premium Pay for Working Holidays)**

The Union proposes that shift employees in the bargaining unit receive double time for working on Easter, Thanksgiving, Christmas Eve, Christmas Day and New Years Eve. The City opposes any language changes.

The Union contends that it is unfair that a fulltime firefighter working alongside part-time firefighters on a given holiday should receive regular overtime pay while part-time firefighters receive double time. The Union seeks the same compensation for its members as that which the City pays its part-time firefighters.

The City opposes double time for work on the above referred to holidays. The City points out that employees currently receive 96 hours of holiday time in order to compensate them for holiday time off. If an employee works a holiday, he or she is paid again. When an employee works a holiday, they receive holiday pay and overtime. The City submits that there is no justification for the double time proposed by the Union.

ANALYSIS – This fact-finder does not recommend any change in the current Holiday Provision with respect to premium pay for working holidays. The current provision is reasonable in that it provides that if an employee works on a holiday, they are paid at the overtime rate which is one and one-half times the employee's base rate. As the City noted, this is in addition to the paid holiday time off that the employee receives at the beginning of the year. Therefore when an employee works a holiday, they receive holiday pay and overtime. There was insufficient basis established for providing shift employees with double time for working certain holidays.

**RECOMMENDATION**

It is the recommendation of this fact-finder that there be no change in the current provision providing for premium pay for working holidays.

**ARTICLE 21, HOLIDAYS (Premium Pay for Working Holidays)**

**Current language, no change.**

**13. ARTICLE 21, HOLIDAYS (Section 21.07-Prorating Holidays at Hire and Separation)**

The parties reached a tentative agreement with respect to this provision. This fact-finder therefore recommends that the tentative agreement be incorporated into the parties' Collective Bargaining Agreement.

**RECOMMENDATION**

This fact-finder recommends the adoption of the tentative agreement reached by the parties with respect to Prorating Holidays at Hire and Separation, and be incorporated into the parties' CBA.

**ARTICLE 21, HOLIDAYS (Section 21.07-Prorating Holidays at Hire and Separation)**

**Adopt Tentative Agreement**

**14. ARTICLE 23, SICK LEAVE (Bereavement Leave)**

The Union proposes that employees receive one week of bereavement leave in the event of the death of an immediate family member. The Union proposes 48 hours for Suppression employees, and 40 hours for forty hour employees. The Union also proposes that members be able to take up to an additional one week of bereavement leave for a family death, granted at the discretion of the Fire Chief, to be deducted from the employee's sick leave bank.

The City proposes that firefighters receive 24 hours of bereavement leave for a death in the employee's immediate family which would not be chargeable to any leave balance. As applied to employees in the 24/48 hour schedule, this would allow for three days away from work. For a death outside the immediate family, or for an extension of the basic bereavement leave benefit, the City proposes an additional 40 hours of paid leave for a day shift employee, or an additional 48 hours of paid leave for hour Suppression employees which would be granted at the discretion of the Chief. This leave would be deducted from the employee's sick leave balance.

The Union contends that its proposal clarifies the meaning of the current provision and provides members with additional bereavement leave for a family death which can be granted at the discretion of the Fire Chief. The Union submits that if a member of a firefighter's immediate family dies, it is reasonable to believe that the firefighter will need a week off of work and possibly a second week off which again would be at the Fire Chief's discretion and deducted from the employee's sick leave. The Union maintains

that its bereavement proposal is in line with those provided to firefighters in neighboring jurisdictions.

The City maintains that new contract language is needed to specify the availability of bereavement leave for the firefighters. The City's proposal of providing 24 hours of leave for firefighters in the case of a death in the immediate family is consistent with that provided to the City's other non-bargaining unit employees. The City now proposes that firefighters receive 24 hours of leave or one shift for the firefighters working shifts and at the Fire Chief's discretion no more than an additional 24 hours of leave to be deducted from sick leave. The Employer contends that its proposal is reasonable.

ANALYSIS – This fact-finder has determined that the current language found under the Sick Leave Provision for Bereavement Leave should be retained without any change. Both parties submitted proposals for a new Bereavement Leave provision. However, there was no showing made that the current provision has created any problems for the City or bargaining unit members. It provides that firefighters basically can have three days of bereavement leave for a death in their immediate family. In addition, at the discretion of the Fire Chief, the firefighter may be granted an additional three days of paid leave which would be chargeable to their sick leave bank. This provision appears to be reasonable and should be retained. There simply was insufficient basis established by either party to incorporate into the CBA their proposals for a new article pertaining to bereavement leave.

**RECOMMENDATION**

It is the recommendation of this fact-finder that the current Bereavement Leave Provision be retained with no change.

**ARTICLE 23, SICK LEAVE (Bereavement Leave)**

**Current language, no change.**

**15. ARTICLE 23, SICK LEAVE (Retirement Bonus)**

The Union proposes to increase the amount of accrued sick leave bargaining unit members are eligible to receive payment for at retirement from one-third to one-half while maintaining the maximum of no more than 1,200 hours subject to buyout.

The City proposes that employees' retirement be entitled to cash out one-third of all earned but unused sick leave, not to exceed 960 hours.

The Union cites comparable evidence in support of its position that it would be reasonable to provide for a 50% buyout of unused sick leave at retirement. The Union notes that twelve of the fifteen fire departments in the area offer a buyout of 50% or more of accrued but unused sick leave.

The City contends that its proposal to reduce the total cashable hours to 960 is reasonable. The City points out that its employees already have a retirement plan and there is no need to allow employees to continue to cash out sick leave at the current maximum of 1,200 hours.

ANALYSIS – This fact-finder does not recommend any change in the current sick leave retirement bonus provision. The sick leave retirement bonus set forth in the CBA appears to be reasonable in that it provides that employees who are eligible can receive payment at retirement of one-third of their earned but unused sick leave to a maximum of 1,200 hours. While the Union did present comparables showing that many of the cities in the area offer a buyout of 50% or more of sick leave accrual, that same comparison shows that the maximum payout in some of the other jurisdictions falls well below that provided

by the City of Streetsboro. Streetsboro firefighters can receive up to a maximum buyout of 1,200 hours as compared to the average in the area of 1,064 hours. Moreover, this fact-finder does not find that there was a sufficient basis presented for reducing the maximum buyout hours to 960 hours as proposed by the City.

**RECOMMENDATION**

It is the recommendation of this fact-finder that the current Sick Leave Retirement Bonus Provision remain the same without any change.

**ARTICLE 23, SICK LEAVE (Retirement Bonus)**

**Current language, no change.**

**16. ARTICLE 31, PHYSICAL PROFICIENCY (Allowance Amount)**

The Union proposes to increase the amount bargaining unit members receive for physical proficiency from \$900 to \$1,200.

The City Proposes that employees who meet the demonstrable fitness goals as specified in industry standards be paid a physical fitness bonus of \$1,200.

The Union contends that its proposed increase in the proficiency allowance is reasonable considering the firefighters' disparity in pay as well as rising insurance contributions by employees. The Union points out that the physical proficiency allowance has not changed since it was bargained into the Agreement in 2010. Since that time, the wage disparity has grown and firefighters are paying significantly more for health insurance coverage.

The City contends that the physical fitness bonus should only be offered if the employee achieves some level of fitness that is demonstrable and related to the employee's job. As a result, the City proposes that to be eligible for the bonus, the employee must successfully complete the annual Fitness Evaluation contained in Annex C of NFPA Standard 1582.

ANALYSIS – This fact-finder recommends that the physical fitness allowance be increased from the current \$900 to an annual bonus of \$1,200. However, this would be payable only if the requirements set forth for the allowance are completed by the employee. This fact-finder finds the Union's proposed increase in the allowance is reasonable given the previously discussed disparity in firefighters' pay as well as rising

insurance contributions provided by the employees. It should be noted that the Union's proposed increase in the proficiency allowance would only cost the City an additional \$4,500. Clearly, the City has the ability to fund the increase in the proficiency allowance.

**RECOMMENDATION**

It is the recommendation of this fact-finder that the Proficiency Allowance be increased to \$1,200 subject to the additional requirements set forth under the next issue.

**ARTICLE 31, PHYSICAL PROFICIENCY (Allowance Amount)**

**Increase Physical Proficiency Allowance to \$1,200 subject to the additional requirements discussed in the next section.**

**17. ARTICLE 31, PHYSICAL PROFICIENCY (Requirements for Allowance)**

The Union proposes to add a requirement that bargaining unit members undergo an annual medical exam in order to be eligible for the physical proficiency allowance. This would consist of different exams and screening tests for example 12 lead ECG, blood work, vision and hearing screening, chest x-ray, pulmonary function, prostate, etc. The results of the tests and screenings would be kept confidential.

The City proposes that the employee would be eligible for the physical proficiency bonus if he/she successfully completes the Annual Fitness Evaluation contained in Annex C of NFPA Standard 1582.

The Union proposes that employees be required to undergo the screenings in order to receive the physical proficiency allowance. Under the Union's proposal, the employees would be required to undergo an annual medical exam at no cost to the employee. The Union cited various health problems facing firefighters with an indication that the firefighters have a 9% higher risk of being diagnosed with cancer and a 14% higher risk of dying from cancer than the general US population. The Union indicated that cancer caused 70% of a career firefighter line of duty deaths in 2016 alone.

The City argues that firefighters should complete all elements of the physical fitness evaluation contained in the National Fire Protection Association Standard 1582. Taking the evaluation would be voluntary and no employee would be penalized for not taking the evaluation. However, only those employees taking and passing the evaluation would receive the bonus.

ANALYSIS – This fact-finder would recommend the Union’s proposal regarding requirements which the employees must meet in order to be entitled to the physical proficiency allowance. The new requirement would be that bargaining unit members undergo an annual medical exam in order to be eligible for the physical proficiency allowance. This would consist of different exams and screening tests such as 12 lead ECG, complete blood workup, vision and hearing screening, chest x-ray, pulmonary function test, and prostate screening. The annual medical exam would be at the Employer’s expense and the results of the test/screenings would be kept confidential. It should be pointed out that the physical fitness evaluation recommended of NFPA 1582 contains the same type of comprehensive screening exam as the Union’s proposal which is being recommended herein.

This fact-finder would note that there was evidence presented that cancer is the most dangerous work related threat that firefighters face today. Cancer caused 61% of the firefighter line of duty deaths from 2002 to 2017. As the evidence showed, the key to effective cancer treatment is early detection through screenings and tests. For that reason, this fact-finder has determined that the proposal to require firefighters to undergo an annual medical exam at no cost to the employee is reasonable and should be adopted. It would also be appropriate to add language indicating that the results of the annual medical exams are to be kept confidential.

**RECOMMENDATION**

This fact-finder recommends that the requirements for the Proficiency Allowance as set forth in the Union's proposal be adopted and incorporated into the parties' Agreement as follows:

**ARTICLE 31, PHYSICAL PROFICIENCY (Requirements for Allowance)**

**Amend Section 31.02 – Add new Section 4: Undergo an annual medical exam, at no cost to the employee, consisting of the following:**

**12 lead ECG**

**Complete blood work up, Lipid, CBC, UA with Micro, HIV test**

**Vision screening**

**Hearing screening**

**Chest X-ray**

**Pulmonary function test**

**Street test – to be determined by examining physician, at age 40 every two (2) years thereafter, unless otherwise directed by a physician**

**PSA test**

**Prostate screening – annual after age 40, earlier if determines a need**

**Non-A, Non-B hepatitis test if determined appropriate by medical practitioner**

**Annual TB test**

**Section 31.05 – Add New Language: The results of the annual medical exams shall be kept confidential and shared only with the employee. Results shall not be provided to the Employer. This does not prohibit notification to the Employer of whether an employee completes the annual medical exam.**

**18. ARTICLE 31, PHYSICAL PROFICIENCY (Prorating Allowance)**

The Union proposes that the physical proficiency allowance be prorated for those employees leaving employment prior to the last payday of December. The City is opposed to any provision prorating the proficiency allowance.

The Union contends that its proposal is reasonable. For a bargaining unit member who has maintained physical proficiency and has satisfied the requirements for the proficiency allowance, they should not be denied the entire pay if they leave the department prior to the last pay period of the year.

The City opposes any new prorating allowance provision. The City argues that the current provision is reasonable in that the proficiency allowance is paid in the last pay period of December.

ANALYSIS – This fact-finder would not recommend the Union’s proposal for a new provision which would allow for the prorating of the physical fitness allowance if an employee leaves prior to the last pay period in December. The current practice of paying the physical proficiency allowance in the last pay period of December appears to be reasonable. There was insufficient basis established for adding language proposed by the Union for prorating the proficiency allowance.

**RECOMMENDATION**

This fact-finder does not recommend the Union’s proposed language pertaining to prorating the physical proficiency allowance if an employee leaves the department prior to the last pay period of the year.

**ARTICLE 31, PHYSICAL PROFICIENY (Prorating Allowance)**

**No new provision as proposed by the Union.**

**19. SHIFT FILLED BY PART-TIME EMPLOYEES**

The City proposes new contract language that would permit scheduled shift vacancies to be filled with part-time employees. The Union opposes the City's proposal.

The City contends that there is a shift-fill problem. When shifts are picked at the beginning of the year, at least 250 shifts are left open by operation of Kelly days, as well as additional scheduled vacancies due to vacations and holidays. The City wishes to have the ability to fill these vacancies with part-time firefighters from the part-time bargaining unit. The City claims that this is a cost effective solution to the shift-fill problem.

At the fact-finding hearing, the Union strongly objected to the use of part-time firefighters to fill scheduled vacancies. The Union points out part-time firefighters are not in the same bargaining unit as fulltime firefighters and therefore should not be used to take the place of fulltime firefighters in filling scheduled vacancies.

ANALYSIS – This fact-finder does not recommend the use of part-time firefighters to fill scheduled vacancies of fulltime firefighters. The part-time firefighters are not members of the fulltime firefighters bargaining unit. As such, it would be inappropriate to use members of another bargaining unit to fill-out the scheduled vacancies for fulltime firefighters. There should be no new contract language that would permit scheduled shift vacancies for this bargaining unit to be filled by part-time employees.

**RECOMMENDATION**

This fact-finder does not recommend new contract language as proposed by the City which would permit scheduled shift vacancies to be filled by part-time employees.

**SHIFT FILLED BY PART-TIME EMPLOYEES** – No new contract language.

**20. ARTICLE 4, UNION MEMBERSHIP/MEETINGS AND DUES (Deduction of Fair Share Fees)**

The City proposes that Section 4.03 be modified to permit the City to cease the involuntary deduction of fair share fees from employee wages. The Union opposes any change in the current language which requires all members of the bargaining unit to become IAFF members or pay a fair share fee to IAFF Local 4281.

The City proposes to clarify the current provision in case there is a court ruling that involuntary deductions of fair share fees in the public sector is unconstitutional. If such a ruling is handed down by the US Supreme Court, the City proposes to clarify Section 4.03 so that fair share fees would not be required to be paid by the employees. The City is attempting to avoid a grievance or unfair labor practice charge if there is a court ruling stating that the fair share fee deduction in the public sector is unconstitutional.

The Union maintains that the current requirement that members pay a fair share fee is entirely proper and constitutional. The Union points out that in January 2016, the US Supreme Court deadlocked four/four on the issue of whether involuntary deduction of fair share fees in public sector employment is constitutional. There is absolutely no justification for modifying the current contract provision which allows for the payment of a fair share fee to IAFF Local 4281.

ANALYSIS – This fact-finder does not recommend any modification to the current Section 4.03 language which permits a payment of a fair share fee to be made to IAFF Local 4281. There simply was insufficient justification established by the City to make a change at the current time for this particular provision. The US Supreme Court has not

ruled that a deduction of fair share fees in the public sector is unconstitutional.

Therefore, the current Section 4.03 which allows for the payment of a fair share fee to the Union should be retained with no change.

**RECOMMENDATION**

It is the recommendation of this fact-finder that Section 4.03 pertaining to the payment of the fair share fee be retained with no change as proposed by the City.

**ARTICLE 4, UNION MEMBERSHIP/MEETINGS AND DUES**

**Deduction of Fair Share Fees – Current language, no change.**

**21. OFFICER-IN-CHARGE PAY**

The City proposes that the selection of the Officer-In-Charge would involve one offer to the most senior fulltime firefighter on duty and if that person declines, the Chief may offer the assignment at his discretion. The Union proposes to retain the current language which provides that if the senior fulltime firefighter declines, the next most senior fulltime firefighter shall be offered the OIC assignment.

The City contends that the current language for assigning a fulltime firefighter to be the Officer-In-Charge is time consuming and not needed. As the current provision provides, the Chief must first offer the OIC assignment to the most senior firefighter on duty and if that person declines the Chief must offer the assignment to the next most senior firefighter until he finds someone willing to take the assignment. To eliminate this tedium, the City proposes that if the most senior firefighter declines the OIC assignment, the Chief may make the assignment at his discretion.

The Union contends that the current language is reasonable and should be retained. There was no evidence produced which indicated that there have been any problems with the current language. The current procedure set forth in Section 13.05 pertaining to Officer-In-Charge pay is customarily used by fire departments in the making of OIC assignments.

ANALYSIS – This fact-finder would not recommend any change in Section 13.05(B) with respect to offering the OIC assignment to firefighters. The current provision appears to be reasonable and should be retained. The current language states

that if the most senior firefighter declines the OIC assignment, then the next most senior fulltime firefighter will be offered the assignment and so on. Certainly, this kind of procedure is common and there was no justification shown by the City for modifying the provision.

**RECOMMENDATION**

It is the recommendation of this fact-finder that there be no change in the Officer-In-Charge Pay Provision found in Section 13.05(B) of the contract.

**SECTION 13.05, OFFICER-IN-CHARGE PAY (Selection of Officer-In-Charge)**

**Current Language, no change.**

**22. ARTICLE 31, TERMS (Duration)**

The parties reached a tentative agreement with respect to Duration which basically states that the Contract is to be effective on the first day of January 2018 and is to remain in effect through December 31, 2020.

**RECOMMENDATION**

It is the recommendation of this fact-finder that the tentative agreement reached by the parties pertaining to Article 31, Terms (Duration) be incorporated into the parties' Collective Bargaining Agreement

**CONCLUSION**

In conclusion, this fact-finder hereby renders his recommendations on the outstanding issues presented.

**MARCH 20, 2018**

**James M. Mancini /s/**  
**James M. Mancini, Fact-Finder**

**Wed, 03/21/2018 11:43:00 AM SERB**  
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