

# Association of Cleveland Fire Fighter Local 93

## Objections to Proposed Charter Changes

Presented May 22, 2008

### Port Control Proposed Changes to Charter Review Committee

#### Sec. 118 Fire Force: Control by Chief

Local 93 objects to this proposal. This proposal would undermine the Chief of Fire's status as the Authority Having Jurisdiction at the scenes of fires and emergencies by transferring some of these duties as prescribed in 118-1. Having a single and sole Authority Having Jurisdiction for fires and emergencies is paramount to stable, effective emergency mitigation and management. Having more than one Authority Having Jurisdiction creates bureaucratic and jurisdictional barriers that hinder effective and timely delivery of service, possibly in life and death situations. This is not in the best interest of the public. This change **should be rejected**.

#### Sec. 118-1 Airport Rescue and Fire Force; Control by the Director of Port Control

Local 93 objects to this proposal, as it would allow the transfer of job duties currently performed by the Division of Fire to an "Airport Rescue and Fire Force." The Chief of the Division of Fire along with his subordinate officers and fire fighters, have the most experience in structural firefighting and related duties and are best equipped and trained to perform these duties within the municipal boundaries. There is no known or demonstrated inability of the Division of Fire to perform work they have always, and currently, perform that would justify this charter amendment. The proposal is an unnecessary and costly duplication of service and more importantly will prevent each entity from effectively performing their unique, specialized duties.

Presently we have a grievance filed, due for arbitration, to resolve authority having jurisdiction issues such as ARFF alarm notification, alarm response, incident investigation and mitigation, facilities inspections and permit approval. It's our opinion that introducing these charter proposals while addressing the grievance through the arbitration process constitutes an Unfair Labor Practice and has been so advised by our legal counsel. For the reasons stated the proposal **should be rejected**.

## Civil Service Proposed Changes to Charter Review Committee

### Sec. 126-1.e, Change the Chief of Fire to unclassified service.

IAFF Local 93 objects to the proposal to change the Chief of Fire to the unclassified service. The proposal would change the current process of selecting the Chief of Fire from applicants who pass a Civil Service Promotional Examination. This examination is open to the rank of Assistant Chief, which have had experience at every level and every rank within the Division of Fire, and possess a high degree of knowledge and experience of the Fire Service, specifically the Cleveland Division of Fire. To depart from the current process could allow for appointment of individuals lacking the requisite experience, knowledge, skills and abilities to be an effective Chief of Fire. Additionally, the appointment of an individual from outside the Division would lack detailed knowledge of Cleveland's unique fire service concerns as well as intra-division issues to be effective.

There have been no demonstrated or known deficiencies, of any of the Division's regularly appointed Fire Chief's job performance. The proposed change is unnecessary and is counterproductive to effective management of the Division of Fire and the proposal **should be rejected.**

### Sec. 126-2.b, Non-Competitive Class shall include...?

*Does the above proposal affect the Division of Fire?*

### Sec. 128.b, For open competitive tests...

Local 93 feels that the wording **relative** should be retained with the proposed new language of knowledge and abilities. The testing process should result in a ranking of individuals to be considered who have demonstrated **relative knowledge and abilities**, which would enable them to be an efficient and effective member of the Division of Fire. Local 93 would recommend adoption of the proposal if modified as referenced above.

### Sec. 128.f, Change eligibility from 1 of 3, to 1 of 7...

Local 93 objects to the proposed changes to this section, and the current 1 in 3 provision should be retained. The process for competitive tests for relative knowledge and abilities allows for a qualified pool of persons to be considered. The current method of the 1 in 3 has been proven to be an adequate mechanism for the Administration to make a final selection for a position and the proposal **should be rejected.**

**Sec. 128.g, For employment without test...**

Local 93 objects to the proposed changes in this section. We request that the original language addressing **temporary** employment be retained and the proposal **should be rejected**.

*Does this proposal in any way change the current promotional process for the Division of Fire?*

**Sec. 128.i, For promotion in the classified service...**

Local 93 objects to the proposed changes to this section. The stricken language addresses the essential requirements to be considered in the promotional process and leaves ambiguous the requirements for promotional testing within the competitive class of the classified service. The use of competitive testing and seniority are necessary to promote qualified individuals and to comply with relevant Collective Bargaining requirements and State Supreme Court precedents. The original language should be retained and the proposal **should be rejected**.

*Does the above proposal change the promotional procedures for the Division of Fire, currently utilizing seniority and competitive testing, which we feel are essential?*

**Sec. 131.a, Change in eligibility for a position...**

Local 93 objects to the proposed changes to this section. There have been no demonstrated or known deficiencies that would justify this change. The current process already allows for adequate flexibility in the appointment process, while minimizing a public concern and appearance of favoritism and nepotism entering into the Civil Service process.

Additionally, the proposed language would grant new authority and discretion to the appointing authority to not make appointments in cases where the eligibility list has less than seven persons. This is arbitrary and capricious; if there is a need for an appointment and there are still certified eligible, qualified candidates left on the list, there is overwhelming public interest concern in immediately filling the vacant position from among the qualified, certified eligible candidates. To give discretion to the appointing authority to appoint or not appoint under these circumstances is contrary to effective delivery of safety services and is not good public policy. This proposal conflicts with current collective bargaining language which

**Section 131.a.** (continued)

requires the appointing authority to make appointments so long as there are qualified, certified eligible candidates remaining on the list. For these reasons the proposal **should be rejected**.

**Sec. 131.c. An employee in the classified service...**

Local 93 objects to the proposed changes to this section. This proposed change would undermine Civil Service testing requirements for these positions and allow appointment of individuals who have not demonstrated they are qualified for the position. There is a high degree of public interest concern in appointment of qualified individuals to vacancies and the proposed language is contradictory to this public interest concern. Moreover, the language conflicts with several court orders and Collective Bargaining agreements. For these reasons the proposal **should be rejected**.

*Does this proposal in any way change the current promotional process for the Division of Fire?*

**Sec. 132 Limitation on appointment and transfer...**

Local 93 objects to the proposed changes to this section. There has not been a demonstrated need to repeal this section. This section protects the public interest of concern of employees only performing work for which they are authorized to do by the public (through their elected representative) and, more importantly, qualified to do. The proposal to repeal this section **should be rejected**.

**Sec. 133 Promotions wherever practicable...**

There has not been a demonstrated need to remove this charter section. This section enhances and protects the public interest concern of only filling vacancies considered to be promotions by qualified individuals through competitive examinations and minimizes the public concern of favoritism and nepotism entering into the civil service process. Moreover, the removal of this section amplifies the possibility of violation of collective bargaining agreements and the State Supreme Court precedents. The proposal to repeal this section **should be rejected**.