

STATE EMPLOYMENT RELATIONS BOARD
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STATE EMPLOYMENT RELATIONS BOARD
STATE OF OHIO

In the Matter of Fact-Finding Between
OLMSTED TOWNSHIP PROFESSIONAL
FIRE FIGHTERS UNION LOCAL 2845

and

OLMSTED TOWNSHIP

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**FINDINGS AND
RECOMMENDATIONS**

CASE NO. 97-MED-10-1071

April 13, 1998

Charles Z. Adamson, Fact-Finder

Appearances

For the Olmsted Township Professional
Fire Fighters Union Local 2845:

Jay L. Power
3rd District Vice President
30400 Ginger Lane
North Olmsted, Ohio 44070

For Olmsted Township:

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Erievue Tower
1301 East Ninth Street
Cleveland, Ohio 44114

The undersigned was appointed Fact-Finder in this dispute by the State Employee Relations Board (SERB) on December 1, 1997 pursuant to Section 4117-14(C)(3) of the Administrative Code. The bargaining unit involved herein consists of all full-time employees in the Fire Department occupying the positions of Captain, Lieutenant, Fire-Fighter/Paramedic, Firefighter/EMT-Basic, Firefighter/EMT-Intermediate, Firefighter/Fire Prevention Officer/Inspector and Firefighter/EMT Coordinator.

**I.
HEARING**

A hearing was held on March 27, 1998 in Olmsted Township, Ohio. Both parties attended the hearing and elaborated upon their positions regarding the remaining issues at impasse through their representatives as listed on the preceding page.

**II.
MEDIATION**

After a short period of mediation the case proceeded to hearing. The issues remaining at impasse are the following:

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|------------------------|----------------------------------|
| 1. Wages and Longevity | 4. Working Out of Classification |
| 2. Health Insurance | 5. Overtime |
| 3. Injury Leave | 6. Civil Service |

III. CRITERIA

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

- (1) Past collectively bargained agreements between the parties;
- (2) Comparison of the unresolved issues relative to the employees in the bargaining unit with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;
- (3) The interest and welfare of the public, the ability of the public Employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standard of public service;
- (4) The lawful authority of the public Employer;
- (5) Any stipulations of the parties;
- (6) Such other factors, not confined to those listed above, which are normally or traditionally taken into consideration in the determination of issues submitted to mutually agreed-upon dispute settlement procedures in the public service or in private employment.

IV
ISSUES AND RECOMMENDATIONS

WAGES AND LONGEVITY

1. The Union's Position

The parties stipulated that they have signed an agreement providing for retroactivity to January 1, 1998 for the collective bargaining agreement involved herein. The Union proposes a general wage increase of 4% per year for the firefighters unit effective January, 1998, January 1, 1999 and January 1, 2000. It notes that in Cuyahoga County only the City of East Cleveland's firefighters earn less than the firefighters employed by the Township. It also proposes that each firefighter shall annually receive a 1% longevity increase on base pay, noting that firefighters work 53 hours per week as opposed to police officers working only 40 hours per week. The current contract provides for a 1% annual longevity increase for all employees employed prior to January 1, 1995 and that employees hired after January 1, 1995 shall not receive this increase.

The Union argues that the income of the Township has grown during the past four years while there has been a steady decrease in the General Fund contribution to the Fire Fund. In addition it maintains that 50% of the salaries of dispatchers who service both the Police and Fire Departments have been charged to the Fire Fund. Further, it asserts that Workers' Compensation charges have been paid from the Fire Fund instead of from the Workers' Compensation Fund and that 1997 carryover in the Fire Fund was used to

pay for items ordinarily not paid for by the Fire Fund. It adds that additional revenue will be realized from real estate taxes from new housing under construction in the Township.

2. The Employer's Position

The Township proposes a wage freeze for the firefighters effective January 1, 1998, a 2% general wage increase effective January 1, 1999 and a 2% general wage increase effective January 1, 2000. In addition it asserts that the 1% annual longevity increase should be eliminated for the unit involved herein.

The Township notes that as a township its sources of income are limited since it cannot derive income from an income tax like its neighboring communities which are cities. Consequently, it relies upon the real property tax as its constant source of income..

It points out that in 1997 the neighboring City of Brook Park had revenues of \$45.8 million while the Township's estimated revenues for all funds were \$3.7 million. According to the Township the disparity between it and Brook Park also exists in the General Fund. Brook Park had General Fund revenues of over \$16.1 million as compared to the Township's General Fund revenues of \$1.6 million.

The Township maintains that the Fire Levy does not adequately support the cost of the Fire Department. In 1997 it had to use the General Fund to make up the shortfall in Fire Levy revenues as compared to Fire Department operating expenses. In 1998, according to the Township, Fire Levy fund revenues will decrease while firefighter

expenses are expected to increase significantly. In addition, the 1997 receipt of \$820,000 from inheritance taxes is considered an aberration which will not be repeated in 1998.

The Township projects an \$181,000 deficit in 1998. This will result in a number of projects and purchases being delayed. Because of the Township's precarious financial position it will have to approach its residents with requests for a second fire levy or a general operating levy. Until new revenue is raised by new levies the Township must curtail its expenditures, including the cost of personnel which comprises over one-half of its expenditures.

The Township argues that a wage freeze the first year of the contract and a 2% wage increase the second and third contract years will result in its employees being among the upper tier of employees employed in Ohio townships. Granting the Union's proposals, however, will result in an additional \$100,000 expense over three years. If the Township's 1998 wage proposal is adopted, the Township's firefighters will rank 25th out of 46 townships reporting in the 1997 SERB survey of townships. Also, the Township asserts that in many other townships firefighters have pay step schedules ranging from three to eight years while the firefighters involved herein reach their maximum rate in two years.

The Township maintains that the 1% longevity benefit per year for the firefighters should be eliminated. It believes that it is significant that the Township's firefighters receive one of the best longevity benefits in Ohio as a result of their 1% per year

cumulative longevity benefit. It points out that most of the Ohio townships do not provide their firefighters with longevity benefits. Consequently, considering the longevity benefit the firefighters involved herein are compensated in the top third of township firefighters in Ohio. It feels it is significant that the Township's patrol officers do not receive longevity benefits and that patrol officers annual average salaries are \$35,776 as compared with the firefighters' annual average of \$37,234. Also, the annual firefighters' salaries do not include the additional \$950 per year earned by most of the firefighters as paramedic pay.

3. Findings and Recommendations

It is recognized that the Township has limited resources since it cannot receive income from an income tax and has to rely primarily on real estate taxes for income. However, the firefighters unit should not be singled out to forego a wage increase in order to assist the Township in its financial situation. The data provided by the Township from the 1997 SERB Benchmark Reports for Firefighters, Firefighters/EMT and Firefighters/Paramedics reflecting wage levels for 64 bargaining units in numerous townships throughout Ohio provides only limited guidance. The townships surveyed reflect populations ranging from 1,700 to almost 57,000. Furthermore, there is no indication as to the cost of living in the various townships covered in the report. The most that can be concluded from an examination of this data is that as of November, 1997 firefighters in 36 out of the 64 units received annual compensation that was higher at the

top level than the firefighters involved herein. Accordingly, in view of the above, the undersigned recommends that the firefighters unit receive wage increases of 2.5% per year effective January 1, 1998, effective January 1, 1999 and January 1, 2000.

In regard to the longevity issue, the Union proposes that the annual 1% longevity increase apply to all unit employees while the Township proposes that the longevity increase be eliminated because the other safety unit, the police officers, does not receive longevity pay. Considering the wage increase recommended above and the fact that the firefighters work 53 hours per week as opposed to the police officers 40 hour week, the undersigned recommends that the annual 1% longevity pay increase in the current contract which has been applied to firefighters hired prior to January 1, 1995 be adopted for all firefighters employed in the unit involved herein.

HEALTH INSURANCE

1. The Union's Position

The Union proposes that the following be adopted as the health benefit provision in the collective bargaining agreement involved herein:

The Employer shall maintain in full force and effect, and pay 100% of the cost thereof, a policy of hospitalization insurance for each employee and his family. The Employer shall also maintain dental, vision, and a prescription program. The Employer shall maintain the current levels of insurance coverage or its equivalent.

Effective January 1, 1998, employees will pay one half of any increase in premium above the rates shown below. The maximum that an employee will be required to contribute is \$25.00 per month for single coverage, and \$50.00 per month for family coverage. Any such deductions shall occur only in the second pay check of each month. Such costs shall be based on average single or family for the Employer.

The Union and the Township agree to create a committee consisting of one representative of each Union in the Township and one representative of the Board of Trustees to review coverage, providers and costs of health care and make recommendations to the Board of Trustees.

	1998		1999		2000	
	Single	Family	Single	Family	Single	Family
Medical	\$150.00	\$400.00	\$165.00	\$440.00	\$181.50	\$484.00
Dental	23.00	65.00	25.30	71.50	27.83	78.65
Vision	8.00	21.00	8.80	23.10	9.68	25.41

The Union argues that it is not necessary for the Township to have the same health insurance provision for both the Firefighters and the Police Department as proposed by the Township. It points out that the police contract expires at the end of the current year and notes that the SERB Report on Cost of Health Insurance relied upon by the Township was based on a 50% response from public employers. The Union's provision allows for a 10% increase in health insurance costs before the firefighters would be required to contribute to the cost of this insurance. It asserts that this would be a fair contribution to

be made by the firefighters. There does not appear to be any dispute between the parties as to continuing the Union-Management health care advisory committee.

2. The Employer's Position

The Township proposes that the following language should be adopted as to the health care provisions:

The Township shall obtain and maintain in full force and effect, and pay one hundred percent (100%) of the cost thereof, a policy of hospitalization and medical cost insurance for each employee and his family, this policy shall also include dental, vision and a prescription program. The Township shall maintain the current insurance plan or its equivalent.

Effective January 1, 1998 employees will pay one-half of any increases in premiums above the rates that will go into effect in April, 1997, or the rates set forth below, whichever rates are less. The maximum that an employee will be required to contribute is \$25 per month for single coverage and \$50 per month for family coverage.

The premium rates above which employees will be responsible for contributions (unless the actual rates which go into effect in April, 1997 are less than these, in which case contributions will be required for increases above the actual rates) are as follows:

	Single	Family
Medical	\$150/month	\$400/month
Dental	\$23/month	\$65/month
Vision	\$8/month	\$21/month

The Township asserts that its health care proposal will make the firefighters health care contributions the same as those required from the police officers and dispatchers; it claims it will benefit the firefighters in the future. According to the Township, as a result of a change in carriers in 1996 the firefighters did not have to contribute to health care premiums because overall premiums decreased. It maintains that under the existing language the firefighters would not begin to make contributions for one or two more years; once contributions started, however, the firefighters would have to pay one-half of all increases without limitation if the existing language remains in effect.

Under the Township's proposal requiring the firefighters to pay one-half of all increase above the rates set forth in the patrol officers' and dispatcher' contracts, the maximum contribution would be no more than \$25 per month for single coverage and \$50 per month for family coverage. The Township indicates that beginning January 1, 1998 the patrol officers and dispatchers were required to pay \$9.75 per month for family coverage and \$.55 per month for single coverage. The Township asserts that even with an anticipated increase effective April 1, 1998 the contributions will remain substantially under the caps of \$25 and \$50 per month.

In addition the Township refers to the SERB Report on the Cost of Health Care in Ohio's Public Sector published in 1997 which indicates that two-thirds of the State's public employees made contributions to their health care costs in 1997. The average contribution per month was \$19.81 for single coverage and \$57.23 for family coverage. It argues that its health care proposal is reasonable when compared with the statewide average contributions in 1997.

3. Findings and Recommendations

There is considerable merit to the position that the Township's employees should have uniformity in their health insurance contributions. It is noted that two-thirds of the public employers in the group responding to the SERB survey reported contributions by employees to employer health care costs. Accordingly, the undersigned recommends that the Township's proposal for health care be adopted.

INJURY LEAVE

1. The Union's Position

The Union proposes that the following provision from the current collective bargaining agreement in respect to injury leave be retained in the contract:

ARTICLE 18

INJURY LEAVE

- 18.1 In the event that a full-time member of the Olmsted Township Fire Department sustains an injury or occupational disease in the course of and out of his employment, providing the disability was not purposely self-inflicted, and such injury has so incapacitated said member that he is temporarily unable to work, the Board of Trustees shall authorize full payment of the employee's regular salary and benefits for not more than a 90-day period, providing a claim will be filed with the Ohio Bureau of Worker's Compensation. After the 90-day period, the Board of Trustees shall review the matter and by majority vote, determine whether the employee shall continue to receive his full salary and benefits during recuperation.
- 18.2 Any full-time member of the Olmsted Township Fire Department who qualifies for benefits under Article 18.1 hereof shall be required to pay to Olmsted Township any amounts received from the Bureau of Workers' Compensation as supplemental wages. Further, if at any time, the Board of Trustees determines, by a decision from a physician specializing in occupational medicine, that an employee is permanently disabled and will no longer be able to carry on his duties, the Board of Trustees may

terminate payments and insist that the employee go on a pension program.

In that event, an employee's injury leave benefits shall be continued for the remainder of the 90-day period or until permanent disability benefits begin, whichever occurs sooner.

- 18.3 Any employee who qualifies for the benefits under Article 18.1 and 18.2 shall not have his accumulated sick leave reduced.

The Union argues that this provision provides necessary pay protection for firefighters for any work connected injury. It maintains that there has never been any documented abuse of this provision by members of the firefighters' unit. In addition, it asserts an arbitration decision by Arbitrator Virginia Wallace-Curry issued on October 4, 1996 as to an alleged violation of Article 18 also supports its position.

2. The Employer's Position

The Township proposes that the injury leave provision in the current contract be eliminated because it provides opportunity for firefighters to engage in abuse of this provision. The Township maintains that Workers' Compensation provides adequate protection to firefighters injured while at work. It indicates that in the past firefighters have abused this provision on three separate occasions when firefighters were malingering while they were on injury leave status. The Township proposes that in the event the undersigned does not recommend its elimination in its entirety, that the

undersigned should recommend that these benefits only apply to employees performing hazardous duties such as fighting fires.

3. Findings and Recommendations

The provision which the Township proposes to eliminate exists to provide firefighters with salary protection in the event they are injured while working. It is a necessary benefit to prevent employees from losing any wages while injured on the job. An employee will not receive any additional compensation over and above the employee's regular wages since the employee is required to pay to the Township any amounts received from the Bureau of Workers Compensation as supplemental wages. Accordingly, in view of the above, the undersigned recommends that the current injury leave provision be retained in the collective bargaining agreement.

WORKING OUT OF CLASSIFICATION

1. The Union's Position

The Union proposes that the following provision be added to Article 39 of the collective bargaining agreement:

39.2 Those firefighters designated by the Fire Chief to be in command of a shift, shall be paid \$15 for each shift so assigned. When the Shift Officer is off for illness, vacation, holiday or other absence, the employee next in seniority shall receive the same amount.

This provision supplements the following provision which is in the current contract:

39.1 An employee who is assigned to accept the responsibilities of the Assistant Chief due to absence for reasons such as illness, personal leave, vacation days, etc., shall be paid an additional \$15 for each shift so assigned.

The Union argues that currently the officer in charge of the shift receives no premium pay for assuming these duties. It believes that premium pay should be paid not only to an employee who assumes the responsibility of Assistant Chief, as provided for in the current contract, but there also should be compensation for the extra duties of officer in charge of the shift. According to the Union's estimate, if this provision is adopted it would cost the Township an additional \$5,400 per year.

2. The Employer's Position

First, the Township proposes that the current \$15 premium paid to an employee designated as shift supervisor when the Assistant Chief is absent be eliminated from the agreement. In addition, it also opposes the Union's proposal that a firefighter acting as shift supervisor receive a \$15 premium.

The Township argues that there is no legitimate reason that the absence of the Assistant Chief should result in \$15 premium pay since the firefighter working in the absence of the Assistant Chief merely has to ensure that the daily duties designated by the Chief and the Assistant Chief are completed. The Township adds that in the event of

large scale emergencies the Chief and/or the Assistant Chief are summoned to the scene. According to the Township, on emergency medical runs medical protocol requires that the paramedic on the scene should be in charge.

3. Findings and Recommendations

The record reflects that a firefighter assuming the responsibilities of Assistant Chief has additional duties and responsibilities. Consequently, the \$15 premium pay is warranted under these circumstances. Accordingly, the undersigned recommends that the \$15 premium pay for an employee accepting the responsibility of the Assistant Chief be continued in the new agreement. The record is less clear, however, whether an officer designated by the Fire Chief to be in command of the shift warrants the additional \$15 premium pay. Accordingly, the undersigned recommend that the Union's proposal in this respect be rejected.

OVERTIME

1. The Union's Position

The current contract provision as to overtime calculation is the following:

ARTICLE 34
OVERTIME

34.1 Any time worked in excess of twenty-four (24) hours in a seventy-two (72) hour period shall be considered overtime. Overtime shall be compensated at one and one-half (1.5) times the regular rate of pay calculated by dividing

the base salary by 2756. The Fire Chief will be the determining authority on the necessity for overtime. The minimum time to call back will be for two (2) hours.

The Union proposes that overtime shall be compensated at one and one half (1.5) times the regular rate of pay calculated by dividing the base salary by 2080. It believes that this additional compensation is warranted under the circumstances.

2. The Employer's Position

The Township contends that paying overtime based upon 2080 hours rather than 2756 hours is a hidden wage increase. It notes that under the Fair Labor Standards Act employees are compensated at one and one-half (1 1/2) times their hourly rate of pay when they are entitled to overtime pay. In respect to the firefighters this is computed as the firefighters annual compensation divided by 2756. Since the average firefighter annually earns \$37,234, the hourly rate is \$13.51 per hour. However, if the hourly rate is based on 2080 hours, the hourly rate would be increased by \$4.39 per hour to \$17.90 per hour.

According to the Township, in 1997 it paid out 1144 hours of overtime. The Union's proposal would cost the Township \$7,533 per year or over \$900 a year in additional compensation for each firefighter. The Township argues that its financial situation does not warrant the additional burden imposed by the Union proposal to increase overtime compensation.

3. **Findings and Recommendations**

The Union has not substantiated its case for additional overtime compensation for the firefighters unit. In view of the recommended annual wage increase and the retention of longevity, the undersigned finds that the change in overtime is not warranted and recommends that it not be adopted.

CIVIL SERVICE

1. **The Union's Position**

The Union proposes the following new provision be included in the collective bargaining agreement:

CIVIL SERVICE

In the event a Civil Service Commission is established in Olmsted Township during the life of this contract, and current employees are required to pass a written examination for employment, the minimum passing score shall be that of the lowest score for all participants. This Article shall not apply to part-time firefighters, or those not currently employed as firefighters or officers of Olmsted Township Fire Department.

The Union indicates that under Ohio law when any township's population reaches 10,000 or more the township is permitted to establish a Civil Service Commission. This would result in all employees being tested in Civil Service examinations. It feels that its proposal would protect firefighters who had finished their schooling several years ago and

[REDACTED]

might not be able to pass a Civil Service examination. Also, according to the Union, this provision would protect firefighters from retribution by a member of the Civil Service Commission who did not like a particular firefighter. According to the Union, the City of Olmsted Falls has a similar provision in its firefighters' collective bargaining agreement. Currently, the Township's population is over 9,000, but under 10,000.

2. The Employer's Position

The Township characterizes the Union's concerns for the inclusion of this provision as being unwarranted and believes that the conversion of the Township into a Civil Service entity is unlikely. Further, it does not believe that existing employees should be exempt from passing a minimal requirement test.

3. Findings and Recommendations

Currently the Township does not have a population of 10,000 so that the Civil Service provision would not apply to it. Furthermore, the next Federal census that would establish whether the Township would reach the 10,000 population level will not be held until the year 2000, the third and final year of the contract involved herein. At this juncture one does not know whether the Township will reach the 10,000 population level or whether it will decide to appoint a Civil Service Commission if it reaches that level. Consequently, because of the theoretical nature of this issue the undersigned concludes

that a recommendation as to its adoption is not warranted at this time. Accordingly, the undersigned recommends that the Union's proposal as to Civil Service not be adopted.



Charles Z. Adamson
Fact-Finder

April 13, 1998 _____