

**IN THE MATTER OF AN INTEREST ARBITRATION
PURSUANT TO THE FIRE PROTECTION AND PREVENTION ACT, 1997**

BETWEEN:

THE CORPORATION OF THE MUNICIPALITY OF CLARINGTON

("the Municipality")

- and -

THE CLARINGTON FIRE FIGHTERS' ASSOCIATION, IAFF LOCAL 3139

("the Association")

ARBITRATOR:

Jasbir Parmar, Chair

On Behalf of the Municipality:

Michael Kennedy, Counsel, Hicks Morley Hamilton Stewart Storie, LLP
Lisa Wheller, Human Resources Manager
Marie Marano, Director of Corporate Services/HR
Gord Weir, Fire Chief
Tim Calhoun, Deputy Fire Chief
Bill Hesson, Deputy Fire Chief

On Behalf of the Association:

Jeffrey Sack, Counsel
Bob McCutcheon, Advocate, Clarington Fire Fighters' Association
Michael Kalita, President, CFFA Local 3139
Scott Snowden, Vice-President, CFFA Local 3139
Rob Gardner, Negotiations Committee Member
Steve Buckingham, District 1 Vice President OPFFA

This matter was heard on July 23 and September 24, 2019.

1. I was appointed pursuant to the Fire Protection and Prevention Act, 1997 to determine the outstanding issues related to the renewal of the collective agreement between these parties, the previous agreement having expired on December 31, 2017.
2. The Municipality of Clarington has a population of approximately 92,000 people and is a part of the Durham Region. The Association represents the full-time fire fighters employed by the City.
3. While there were efforts made to reach a mediated resolution, ultimately it became apparent that an award would be required to resolve certain issues.
4. In making this decision on the outstanding issues, I considered the parties' submissions as well as all relevant factors, including those specifically referenced in section 50.5(2) of the *Fire Protection and Prevention Act*:

1. A comparison, as between the employees and other employees in the public and private sectors, of the terms and conditions of employment.

2. A comparison of collective bargaining settlements reached in the same municipality and in comparable municipalities, including those reached by employees in bargaining units to which the *Labour Relations Act, 1995* applies, having regard to the relative economic health of the municipalities.

3. The economic health of Ontario and the municipality, including, but not limited to, changes to labour market characteristics, property tax characteristics and socio-economic characteristics.

4. The employer's ability to attract and retain qualified firefighters.

5. The interest and welfare of the community served by the fire department.

6. Any local factors affecting the community. 2018, c. 17, Sched. 18, s. 5 (1).

5. The parties are directed to enter into a renewal collective agreement, with the term January 1, 2018 to December 31, 2022. The agreement is to consist of all the terms in the expired collective agreement with the following specific amendments:

(a) All items previously agreed to by the parties during bargaining (attached):

(b) Article 15.07 – Purchased Vacation:

Amend:

Change from 10 days to 5 days per year.

(c) Article 17.01(b) - Accidental Death and Dismemberment (AD&D):

Add ii):

The existing AD&D benefit plan will be supplemented with a death insurance benefit, equal to two times (2x) the employee's annual salary payable in the event of a line of duty death due to occupational disease as determined by the Workplace Safety Insurance Board.

There shall be no duplication of entitlement under the existing AD&D coverage.

(d) Article 17.04(c) – Retirement

Add:

Post 65 Health Spending Account:

Members retiring after January 1, 2019, will be eligible for an individual health care spending account (HSA). The HSA will be used to reimburse retired members for medical or dental expenses which meet Revenue Canada's definition of an allowable deductible medical or dental expense.

The amount of the HSA will be to a maximum of \$2,750 per year for each individual eligible member and will be limited to the 10 years immediately following the retired members 65th birthday. The eligible expenses of the member's eligible spouse at time of retirement may also be claimed against the HSA. In order to receive reimbursement from the HSA for eligible medical or dental expenses, the member will be required to submit original receipts.

Members are eligible for the HSA if they meet the requirements for retiree benefits pursuant to Article 17.04 b) as applicable.

Claims for reimbursement must be made first through the Ontario Health Insurance Plan (OHIP), the Ontario Drug Plan (ODP), or other such public insurance plan as may be applicable.

Reimbursement will be provided for eligible medical or dental expenses to the extent those expenses exceed the coverage available from OHIP, ODP or other applicable public insurance plan.

The Retiree HSA will be non-cumulative. There is no redeemable cash value. In the event that the eligible retired employees (and spouse when applicable) do not exhaust the maximum entitlement for the year, the balance cannot be carried over into the subsequent year.

(e) Article 17.09 - Reimbursement of MTO required DZ license medicals

Effective January 1, 2019, the Municipality will reimburse each employee that is required by the employer to maintain a DZ license, up to \$100 to cover the cost of one mandatory medical examination to complete the Ministry of Transportation of Ontario (MTO) Medical Report at each age-based frequency as required by the MTO. The employee will be required to provide evidence of payment and to be eligible for reimbursement.

f) Article 21.01 – Add a new Probationary step to the probationary levels in the Appendix 1B – Wage Grid, at 60%.

Any change in benefits (Article 17) will be effective November 1, 2019, or as expressly agreed to, or awarded.

6. The Municipality shall make all reasonable efforts to ensure that salary rates are in place no later than October 31 and retroactive payments are issued no later than November 28, 2019.
7. I remain seized until the parties enter into a formal collective agreement.

Dated this 26th day of September, 2019.

"Jasbir Parmar"

JASBIR PARMAR
Sole Arbitrator

The Corporation of the Municipality of Clarington

and

The Clarington Fire Fighters' Association, IAFF Local 3139

Renewal of Collective Agreement Expired as of December 31, 2017

The following represents items in agreement between the parties as of May 31, 2019.

Article 3.02 – Delete (remove reference to reduced FF probationary period for dispatchers)

Amend Article 3 to read:

Article 3 Probation

~~3.02 One completed year of dispatch service will provide a three (3) months' credit towards a probationary fire fighter's probationary service. Two (2) completed years of dispatch service will equal six (6) months' credit towards a probationary fire fighter's service. Three (3) completed years of dispatch service will equal nine (9) months' credit towards a probationary fire fighter's service. This will apply to existing and future dispatchers.~~

Article 6.03 – Change grievance response timing for the Fire Chief to 14 days from 7 days

Amend Article 6 to read:

6.03 Step 1

The Fire Chief, or in his/her absence, the Deputy Chiefs, shall respond to the grievance in writing within ~~seven (7)~~ **fourteen (14)** days after the grievance is submitted to him/her.

Article 8.01a) – Remove dispatch reference from hours of work

Amend Article 8.01a) to read:

Article 8 Hours of Work

8.01 Regular hours of work under the current shift system for the following divisions:

- a) ~~Dispatchers and fire fighters~~ **Suppression staff:** On average forty-two (42) hours per week as scheduled by the Chief.

Article 8.01b) – Hours of Work for Fire Prevention Officer 5 days per week

Amend Article 8.01b) to read:

Article 8 Hours of Work

8.01 Regular hours of work under the current shift system for the following divisions:

- a) ~~Dispatchers and~~ Fire fighters on average forty-two (42) hours per week as scheduled by the Chief.
- b) Fire Prevention staff - 10 hours per day, from 0730 – 1730 hours, 4 days per week, using an alternating two week pattern of Monday – Thursday and Tuesday – Friday, for a total of 40 hours per week.

The **Fire Prevention Officer and Chief Senior** Fire Prevention Officer shall work a five (5) day **week, for a total of 35 40** hours per week, **inclusive of** ~~schedule with~~ a one hour paid lunch.

- c) Maintenance division staff – eight (8) hours per day, from 0700 – 1500 hours, five (5) days per week for a total of forty (40) hours per week, **with a one hour paid lunch.**
- d) The Training division employees shall work, 10 hours per day, from 0700 – 1700 hours, 4 days per week, using an alternating two week pattern of Monday – Thursday and Tuesday – Friday, for a total of 40 hours per week.
The ~~Senior Chief~~ Training Officer position shall work a five (5) day week **for a total of 35 40** hours per week, ~~schedule with~~ **inclusive of a** one hour paid lunch.

Settlement Language:

The vacant Fire Prevention Officer position shall be filled using existing Fire Prevention staff through a promotional process in accordance with Article 12 – Promotions.

The total current staffing complement of the Fire Prevention division shall not be altered due to the refill of the Fire Prevention Officer position.

The current practice and use of an Acting position in the absence of the Senior Fire Prevention Officer shall end. In the absence of the Senior Fire Prevention Officer the Fire Prevention Officer shall assume the responsibilities of the Senior Fire Prevention Officer position without extra compensation.

There shall be no unreasonable delay in replacing a vacant Senior Fire Prevention Officer position due to the elimination of the Acting SFPO practice.

The weekly hours of work for all Prevention, Training and Maintenance Divisions is 40 hours per week, inclusive of 1 hour paid lunch whereby employees must be able to respond should they be required as is the current practice.

The daily hours of work for the current Chief Fire Prevention Officer and Chief Training Officer shall not change, except by mutual agreement between the Association and the Municipality. When refilling the CFPO and CTO positions, the Municipality may adjust the daily hours of work to provide greater supervision of other staff within the division.

Article 13.01a) – Association leave not restricted to 4 designated members

Amend Article 13.01 to read:

13.01 Leave for Association Business

- a) Up to four (4) designated members of the Association will be allowed a total of ~~six (6)~~ **twenty-four (24)** days each with pay per calendar year to attend to Fire Association business provided that the Fire Chief is advised of the intended absence at least fourteen (14) days prior to the occasion and is able to adequately staff the department during the proposed absence at no additional cost to the Corporation.

Settlement Language:

The Committee list shall be provided to the Fire Chief annually and within 15 days of any subsequent changes.

Article 13.02e) – Deferral of bereavement day confirmed as 1 day

Amend Article 13.02 to read:

- 13.01 e) An employee will be entitled to defer **one (1) day** bereavement leave where the arrangements, funeral or other rite are conducted on a future scheduled working day;

Article 13.06 – Family Emergency Leave

New Article 13.06

In case of sudden or unexpected illness of an immediate family member, as defined under the ESA, an employee shall be allowed two Family Emergency Days per year and to be deducted from sick leave credits. The Municipality retains the right to request reasonable verification for entitlement to the leave.

Settlement Language:

Personal Emergency Leave policy will be reviewed and amended to reflect Family Emergency Days.

In accordance with ESA, if an employee takes leave, whether paid or unpaid, under the terms of their employment contract in circumstances for which the employee would also be entitled to take leave under the ESA, the employee is deemed to have taken their statutory leave.

Article 14.03 – Delete Plan C – Municipal Funded Short Term Disability Plan

Delete Article 14.03:

14.01 Plan C - Municipal Funded Short Term Disability Plan

~~Eligibility - This article applies to only firefighters hired after January 1st, 2004 who elect within 60 days of beginning employment to be covered by this short-term disability plan as set out below:~~

- ~~a) The provisions of a short-term disability plan, on completion of a 60 day eligibility period is set out below:~~
- ~~b) Length – 120 Calendar Days (Elimination period for LTD as set by plan provider) (approximately 56 working days)~~
- ~~c) Coverage – 100% wages for the first 5 days of illness per year
75% wages for the remaining days to LTD.~~
- ~~d) Short term sick leave 100% wage provision will be pro-rated for eligibility based on the date of hire and termination.~~
- ~~e) If an employee is absent more than 56 working days, or LTD plan dictated elimination period, on a continuous or related illness, the short term claim will be automatically referred to the Long Term plan.~~
- ~~f) Application – First day of illness or non-compensable injury~~
- ~~g) Top Up – from 75% to 100% on the sixth (6th) day
— A maximum of 5 vacation days may be used to top up short term sick leave days; however they are not to be used to extend the short term sick leave claim beyond the 56 working days on any one claim.~~
- ~~h) No accumulation of unused sick days.~~
- ~~i) If no sick days are used at the end of any calendar year, the employee will receive two (2) day's pay. There will be no pro-ration of the (2) two days.~~

Article 14.04 – Mandatory sick notes after 3 consecutive working days

Amend Article 14.04 to read:

14.04 When claiming sick pay, an employee will, ~~if required to do so by the Chief,~~ promptly furnish a Doctor's certificate after the third (3rd) **consecutive** day of illness. The Corporation retains the right to request a Doctor's certificate for less than three (3) days illness if there is

reason to believe the use of sick days is questionable. If a Doctor's certificate is requested in these circumstances, the Corporation will pay for the necessary certificate(s).

Article 17.01 – Extended Health Benefit Improvements

d) Extended health benefits, major medical benefits with prescription drug plan, inclusive of a **\$15 dispensing fee cap** and semi-private hospital coverage; **Annual deductibles of \$15 (single coverage), \$30 (single plus 1 and family coverage) effective 2020.**

Coverage for Paramedical services to a maximum of ~~\$450~~ **\$500, \$550 (2022)** a year per person per specialty upon Doctor referral, as required by the Policy. Paramedical, as provided for in the plan, includes for example, chiropractor, speech pathologist, osteopath, podiatrist, chiropodist, and naturopath.

Registered Massage Therapy services shall be covered to a maximum of **\$750** per year **effective 2020.**

Psychological Services to a maximum of \$2,000, \$2,500 (2021)

e) Prescription glasses to a maximum of ~~\$500~~ **\$550, \$600 (2022)** per person every two (2) policy* years. Laser eye surgery one time 50% to a maximum of \$1,000 per eye.

g) Major services with an eighty (80%) per cent reimbursement to a maximum of **\$1,500** per calendar year.

h) Long Term Disability – commencing after 120 days at 70% of salary to a maximum of ~~\$6,000~~ **\$7000** per month to retirement to a maximum of age NRA 60 or 65 as applicable, whichever occurs first;

Article 17.04b)– New qualifier for retirement benefits

Amend Article 17.04 to read:

17.04 Retirement:

- a) The normal retirement age for fire fighters shall be sixty (60) years of age but nothing herein shall prevent an employee from retiring at an earlier age in accordance with the provisions of the Ontario Municipal Employees Retirement Systems Act.
- b) Retiree benefits; life, dental and extended health retirement benefits to age 65 provided:
 - 1. Available from 1st day of retirement

2. All benefits terminate at age 65, any conversion options available under any plan are the responsibility of the Member to investigate and implement,
3. Employee must have 15 years of vested service
4. Employee must be in good standing* with the Municipality at the time of retirement.
5. Employee must be at least 55 years of age, or;
6. Employees who qualify for early unreduced OMERS pension with 15 years of vested services will be eligible for benefits at age 50.
7. **Must not be receiving extended health benefits as the primary recipient from another employer**

* Good Standing is defined as – An employee who, is not currently in a litigation proceeding, or involved in a malicious act against the Municipality.

Article 17.08 Survivor Benefits – 24 months for Health and Dental

Amend Article 17.08 to read:

17.08 Survivor/Spousal Benefits

Upon the employee's death during active duty or retirement, the employee's dependent survivors and/or spouse will continue to receive extended health benefits, major medical benefits with prescription drug plan, semi-private hospital coverage, **dental benefits** and vision care benefits until the earliest of:

- The date they cease to qualify as insurable dependents; or
- **Twenty-four (24)** months after the employee's death; or
- The end of the month in which the surviving spouse remarries or attains age sixty-five (65).

Article 21 – Wages and Grid Progression Amendments

21.01 Appendix 1 attached contains the detailed wage grids as follows:

January 1, 2018 1.9% - \$98,169

January 1, 2019 1% - \$99,151

January 1, 2020 1% - \$101,330

July 1, 2019 1.2% - \$100,327

July 1, 2020 1% - \$102,333

January 1, 2021 1% - \$103,356

July 1, 2021 .9% - \$104,278

January 1, 2022 1% - \$105,321

July 1, 2022 .9% - \$106,259

Captain to **118% effective January 1, 2020**

Platoon Chief to **128% July 1, 2019, 130% effective January 1, 2021**

Chief Training Officer and Chief Fire Prevention Officer to **130% effective January 1, 2022**

Amend Article 21.01b) to read:

- b) ~~Senior Chief~~ **Senior Chief** Training Officer (~~STO~~) (**CTO**) category to be positioned at the rate of 128%, **130% (2022)** on the wage grid.

When Article 12.09 b) of the Collective Agreement is exercised to fill a vacancy of the ~~STO~~ **CTO** category, the following wage progression shall apply. The successful candidate that did not meet the full qualifications will be placed at an appropriate rate within this grid in recognition of years of experience and rank.

Start at 120%; 125% after thirty (30) months; 128%, **130% (2022)** after sixty (60) months.

~~Senior Chief~~ **Senior Chief** Fire Prevention Officer (~~SFPO~~) (**CFPO**) category to be positioned at the rate of 128%, **130% (2022)** on the wage grid.

When Article 12.09 b) of the Collective Agreement is exercised to fill a vacancy of the ~~SFPO~~ (**CFPO**) category, the following wage progression shall apply. The successful candidate that did not meet the full qualifications will be placed at an appropriate rate within this grid in recognition of years of experience and rank.

Start at 120%; 125% after thirty (30) months; 128%, **130% (2022)** after sixty (60) months.

Settlement Language:

Appendix 1 and all applicable areas of the renewal collective agreement shall be amended to reflect the following wages and differentials; and shall be retroactive for all employees that were employed by the Municipality during the applicable period.

Article 22 – Rename Platoon Captain to Platoon Chief

Amend Article 22.01 to read (Association Proposal):

Article 22 – Platoon ~~Captain~~ **Chief**

22.01 There shall be one (1) Platoon Chief stationed at headquarters for each platoon in the suppression division. ~~The Platoon Chief shall receive 128%, 130% (2020) of first class wages.~~

Article 26 – Duration

Amend Article 26 to read:

26.01 This Collective Agreement shall remain in force and effect from January 1st, ~~2015~~ **2018** to December 31st, ~~2017~~ **2022** and from year-to-year thereafter until replaced by a new Agreement or award; provided however, that either party may terminate this Agreement or indicate an intention to re-negotiate its provisions by providing notice in writing to the opposite party not less than thirty (30) days and not more than forty-five (45) days prior to the 31st of December, in the applicable year.

Renew Letters/Memorandums of Understanding

The parties agree to renew all letters of understanding and/or memorandums of understanding except the memorandum Re: Move from Prevention to Suppression, dated June 16, 2005.