



Public Safety & Transportation Committee Agenda

City of Newton In City Council

Wednesday, January 22, 2020

7:00 PM
Room 205

Items Scheduled for Discussion:

Referred to Public Safety & Transportation and Finance Committees

#87-20 **Appropriate \$900,000 for Fire Rescue Full Time Salaries**

HER HONOR THE MAYOR requesting authorization to appropriate and expend nine hundred thousand dollars (\$900,000) from June 30, 2019 Certified Free Cash to Acct# 0121022-511001 Fire Rescue Full Time Salaries.

Chairs Note: *The Committee will meet jointly with the Public Facilities Committee in room 204 to discuss the following item:*

Referred to Public Facilities and Public Safety & Transportation Committees

#81-20 **Discussion on transportation priorities and public works**

PUBLIC FACILITIES COMMITTEE, PUBLIC SAFETY & TRANSPORTATION COMMITTEE AND COUNCILOR LEARY requesting a discussion with the administration and school officials on transportation priorities and public works/streets/sidewalks etc.

All other items before the Committee will be held without discussion.

Respectfully submitted,

Jacob D. Auchincloss, Chair

The location of this meeting is accessible and reasonable accommodations will be provided to persons with disabilities who require assistance. If you need a reasonable accommodation, please contact the city of Newton's ADA Coordinator, Jini Fairley, at least two business days in advance of the meeting: jfairley@newton.gov or (617) 796-1253. The city's TTY/TDD direct line is: 617-796-1089. For the Telecommunications Relay Service (TRS), please dial 711.



RUTHANNE FULLER
MAYOR

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Office of the Mayor

87-20

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January 13, 2020

Honorable City Council
Newton City Hall
1000 Commonwealth Avenue
Newton Centre, MA 02459

Councilors:

I respectfully submit a docket item to your Honorable Council requesting authorization to appropriate the sum of \$900,000 from June 30, 2019 Certified Free Cash to Acct # 0121022-511001 Fire Rescue Full Time Salaries.

The City has negotiated a Collective Bargaining Agreement with the I.A.F.F. Local 863 (Firefighters) through the end of this fiscal year, and a successor agreement covering the period FY2021 – FY2023. You will see in the attached agreements that the Firefighters have accepted language regarding “Fit for Duty” as well as changes in co-payments for health care. In exchange, the City has agreed to an adjustment to the grid (as was done in the last Police Patrol agreement), and a 3% Cost of Living Adjustment for each of the four years covered by the two agreements. It is important to note that 76% of the department is at the “top step” and receive no other increases beyond those delineated in these agreements.

Thank you for your consideration of this matter.

Sincerely,

Ruthanne Fuller
Mayor

RECEIVED
Newton City Clerk
2020 JAN 13 PM 2:33
JAMES A. O'BRIEN, CMC
Newton, MA 02459

CITY OF NEWTON AND IAFF, LOCAL 863

MEMORANDUM OF AGREEMENT

1. WAGE OFFER

1-Year CBA

July 1, 2019 (FY20): 3% COLA, see attached grid with correction, as shown on Addendum A.

2. MISCELLANEOUS CBA CLEAN-UP

A. ARTICLE II (DUES AND AGENCY SERVICE FEE)

Delete Section 2.03 pertaining to agency fees.

B. ARTICLE IV (SPECIAL LEAVE)

Amend Section 4.08 as follows: "except that a maximum of two employees on a ladder company or Rescue 1 ..."

C. ARTICLE IVB (Injured Leave – Limited Duty/Limit on Annual Compensation)

Amend Section 4B.04 to read as follows:

"If the injury is not of a severity requiring such immediate emergency medical attention, the employee can elect to go to a CITY-appointed physician, or to the employee's health care provider. The CITY shall annually identify to the ASSOCIATION the name of the CITY-appointed physician no later than January 1 of each calendar year."

D. ARTICLE XX (HOLIDAYS)

Amend Section 20.02 to delete "Board of Aldermen" and replace with "City Council."

Amend Section 20.03 to delete "Board of Aldermen" and replace with "City Council."

E. ARTICLE XXV (APPROPRIATIONS)

Amend Section 24.01 to delete "Board of Aldermen" and replace with "City Council."

F. ARTICLE XXX (COVERAGE)

Amend Section 30.01 as follows: "No fewer than four (4) fire suppression employees on any ladder or Rescue 1 shall respond to an alarm."

G. ARTICLE XXXVI (Labor – Management and Emergency Medical Services Committee)

Amend Section 36.03 (E) and (F) to delete “Board of Aldermen” and replace with “City Council.”

H. Incorporate MOAs and any side-agreements between the City and IAFF into the CBA.

3. ARTICLE IV (SPECIAL LEAVE)

Amend Article IV to add new Section 4.08 as follows (and re-number accordingly):

4.08a When the Fire Chief has reasonable cause to suspect that an employee is unfit for duty, the employee shall be required to undergo a medical examination by a CITY-appointed physician to determine his/her fitness for duty. Reasonable cause shall be defined in this section as the Fire Chief having specific and articulable facts that an employee is unable to perform the essential functions of his/her position in the Fire Department. The CITY shall place the employee on paid administrative leave pending the results of his/her fitness for duty examination.

4.05b If the examination by the CITY-appointed physician reveals that the employee is fit for duty, he/she will immediately return to duty. If the examination by the CITY-appointed physician reveals that the employee is unfit for duty, the employee’s own special leave time will run from the time the employee is determined by the CITY-appointed physician to be unfit for duty, provided that the requirements for the use of special leave under this article are met. If it is determined that the employee is entitled to injury leave pursuant to Article IVB of this Agreement, he/she shall be granted leave without loss of pay under those provisions.

4.05c The employee, if found unfit for duty by the CITY-appointed physician and if he/she desires, may then request an examination by a physician of his/her own choice at the CITY’s expense. In the event that the employee’s physician and the CITY’s Physician disagree as to the employee’s fitness for duty, the employee’s physician and the CITY’s physician shall confer in an effort to resolve the disagreement. If the disagreement remains, the Director of Human Resources shall arrange for an examination of the employee by a physician selected from a pool of a minimum of five (5) physicians previously agreed upon by the ASSOCIATION and the CITY. Said physician shall be selected by either a representative of the ASSOCIATION or by a representative of said Director of Human Resources by lottery system. Such designated physician will examine the employee and render a written opinion as to whether or not the employee is fit for duty. The inquiry to the neutral physician will be in written submission sufficiently descriptive of such assignment and agreed upon by the ASSOCIATION and by the CITY. The determination of the neutral physician will be binding upon the employee involved, upon the ASSOCIATION and upon the CITY. If the neutral physician determines that the employee is fit for duty, the City shall credit back any special leave time used by the employee to cover his/or her absence from work during the examination process.

4.05d The CITY shall offer an employee who is found unfit for duty under this section the opportunity to participate in the CITY's Employee Assistance Program at the CITY's expense."

An SOP for the Department of Human Resources for the administration of Section 4.08 is attached to this MOA as Addendum B.

4. ARTICLE XXVII (LONGEVITY)

Effective July 1, 2019, Section 27.01 shall be amended to add the following:

	Annual	Weekly
5 - 9 years	\$750	\$14.42

5. ARTICLE XXXV (DRUG SCREENING)

Amend Article XXXV (Drug Screening) as shown on Addendum C.

6. ARTICLE XXXVIII (DURATION)

Amend Section 38.01 to replace with effective dates: July 1, 2019 to June 30, 2020.

7. APPENDIX A, SECTION 9

Amend Appendix A, Section 9, as follows:

~~"Notwithstanding the prior provisions of this Section, in the case of prolonged illness or injury absences of officers, after thirty (30) days of such absence, the CITY shall make a ~~provisional~~ **temporary** appointment from a certified civil service promotional list to fill the position until the permanent officer returns to active duty. The opportunity for such out of grade compensation shall be allocated on the basis of ranking of employees on the promotional list involved; ~~provided, however, that once the highest ranking employee on such list has been given the opportunity for such out of grade compensation, the opportunity for such compensation on the next occasion of an officer absence in the rank involved shall be given to the next highest ranking employee on the list involved, and such allocation based on descending ranking of employees on such list shall continue for further occasions of officer absences. The term "occasion of absences" as used herein refers to any consecutive number of tours of absence of an officer, with any number of such consecutive tours constituting one (1) such occasion. When all employees on the list have been given the opportunity for out of grade compensation pursuant to descending ranking on the list, the allocation of out of grade compensation upon the next occasion of officer absence shall be given to the highest ranking employee on the list in order to maintain the allocation of opportunity rotation system. If no certified promotional list exists for a given rank, allocation among employees in the immediately lower rank of out of grade compensation opportunity to serve in the next higher rank shall be made pursuant to the Fire Chief's discretion."~~~~

IAFF, LOCAL 863

CITY OF NEWTON

By: _____

By: *U. G.*

By: _____

By: _____

By: _____

By: _____

Approved as to form and legality:

By: *D. D. M.*

Date:

Date:

ADDENDUM A

ADDENDUM B

**CITY OF NEWTON
DEPARTMENT OF HUMAN RESOURCES
FITNESS FOR DUTY STANDARD OPERATING PROCEDURE**

- A. HR receives a report from the Fire Chief or Assistant Chief of Operations requesting a fitness for duty examination, setting forth with specificity the reason(s) for the exam and attaching supporting documentation, if any, with a copy to the IAFF.
- B. HR transmits the report from the Fire Chief or Assistant Chief of Operations, in addition to a job description for the position held by the employee in the Fire Department, to the City Physician with a written request to conduct a fitness for duty examination, with a copy to the IAFF.
- C. HR coordinates the placement of the employee on paid administrative leave during the pendency of the fitness for duty examination and communicates with the employee to set an appointment date and time with the City Physician.
- D. The City Physician shall conduct a fitness for duty examination, and he/she shall determine whether the employee is either: fit for duty or not fit for duty. The City Physician may refer the employee to a specialist if it is medically necessary prior to making his/her determination.
- E. In all cases, the City Physician shall act in the best interest of the employee's health and welfare.
- F. The City Physician shall communicate his/her fitness for duty findings in writing to HR.
- G. HR shall communicate the City Physician's fitness for duty findings to the Fire Chief or Assistant Chief of Operations, with a copy to the IAFF.
- H. HR and the Fire Department shall at all times keep employees' medical information confidential, as required by federal and state law.
- I. HR shall coordinate the City's payment for the fitness for duty examinations.
- J. This process shall not conflict with an employee's rights under the CBA or the FMLA, or any other applicable federal or state law.
- K. Changes to this SOP during the term of this CBA shall only be made by the CITY by proposal in writing to the IAFF and with the assent of the IAFF, which shall not be unreasonably withheld.

ADDENDUM CARTICLE XXXV

Drug and Alcohol Screening

35.01 The Fire Chief, or his/her designee in the Chief's absence, for reasonable cause may require that a firefighter submit a test sample forthwith for drug screening and alcohol screening to be administered by the City Physician, the Nurse Practitioner, or the City Physician's designee. Failure to provide the test sample as directed will result in disciplinary action. The testing procedures will be prescribed by the City Physician's office. Alcohol screening shall be by breathalyzer only, and a calibration document from the contractor shall be provided to the ASSOCIATION with each screening.

35.02 (a) The firefighter may initiate a review of the Chief's directive. Immediately upon receipt of the Chief's directive, the firefighter will sign a form, either accepting the directive or requesting a review of it. Failure to sign the form immediately shall be deemed waiver of the firefighter's right to review the directive.

(b) The Chief's directive shall be reviewed by a committee of three comprised of two bargaining unit appointees by the Chief and one unit appointee by the ASSOCIATION. The Chief and the ASSOCIATION shall appoint people who, in each instance, are able to comply with the 24 hour time constraints for concluding the appeal as referenced in Paragraph 2(g), below.

(c) The review shall be an informal process. The committee will determine its own procedures; provided, however, that the committee will meet for the conduct of all of its business. The purpose is to determine only whether or not the Chief has information which establishes reasonable cause to request screening. The firefighter is not a participant in this portion of the process.

(d) The Chief or his designee will present his information to the committee. The committee may, if it feels that it is necessary, request corroboration of information, if it is available. The Chief or his designee will determine whether or not and to what extent to provide the additional information.

- (e) The committee will make a decision, by majority vote, based upon the information presented.
- (f) During the pendency of this review process, the Chief reserves the right to determine the firefighter's working status and assignment. This does not restrict the Chief from imposing discipline for violations of department rules, regulations, and/or policies.
- (g) The review is to be conducted and concluded within twenty-four (24) hours of the time the Chief requested the test, or as soon thereafter as is practicable.
- (h) If the review committee determines that the drug and alcohol screening is warranted, such testing shall be conducted immediately.
- (i) If the review committee finds that the test is not warranted, the sample shall not be tested and shall be destroyed.
- (j) The firefighter may, at the time the sample is provided, request that he/she be provided with a non-tested sample, and the City Physician's office shall so provide it.
- (k) The decision of the review committee shall be final and binding and not subject to the grievance and arbitration provisions of this Agreement.
- (l) The results of the screening test shall be given to the Chief and the firefighter.

35.03 Procedure following a positive test result:

The presence of greater than 0.04 alcohol content in the blood, or a verified positive drug test for illegally-used drugs, non-prescribed drugs or non-prescribed controlled substances shall be considered a violation of this Article. An "illegally-used drug" is defined as the ingestion of prescribed or over-the-counter medication in amounts beyond the prescribed or recommended dosage, or taken after the prescribed period of time.

- (a) A first offender is someone who has never previously tested positive for the presence of alcohol, or non-prescribed drugs or controlled substances.

(b) The CITY recognizes that clinical treatment and/or rehabilitative treatment for drug and/or alcohol use may be the appropriate course of action in some circumstances. The Chief may, at his discretion, request a first offender who tested positive for any class of illegal controlled substances, in addition to being subject to disciplinary action, to participate in an approved rehabilitation program in the CITY's Employee Assistance Program. The Chief, however, reserves the right immediately to impose discipline in the following circumstances:

- (1) The firefighter purchased, sold, possessed, or used drugs, or engaged in any other illegal drug offenses while on duty.
 - (2) The firefighter's job performance or ability to perform his/her work was impaired by the use of drugs.
- (c) (1) In circumstances other than those described in paragraph (b) above, as follows:
- a. A positive test for alcohol and/or any illegal drug;
 - b. If the offense occurred during non-working hours; and,
 - c. If the firefighter's performance or ability to perform his/her work was not impaired; the Chief may also impose discipline. However, the firefighter will be offered the opportunity to participate in the CITY's Employee Assistance Program. If he/she accepts the offer he/she must fully cooperate with the City Physician's office in providing information and in complying completely with whatever rehabilitation program is designed for him/her.
- (2) During the period of rehabilitation, the discipline will be stayed provided the firefighter does not, in any manner, violate the terms and conditions of his/her rehabilitation program.
 - (3) Upon the successful completion of the rehabilitation, the employee's records will so note, and the disciplinary action will be withdrawn and the case terminated.
- (d) Any second or subsequent offenses will result in immediate discipline, including

termination.

(e) Civil Service Rights - Grievance - Arbitration Rights

An employee or the ASSOCIATION can obtain neutral review of the application of the provisions of Article XXXVI by the CITY/Chief upon only the following basis:

- (1) The Chief's directive (Paragraph 1) requiring a firefighter to submit a sample for testing may only be reviewed by the committee process established in Paragraph 2 and may not be reviewed by grievance-arbitration or through Civil Service.
- (2) The review committee's decisions as to whether or not a sample is to be tested are final and binding and not subject to any review process whatsoever.
- (3) The remaining provisions of this article may be reviewed as follows. a. the ASSOCIATION can appeal all grievance issues, including the discipline, to Grievance Arbitration. As a condition precedent to grieving discipline, the employee must waive his Massachusetts Civil Service rights OR b. (1) The employee may appeal his/her discipline to Civil Service AND/OR (2) Subject to the foregoing exclusions, the ASSOCIATION can process to Grievance Arbitration allegations that the CITY/Chief has violated the provisions of this Article; however, if an employee utilizes the provisions of Paragraph 36.03 (e) 3b.(1) regarding appeal of discipline to Civil Service, the ASSOCIATION cannot arbitrate the discipline made the subject of such Civil Service appeal.

35.04 Notwithstanding any other provisions of this Article, any firefighter who is to be offered a promotional position, i.e., Lieutenant, Captain, and/or Deputy Chief, shall, as a prepromotional condition, submit to drug and alcohol screening tests as directed by the Chief or his/her designee.

35.05 Notwithstanding any other provisions of this Article, firefighters who have volunteered for and who are to be offered certain specialist assignments shall, as a preassignment condition, submit to drug and alcohol screening tests as directed by the Chief or the Assistant Chief.

The specialist assignment subject to pre-appointment drug and alcohol screening is: staff or day position.

35.06 Notwithstanding the provisions of this Article, the CITY and the Chief, or the Assistant Chief, reserve the right to require urinalysis screening testing and alcohol screening in accordance with law. Further, the CITY reserves its legal rights to administer tests to firefighters who are suspects in criminal and/or departmental investigations.

35.07 The provisions contained in this Article are as and between the CITY and the ASSOCIATION relative to their rights and responsibilities under the provision of M.G.L. c. 150E. In agreeing to these

provisions, the ASSOCIATION is not intending to waive any constitutional rights of individual bargaining unit employees.

END OF DOCUMENT

CITY OF NEWTON AND IAFF, LOCAL 863MEMORANDUM OF AGREEMENT**1. WAGE OFFER**3-Year CBA

July 1, 2020 (FY21): 3% COLA

July 1, 2021 (FY22): 3% COLA

July 1, 2022 (FY23): 3% COLA

See Addendum A, attached.

2. FISCAL YEAR 2021 (JULY 1, 2020 – JUNE 30, 2021)**A. ARTICLE XI (HOSPITALIZATION AND MEDICAL PROGRAM)**

Effective 1, 2020, Article XI shall be replaced as follows:

"14.01 The CITY will provide group health coverage with schedule of benefits or its equivalent for all eligible families and individuals that is currently in effect. The CITY will pay 80% of the premiums or costs of all health plans.

- Effective July 1, 2011, there will be:

- A. 75% contribution for all newly insured employees;
- B. Mandatory mail-order for all maintenance medications;
- C. Outpatient day surgery co-pay: \$100/visit;
- D. Emergency Room co-pay: \$100/visit;
- E. Deductible of \$250 (individual) / \$500 (family), with an annual out-of-pocket max of \$1,000 (individual) / \$2,500 (family); and
- F. Preventative care: \$0 co-pay/visit

- Effective July 1, 2012, the POS flat rate shall equal the HMO rate.

- Effective July 1, 2020, there will be:

- A. Physician Office Visit co-pay: \$25/visit
- B. Specialist Office Visit co-pay: \$40/visit

- C. 30-day prescription drug co-pay:
 - Tier 1: \$20
 - Tier 2: \$30
 - Tier 3: \$50
- D. Retail Clinic (as defined by the City's Plan) Visit co-pay: \$5/visit
- E. Urgent Care (as defined by the City's Plan) Visit co-pay: \$10/visit

B. ARTICLE XXI (WORK WEEK)

Amend Section 21.01a as follows:

"The work week for members of Fire Prevention, Training Division, Communications Officer and Storekeeper shall be four 10 hour days, 40 hours per week. Regular hours shall be 7:00 am to 5:00 pm. **Employees working the ten (10) hour day shift with a regularly scheduled day off from work on a holiday shall take a day off as follows:**

<u>HOLIDAY</u>	<u>DAY OFF</u>
Monday	Tuesday
Tuesday	Wednesday
Wednesday	Tuesday or Thursday
Thursday	Wednesday
Friday	Thursday

However, no more than two (2) employees from each division shall be allowed to take the same day off on any remaining day of the week. In the case when a holiday falls on a Wednesday, the Chief of Department shall determine whether Tuesday or Thursday of that same week shall be taken as the day off. Employees who are not able to take another day off during the same week shall be allowed to take another day off the following week to be assigned by the Chief of Department. In the event of an unforeseen circumstance, the Chief of Department may allow an additional member time off during the holiday week."

C. ARTICLE XXVI (VACATION BENEFITS)

Amend Section 26.01 as follows:

"Effective July 1, 2020

- (c) Eligible employees who have completed an aggregate of twenty-five (25) years of service in the employ of the CITY shall be entitled to a total of six (6) weeks of vacation annually commencing with the calendar year in which they complete such service, provided in each instance that they are entitled to a vacation in such calendar year under the provisions of §2-65 of the 1995 Revised Ordinances of the City."

D. ARTICLE XXXIII (PAID DETAILS)

Section 33.05 shall be amended as follows:

"33.05 The hourly rate of pay will be \$50.00 for private duty details and \$45.00 for City of Newton duty details. For all details, except City of Newton details, the detail rate for weekends, evenings (10:00 pm – 6:00 am) or holidays shall be increased by \$5.00 over the regular rate in addition to the surcharge."

E. APPENDIX A, SECTION 8 (EMT STIPEND)

Amend this section as follows:

"Effective July 1, 2020, upon certification as an EMT, firefighters shall be paid an annual lump sum of \$1,500.00."

F. On or before July 1, 2020, the City shall implement a Cancer Screening Program for all members of the bargaining unit, which shall be established and maintained by the Fire Department and the Department of Human Resources, upon consultation with the IAFF.

3. FISCAL YEAR 2023 (JULY 1, 2022 – JUNE 30, 2023)

On or before July 1, 2022, the City and the union shall conduct an internal feasibility study on the prospect of retired firefighters working paid City and private details.

4. ARTICLE XXXVIII (DURATION)

Amend Section 38.01 to replace with effective dates: July 1, 2020 to June 30, 2023.

IAFF, LOCAL 863

CITY OF NEWTON

By: [Signature] 1/6/20 2019

By: [Signature]

By: [Signature] 12-16-19

By: [Signature] 12-16-19

By: _____

By: _____

Approved as to form and legality:

By: [Signature]

Date:

Date:

ADDENDUM A

