

**REGULAR PIQUA CITY COMMISSION MEETING
TUESDAY, JANUARY 18, 2011
7:30 P.M. – COMMISSION CHAMBER – 2nd FLOOR
201 WEST WATER STREET
PIQUA, OHIO 45356**

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

OATHS OF OFFICE – PIQUA FIRE DEPARTMENT

- ASSISTANT FIRE CHIEF VINCENT P. ASHCRAFT
- FIRE CAPTAIN F. JOHN KENDALL, JR.

INTRODUCTION OF WESTERN OHIO TV CONSORTIUM (WOTVC) EXECUTIVE DIRECTOR:

- Mr. Guy Fogle

REGULAR CITY COMMISSION MEETING

A. CONSENT AGENDA

- a. APPROVAL OF MINUTES
Approval of the minutes from the January 4, 2011 Regular City Commission Meeting

B. OLD BUSINESS

- a. ORD. NO. 35-10 (3rd Reading)
An Ordinance to vacate a public alley right of way
- b. ORD. NO. 1-11 (2nd Reading)
An Ordinance amending Ordinance No. 33-66, relating to the Municipal Income Tax

C. NEW BUSINESS

- a. RES. NO. R-6-11
A Resolution authorizing the City Manager to execute a labor contract with the Fraternal Order of Police (Civilians), Ohio Labor Council, Inc.
- b. RES. NO. R-7-11
A Resolution reappointing Julia (Judy) Terry to the Grow Piqua Now Board

- c. RES. NO. R-8-11
A Resolution appointing Sharon Lyons to the Energy Board
- d. RES. NO. R-9-11
A Resolution of Appreciation for the Public Service of Rick Maggert as a City Employee
- e. RES. NO. R-10-11
A Resolution to request the Miami County Board of Elections to set a Special Election on March 1, 2011 for the purpose of a Recall Election for Commissioner, Lucinda L. Fess, Commissioner William Vogt, Commissioner Joe Wilson and Commissioner Julia Terry

D. OTHER

E. ADJOURNMENT

**MINUTES
PIQUA CITY COMMISSION
Tuesday January 4, 2011
7:30 P.M.**

Piqua City Commission met at 7:30 P.M. in the Municipal Government Complex Commission Chambers located at 201 W. Water Street. Mayor Fess called the meeting to order. Also present were Commissioners Vogt, Martin, Terry, and Wilson. Absent: None.

REGULAR CITY COMMISSION MEETING

Consent Agenda

Approval of Minutes

Approval of the minutes from the December 21, 2010 Regular Piqua City Commission Meeting

Moved by Commissioner Martin, seconded by Commissioner Vogt, that the minutes of the December 21, 2010 Regular Piqua City Commission Meeting be approved. Voice vote, Aye: Wilson, Fess, Martin, Terry, and Vogt. Nay: None. Motion carried unanimously.

OLD BUSINESS

ORD. NO. 35-10 (2nd Reading)

An Ordinance to vacate a public alley right of way

City Manager Enderle stated this is the second reading on the purchase of the property located on either side of the subject alley way and plans to consolidate the parcels into one tract of land. The purpose for combining the parcels is to create one tract of land for the construction of the Power System Service Center

Public Comment

No one came forward to speak for or against Ordinance No. 35-10.

Ordinance No. 35-10 was given a second reading.

ORD. NO. 1-11 (1ST Reading)

An Ordinance amending Ordinance No. 33-66, relating to the Municipal Income Tax

City Manager Enderle stated the purpose of Ordinance No. 1-11 is to provide funds for the purpose of permanent improvements, new equipment, extension and enlargement of municipal services and facilities, capital improvements and operating expenses of the City of Piqua. This ordinance is requested to change the dates to continue the Municipal Income Tax, stated City Manager Enderle. Assistant City Manager/Finance Director Cynthia Holtzaple stated there isn't a financial impact with this Ordinance since the street levy renewal was passed; this is just a housekeeping item.

Public Comment

No one came forward to speak for or against Ordinance No. 1-11.

Ordinance No. 1-11 was given a first reading.

RES. NO. R-2-11

A Resolution authorizing the City Purchasing Analyst to advertise for bids to make certain purchases during the 2011 year

City Manager Enderle stated Resolution No. 2-11 is authorizing the City Purchasing Analyst to advertise for bids to make certain purchases during the 2011 year. We are required to advertise for any capital or operational purchases over \$25,000 in a newspaper of local circulation. At the first Commission meeting each year the Purchasing Analyst asks for the Commissions approval to advertise for these bids.

There was discussion whether there were any items that were pushed back from the 2010 budget to the 2011 budget, Assistant City Manager/Finance Director Cynthia Holtzaple explained.

Public Comment

No one came forward to speak for or against Resolution R-2-11.

Moved by Commissioner Wilson, seconded by Commissioner Terry, that Resolution No. R-2-11 be adopted. Roll call, Aye: Wilson, Vogt, Martin, Terry, and Fess. Nay: None. Motion carried unanimously. Mayor Fess declared Resolution No. R-2-11 adopted.

RES. NO. R-3-11

A Resolution authorizing purchase orders to Chemical Services, F2 Industries, LLC. Marubeni Specialty Chemicals, Huron Lime, Inc. and Univar USA for the 2011 purchase of various Water Treatment Chemicals

City Manager Enderle stated bids were taken on December 17, 2010 and nineteen bids in total were received. The low bidders are recommended for the award of these bids as stated in the resolution. In the past the SWOP4G bid award has been included with this award. The bid was compiled by the Montgomery County Purchasing Office this year, and do not have a bid tab available at this time. We plan to purchase Hydrofluosilicic Acid and Liquid Chlorine this year using their discount. If needed we will prepare a separate resolution for the purchase of these two chemicals at a future commission meeting, said City Manager Enderle.

There was discussion of the various chemicals and how they are chosen and reviewed for quality. Underground Utilities Director Dave Burtner explained how the chemicals are reviewed for quality from the different companies they are purchased from. The purchase of lime from the City of Dayton was discussed, and it was stated the City of Dayton might not have any extra lime to sell the City of Piqua this year. City Manager Enderle stated he would look into it and clarify the information, and send the Commissioners an email with the information they requested.

Public Comment

No one came forward to speak for or against Resolution No. R-3-11.

Moved by Commissioner Martin, seconded by Commissioner Terry, that Resolution No. R-3-11 be adopted. Roll call, Aye: Wilson, Vogt, Martin, Terry, and Fess. Nay: None. Motion carried unanimously. Mayor Fess declared Resolution No. R-3-11 adopted.

RES. NO. R-4-11

A Resolution accepting the resignation of Brian Kellogg as a member of the Energy Board

City Manager Enderle stated this Resolution accepts the resignation of Brian Kellogg as a member of the Energy Board.

Public Comment

No one came forward to speak for or against Resolution No. 4-11.

Moved by Commissioner Wilson, seconded by Commissioner Terry, that Resolution No. R-4-11 be adopted. Voice vote, Aye: Martin, Terry, Fess, Wilson, and Vogt. Nay: None. Motion carried unanimously. Mayor Fess declared Resolution No. R-4-11 adopted.

RES. NO. R-5-11

A Resolution accepting the resignation of Melissa A. Randles as a member of the Tree Committee

City Manager Enderle stated this resolution accepts the resignation of Melissa A. Randles as a member of the Tree Committee.

Public Comment

No one came forward to speak for or against Resolution No. R-5-11.

Moved by Commissioner Terry, seconded by Commissioner Wilson, that Resolution No. R-5-11 be adopted. Voice vote, Aye: Fess, Wilson, Vogt, Martin, and Terry. Nay: None. Motion carried unanimously. Mayor Fess declared Resolution No. R-5-11 adopted.

OTHER

Monthly Reports- November 2010

Monthly Reports for the month of November 2010 were accepted.

Public Comment

Ruth Koon, Park Avenue, came forward asked citizens to help Piqua Catholic School in their efforts to win a \$50,000 grant from Pepsi. Ms. Koon further explained how citizens can support the school in their efforts to win the grant. Piqua Catholic School Community Day will be celebrated on Saturday January 15, 2011 downtown at the Gazebo. Citizens are encouraged to come down and show their support. Mayor Fess encouraged citizens to text their votes in for Piqua Catholic School.

Commissioner Wilson stated he had received several telephone calls regarding leaf pickup, and wanted to let citizens know the City crews are still picking up leaves.

Commissioner Terry stated the Piqua YWCA is hosting the Martin Luther King Celebration on Monday, January 17, 2011 from 1:00 – 2:00 P.M. This is free and open to the public and Commissioner Terry encouraged citizens to attend.

Commissioner Terry stated she wanted to comment on the fact the recall is going forward and voiced her concern and opinion on the matter. Commissioner Terry encouraged citizens to come out and support the Commissioners and to vote "NO" on the recall

Mayor Fess thanked Commissioner Terry and stated all the Commissioners feel the same way.

Commissioner Vogt voiced his concern and comments over the recall going forward at this time, and encouraged citizens to vote "NO" on the recall.

Commissioner Martin stated he has been made aware of various potholes in the City streets. Commissioner Martin encouraged citizens to report potholes as they see them either by contacting a City Commissioner or calling the Street Department to report them.

Mayor Fess stated the recall has put the Piqua Community in a very delicate situation. People all up and down I-75 are looking at Piqua and wondering what is going on. Mayor Fess further explained the Commission has been accused of not listening to citizens, and overspending on the computer system. Four Work Sessions that were open to the public were held before any decisions were made on the purchase of the new computer system. Mayor Fess gave a brief explanation on the purchase of new computer system. Mayor Fess further stated the Commissioners were duly elected and feels the City if Piqua having to hold this Special Election is truly a waste of taxpayer's dollars. The Commissioners care very deeply about the citizens of Piqua and should not be attacked this way, said Mayor Fess. There is a community group of businessmen and citizens called Positively Promoting Piqua (PPP) who are supporting the City and the Commissioners and are trying to drive the negativity out of the Community. A PPP Meeting is scheduled for January 19, 2011 at Hartzell Propeller All Hands Room at 5:00 P.M. and Mayor Fess encouraged all interested citizens to attend.

Mayor Fess stated she is honored to be the Mayor of Piqua, and she cares very deeply for the Community.

Adjournment To Executive Session

To consider pending or imminent litigation.

Moved by Commissioner Terry, seconded by Commissioner Martin, to adjourn into Executive Session at 8:10 P.M. to consider pending or imminent litigation. Voice vote, Aye: Martin, Vogt, Terry, Wilson, and Fess. Nay: None. Motion carried unanimously.

Moved by Commissioner Vogt, seconded by Commissioner Martin, to adjourn from Executive Session at 8:23 P.M. Voice vote, Aye: Martin, Terry, Vogt, Fess, and Wilson. Nay: None.

Adjournment

Moved by Commissioner Vogt, seconded by Commissioner Wilson, to adjourn from the Regular Piqua City Commission Meeting at 8:23 P.M. Voice vote, Aye: Martin, Wilson, Terry, Fess, and Vogt. Nay: None. Motion carried unanimously.

LUCINDA L. FESS, MAYOR

PASSED: _____

ATTEST: _____
REBECCA J. COOL
CLERK OF COMMISSION

ORDINANCE NO. 35-10

AN ORDINANCE TO VACATE A PUBLIC ALLEY RIGHT OF WAY

WHEREAS, pursuant to Piqua Charter Section 98, the City Commission adopted Resolution No. 127-10 declaring its intent to vacate an unimproved public alley right of way located west of S. Main Street between Hemm Avenue and Statler Avenue; and

WHEREAS, a notice of the declaration of intent to vacate the subject right of way was served to the abutting property owners and published in the local newspaper; and

WHEREAS, the notice of the declaration of intent stated the time and place at which objections could be presented before the Planning Commission; and

WHEREAS, the Planning Commission met at in open session and took public comment regarding the proposed public right of way vacation; and

WHEREAS, the Planning Commission after hearing the item and considering the public comments received and information provided, recommended approving the vacation of an unimproved public alley right of way located west of S. Main Street between Hemm Avenue and Statler Avenue, as shown on the exhibit and the vacation plat drawing attached hereto; and

WHEREAS, pursuant to Piqua Charter Section 98, vacation of public right of way must be adopted by Ordinance by this Commission;

NOW, THEREFORE, BE IT ORDAINED by the Commission of the City of Piqua, Miami County, Ohio, the majority of all members elected thereto concurring, that:

SEC. 1: This Commission hereby takes the action necessary to authorize and approve the vacation of an unimproved public alley right of way located west of S. Main Street between Hemm Avenue and Statler Avenue, as shown on the exhibit and the vacation plat drawing attached hereto.

SEC. 2: The City Manager shall cause the affected portion of right of way to be vacated and all appropriate and necessary legal instruments supporting such action to be properly recorded.

SEC. 3: This Ordinance shall take precedent over all prior Ordinances or Resolutions pertaining to the affected public right of way.

SEC. 4: This Ordinance shall take effect and be in force from and after the earliest period allowed by law

1st Reading 12-21-2010

2nd Reading 1-4-2011

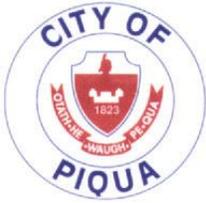
LUCINDA L. FESS, MAYOR

PASSED: _____

ATTEST: _____

REBECCA J. COOL

CLERK OF COMMISSION



CITY COMMISSION MEETING REPORT

For the Regular Meeting of December 21, 2010

TO: Fred Enderle, City Manager
FROM: Chris Schmiesing, City Planner
SUBJECT: Petition to vacate an unimproved platted public alley right-of-way

PURPOSE:

Approve an Ordinance to vacate an unimproved platted public alley right-of-way.

RECOMMENDATION:

Approve the Ordinance to vacate the subject right-of-way in accordance with City of Piqua Charter Section 98.

BACKGROUND:

The city of Piqua Municipal Power System has purchased the property located on either side of the subject alley way and desires to consolidate the parcels into one tract of land. The purpose for combining the parcels is to create one tract large enough to accommodate an improvement project proposed at this site. The subject right-of-way is currently vacant with no existing surface improvements found at this location. The primary land use in this area is light industrial.

ALTERNATIVES:

- 1) Approve Ordinance and authorize vacating the subject public right-of-way.
- 2) Defeat the Ordinance and refuse to vacate the subject public right-of-way.

DISCUSSION:

The subject alley right-of-way is unimproved and there are no adjacent properties that use or depend upon this right-of-way for access. Vacating the alley right-of-way will allow the property to be combined with the adjoining properties to create larger tract suitable for a proposed improvement project.

Public notification of the public hearing to discuss the proposed public right-of-way vacation was provided in accordance with the applicable Charter provisions. At the public hearing conducted by the Planning Commission to discuss this item there were no public comments received. After considering all testimony and information provided, the Planning Commission voted 4-0 in favor of recommending approval of the proposed alley vacation.

FINANCIAL IMPACT:

Vacating the subject right-of-way will have no adverse fiscal impact on the City.

COMMUNITY IMPACT:

Approval of the right-of-way vacation will allow for plans to construct a modern Power System service center at this location to move forward, further enhancing the quality and efficiency of the Power System services provided to the community. The proposed vacation would have no adverse affect on the surrounding property owners or the interest of the general public.

CONFORMITY TO CITY PLANS & POLICIES:

The proposed vacation is consistent and compatible with all adopted City plans and policies, including the Goal, Principles, and Objectives and Strategies outlined in the Land Use and Utilities chapters of the Plan It Piqua Comprehensive Plan document.

RESOLUTION No. PC 21-10

WHEREAS, the Piqua Power System, owner of the adjacent parcels located in the City of Piqua, being in a district zoned I-2 (Heavy Industrial), has submitted a request to vacate an unimproved public alley right of way; and,

WHEREAS, the City of Piqua City Commission has declared their intent to consider the vacation of the subject right of way and referred the item to the Planning Commission for study and a recommendation; and,

WHEREAS, section 98 of the Piqua Charter provides the procedure for considering a right of way vacation request; and,

WHEREAS, the Planning Commission has studied the request, conducted a public hearing on the matter, and has established as fact that the portion of public right of way proposed for vacation:

- Is unimproved and does not provide essential access to surrounding properties
- Is unoccupied by public utilities or other uses commonly located within public right of way
- Is not identified on any transportation plan indicating the right of is or will be necessary
- Is not essential to any existing or future development or use of the surrounding properties

NOW THEREFORE BE IT RESOLVED, board member Mr. Oda hereby moves to Approve the request, as described by this resolution, the testimony provided, and the documents attached hereto, the motion is seconded by board member Mrs. Franz, and the voting record on this motion is hereby recorded as follows.

	AYE	NAY	ABSTAIN	ABSENT
Mr. Jim Oda	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Brad Bubp	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Mike Taylor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Mrs. Jean Franz	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Mark Spoltman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

RESOLUTION NO. R-127-10

A RESOLUTION OF INTENT TO VACATE
PUBLIC RIGHT-OF-WAY

WHEREAS, pursuant to Piqua Charter Section 98, this Commission must adopt a resolution expressing its intention to vacate a portion of platted alley right-of-way located west of S. Main Street between Hemm Avenue and Statler Avenue.

NOW, THEREFORE, BE IT RESOLVED by the Commission of the City of Piqua, Miami County, Ohio, the majority of all members elected thereto concurring, that:

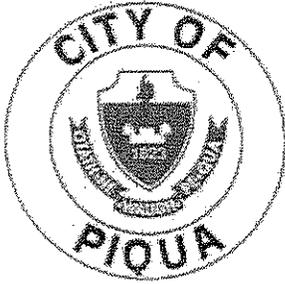
SEC. 1: This Commission hereby intends to vacate a portion of platted alley right-of-way located west of S. Main Street between Hemm Avenue and Statler Avenue, as described in Exhibit "A" attached hereto. The City Manager or his duly authorized representative is hereby directed to cause notice of this Resolution to be served by certified mail upon all persons whose property abuts said tract. Said notice shall state the time and place at which objections can be heard by the Planning Commission.

SEC. 2: This Resolution shall take effect and be in force from and after the earliest period allowed by law.


LUCINDA L. FESS, MAYOR

PASSED: October 19, 2010

ATTEST: Rebecca J. Cool
REBECCA J. COOL
CLERK OF COMMISSION



LEGAL NOTICE

Publish Date: November 27, 2010

Pursuant to Section 98 of the City of Piqua Charter, notice is hereby given that the City Commission has declared their intent to vacate an unimproved portion of dedicated alley right of way located west of S. Main Street and south of Hemm Avenue, and on Tuesday, December 14, 2010 at 6:00 p.m. in the Commission Chambers at the Municipal Government Complex, located at 201 West Water Street; Piqua, Ohio, the Piqua Planning Commission will meet in regular session to consider this item and hear any objections thereto.

Contact: Chris Schmiesing, City Planner
Phone (937) 778-2049
Email cschmiesing@piquaoh.org

EXHIBIT A



GREAT MIAMI RIVER

S. MAIN STREET

HEMM AVE

STATLER AVE

Proposed
Unimproved Alley
Vacation

PROPOSED ALLEY VACATION

ORDINANCE NO. 1-11

AN ORDINANCE AMENDING ORDINANCE NO. 33-66,
RELATING TO THE MUNICIPAL INCOME TAX

BE IT ORDAINED by the Commission of the City of Piqua, Miami County, Ohio, the majority of all members elected thereto concurring, that:

SECTION 1. Ordinance No. 33-66 as enacted July 5, 1966 and as subsequently amended by Ordinance Numbers 18-67, 26-71, 28-71, 10-76, 67-78, 76-79, 24-83, 36-84, 29-88, 20-89, 84-89, 18-90, 7-97, 34-00, 39-00, 27-02, 20-03, ~~and 22-04~~, and 25-08 is hereby amended to read as follows (with deletions lined out and additions underlined):

Section 1: Purpose

To provide funds for the purposes of permanent improvements, new equipment, extension and enlargement of municipal services and facilities, capital improvements and operating expenses of the City of Piqua, there shall be, and is hereby levied, a tax on income, qualifying wages, commissions and other compensation, net profits, and other taxable income as hereinafter provided.

Section 2: Definitions

As used in this ordinance, the following words shall have the meaning ascribed to them in this Section, except as and if the context clearly indicates or requires a different meaning.

ADJUSTED FEDERAL TAXABLE INCOME – A C corporation’s federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

- a. Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.
- b. Add an amount equal to five percent (5%) of intangible income deducted under Section (2)(a), but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in Section 1221 of the Internal Revenue Code;
- c. Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in Section 1221 or 1231 of the Internal Revenue Code;

- d. (1) Except as provided in Section (2)(d)(2) of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in Section 1221 or 1231 of the Internal Revenue Code;
- (2) Section (2)(d)(1) does not apply to the extent the income or gain is income or gain described in Section 1245 or 1250 of the Internal Revenue Code.
- e. Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;
- f. In the case of a real estate investment trust and regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income;
- g. If the taxpayer is not a C corporation and is not an individual, the taxpayer shall compute adjusted federal taxable income as if the taxpayer were a C corporation, except;
 - (1) Guaranteed payments and other similar amounts paid or accrued to a partner, former partner, member, or former member shall not be allowed as a deductible expense; and
 - (2) Amounts paid or accrued to a qualified self-employed retirement plan with respect to an owner or owner-employee of the taxpayer, amounts paid or accrued to or for health insurance for an owner or owner-employee, and amounts paid or accrued to or for life insurance for an owner or owner-employee shall not be allowed as a deduction.

Nothing in Section 2 shall be construed as allowing the taxpayer to add or deduct any amount more than once or shall be construed as allowing any taxpayer to deduct any amount paid to or accrued for purposes of federal self-employment tax.

Nothing in this ordinance shall be construed as limiting or removing the ability of any municipal corporation to administer, audit, and enforce the provisions of its municipal income tax.

ADMINISTRATOR – The individual designated by the Director of Finance, with the approval of the City Manager, to administer and enforce the provisions of the ordinance.

ASSIGNMENT – The assignment made by a resident of the City of Piqua of claim for refund due from another taxing municipality granting credit to non-residents thereof.

ASSOCIATION – A partnership, limited partnership, limited liability company (including a single owner LLC), Chapter S corporation as defined in the federal tax code, 26 U.S.C. 1361, or any other form of unincorporated enterprise owned by two or more persons.

BOARD OF REVIEW – The Board created by and constituted as provided in Section 13 of this ordinance.

BUSINESS – An enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity, including but not limited to the renting or leasing of property, real, personal or mixed.

CORPORATION – A corporation or joint stock association organized under the laws of the United States, the State of Ohio or any other state, territory or foreign country or dependency, but not including Chapter S corporations.

THE DIRECTOR OF FINANCE – The Director of Finance of the City of Piqua, Ohio.

DOMICILE – The permanent legal residence of a taxpayer. A taxpayer may have more than one residence, but not more than one domicile.

EMPLOYEE – One who works for qualifying wages, commission or other type of compensation in the service of an employer.

EMPLOYER – An individual, partnership, association, corporation, governmental body, unit or agency or any other entity, whether or not organized for profit, who or that employs one or more persons on a qualifying wage, commission or other compensation basis.

FISCAL YEAR – An accounting period of twelve (12) months or less ending on any day other than December 31, and used by the taxpayer for Federal Income Tax purposes.

FORM 2106 – The Internal Revenue Service Form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.

GROSS RECEIPTS – The total revenue derived from sales, work done, or service rendered before any deductions, exceptions or credits are claimed.

INCOME – Shall include all monies derived from any source whatsoever, including but not limited to:

- a. All qualifying wages, commissions, other compensation and other income from whatever source received by residents of Piqua.

- b. All qualifying wages, commission, other compensation and other income from whatsoever source received by nonresidents for work done or services performed or rendered or activities conducted in Piqua.
- c. The portion attributable to the city of the net profits of all unincorporated businesses, associations, professions, corporations or other entities from sales made, work done, services performed or rendered, and business or other activities conducted in Piqua.

INTANGIBLE INCOME – Income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701 of the Ohio Revised Code, and patents, copyrights, trademarks, trade names, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. Intangible income does not include prizes, awards, or other income associated with any lottery winnings or other similar games of chance.

INTERNAL REVENUE CODE – The Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.

JOINT ECONOMIC DEVELOPMENT DISTRICT – Districts created under the Ohio Revised Code sections 715.70 through 715.83, as amended from time to time.

LIMITED LIABILITY COMPANY – A limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.

MUNICIPALITY – The City of Piqua.

NET PROFITS – A net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary and necessary expenses, either paid or accrued in accordance with the accounting system used by the taxpayer for Federal Income Tax purposes, without deduction of taxes imposed by this ordinance, federal, state and other taxes based on income; and in the case of an association, without deduction of qualifying wages paid to partners and other owners; and otherwise adjusted to the requirements of this ordinance.

Net profits shall include any amount or value received, realized or recognized in a sale or other disposition of tangible personal property or real property used in business, in excess of book value.

NON-RESIDENT – An individual domiciled outside the City of Piqua.

NON-RESIDENT UNINCORPORATED BUSINESS ENTITY – An unincorporated business entity not having an office or place of business within the City of Piqua.

NONQUALIFIED DEFERRED COMPENSATION PLAN – A compensation plan described in Section 3121(v)(2)(C) of the Internal Revenue Code.

PERSON – Every natural person, partnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, the term “person” as applied to any unincorporated entity, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

PLACE OF BUSINESS – Any bona fide office (other than a mere statutory office), factory, warehouse or other space which is occupied and used by the taxpayer in carrying on any business activity, individually or through one or more of his regular employees regularly in attendance.

QUALIFIED PLAN – A retirement plan satisfying the requirements under Section 401 of the Internal Revenue Code as amended.

QUALIFYING WAGES – Wages, as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted in accordance with Section 718.03(A) of the Ohio Revised Code.

RESIDENT – An individual domiciled in the City of Piqua.

RESIDENT UNINCORPORATED BUSINESS ENTITY – An unincorporated business entity having an office or place of business within the City of Piqua.

RULES AND REGULATIONS – Administrative directives promulgated by the Administrator and approved by the Board of Review for the purpose of administering this ordinance.

SCHEDULE C – The Internal Revenue Service schedule C filed by a taxpayer pursuant to the Internal Revenue Code.

SCHEDULE E – The Internal Revenue Service schedule E filed by a taxpayer pursuant to the Internal Revenue Code.

SCHEDULE F – The Internal Revenue Service schedule F filed by a taxpayer pursuant to the Internal Revenue Code.

S CORPORATION – A corporation that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.

TAXABLE INCOME – Qualifying wages, and other compensation paid by an employer or employers before any deductions and/or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of the ordinance. Please refer to INCOME.

TAXABLE YEAR – The calendar year, or the fiscal year upon the basis of which the net profits are to be computed under the ordinance and, in the case of a return for a fractional part of a year, the period for which such return is required to be made.

TAXING MUNICIPALITY – Any municipal corporation levying a municipal income tax on income, qualifying wages, commissions and other compensation earned by individuals, and on the net profits and other taxable income earned from the operation of a business, profession or other activity.

TAXPAYER – A person, whether an individual, partnership, association or any corporation or other entity, required under this ordinance to file a return or pay a tax.

Section 3: Imposition of Tax

A. Subject to the provisions of Section 16 of this ordinance, an annual tax for the purposes specified in Section 1 hereof shall be imposed at the rate of one and three-fourths percent (1.75%) per annum.

The first one percent (1%) of said tax shall be levied until repealed by this commission; the next one-half percent (.5%) until repealed by the electorate; and the remaining one-fourth percent (.25%) from January 1, 1991 through December 31, ~~2010~~ 2020 and upon:

1. All qualifying wages, commissions, other compensation and other income earned or received during the effective period of this ordinance by residents of the City of Piqua.
2. All qualifying wages, commissions, other compensation earned and other income earned or received during the effective period of this ordinance by nonresidents for work done or services performed or rendered in the City of Piqua.
3. a. The portion attributable to the City of Piqua of the net profits earned or received during the effective period of this ordinance, of all resident unincorporated businesses, professions or other entities, derived from sales made, work done, services performed or rendered and business or other activities conducted in the City of Piqua.

b. The portion of the distributive share of net profits earned or received during the effective period of this ordinance of a resident partner or owner of a resident unincorporated business entity not attributable to the City of Piqua and not levied against such unincorporated business entity. Provided, however, that the liability of an individual partner or owner, taxable hereunder on income attributable to another taxing municipality, shall be subject to the Relief and Reciprocity Provisions of Section 15 hereof.

4. a. The portion attributable to the City of Piqua of net profits earned or received during the effective period of this ordinance of all non-resident unincorporated businesses, professions or other entities, derived from sales made, work done or services performed or rendered and business or other activities conducted in the City of Piqua, whether or not such unincorporated business entity has an office or place of business in the City of Piqua.
 - b. The portion of the distributive share of net profits earned or received during the effective period of this ordinance of a resident partner or owner of a nonresident unincorporated business entity not attributable to the City of Piqua and not levied against such unincorporated business entity. Provided, however, that the liability of an individual partner or owner taxable hereunder on income attributable to another taxing municipality shall be subject to the Relief and Reciprocity provisions of Section 15 hereof.
5. The portion attributable to the City of Piqua of net profits earned or received during the effective period of this ordinance of all corporations derived from sales made, work done, services performed or rendered and business or other activities conducted in the City of Piqua, whether or not such corporations have an office or place of business in the City of Piqua.
 6. All income received as gambling winnings as reported on IRS Form W-2G, Form 5754 and or any other Form required by the Internal Revenue Service that reports winnings from gambling, prizes and lottery winnings. Gambling losses are not deductible unless losses are supported by an independent verifiable statement.
- B. The portion of the net profits attributable to the City of Piqua of a taxpayer conducting a business, profession or other activity, both within and without the boundaries of the City of Piqua, shall be determined as provided in Section 718.02 of the Revised Code of Ohio and in accordance with the Rules and Regulations.

C. OPERATING LOSSES

- a. The Municipality does not allow a net operating loss carryback or carryforward.
- b. Losses from federal schedules and other sources reported for federal income tax purposes cannot be used to offset qualifying wages, commissions, other compensation and other taxable income earned or received by residents or nonresidents of the Municipality.

If an individual is engaged in two or more taxable business activities to be included in the same return, the net loss of one unincorporated business activity may be used to offset the profits of another (except any portion of a loss or profit separately reportable for municipal tax purposes to another taxing entity) for purposes of arriving at overall net profits or net operating loss.

D. CONSOLIDATED RETURNS

1. Any affiliated group, which files a consolidated return for federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code, may file a consolidated return with the City of Piqua. However, once the affiliated group has elected to file a consolidated return or a separate return with Piqua, the affiliated group may not change its method of filing in any subsequent tax year without written approval from Piqua.
2. In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates or some other method, or in case any person operates a division, branch, factory, office, laboratory or activity within the City of Piqua, constituting a portion only of its total business, the Administrator shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to the City of Piqua. If the Administrator finds net profits are not properly allocated to the City of Piqua by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates, or transactions with such division, branch, factory, office, laboratory or activity or by some other method, the Administrator shall make such allocations as the Administrator deems appropriate to produce a fair and proper allocation of net profits to the City of Piqua.

Section 4: Effective Period

The first one percent (1%) of said tax shall be levied, collected and paid with respect to the income, qualifying wages, commissions and other compensation, and with respect to net profits of businesses, professions or other activities earned from January 1, 1977, and until repealed by this Commission.

The next one-half percent (.5%) of said tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation, and with respect to the net profits of businesses, professions or other activities earned from January 1, 1984 and until repealed by the electorate.

The remaining one-fourth percent (.25%) of said tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation, and with respect to the net profits of businesses, professions or other activities earned from January 1, 1991 through December 31, ~~2010~~ 2020.

Section 5: Return and Payment of Tax

- A. Each taxpayer who engages in business or other activity or whose qualifying wages, commissions, other compensation and other taxable income is subject to the tax imposed by this ordinance, and every resident shall, make and file a return on or before April 15th of each year, whether or not a tax is due. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed by the 15th day of the fourth month from the end of such fiscal year or period. The Administrator is hereby authorized to provide by regulation in accordance with Rules and Regulations that the return of an employer or employers, showing the amount of tax deducted by said employer or employers from the qualifying wages, commissions, other compensation or other income of nonresident employee, and paid by the employer or employers to the Administrator, shall be accepted as the return required of any nonresident employee whose sole income, subject to tax under this ordinance, is such qualifying wages, commissions, other compensation or other income.

The Administrator shall also have authority to require that certain retired individuals may be exempt from this section, providing that no reportable or taxable income exists beyond income exempt from taxation as provided by this ordinance.

- B. The return shall be filed with the Administrator on a form or forms furnished by or obtainable upon request from such Administrator, or on a generic form, setting forth:
1. a. The aggregate amount of qualifying wages, commissions, other compensation and other income earned or received; and
 - b. The gross income from a business, profession or other activity less allowable expenses incurred in the acquisition of such gross income;
 - c. Such income shall include only income earned or received during the year, or portion thereof, covered by the return and subject to the tax imposed by this ordinance;
 2. a. The amount of tax imposed by this ordinance on income reported,
 - b. Any credits to which the taxpayer may be entitled under the provisions of Sections 6, 7 and 15 of this ordinance; and
 3. Such other pertinent statements, information returns or other information as the Administrator may require.
 4. A generic form once completed and filed must contain all of the information required to be submitted with Piqua's prescribed returns, reports or documents, and must be in a similar format that will allow processing of the generic forms without altering Piqua's procedures for processing forms. The taxpayer or return

preparer filing the generic form must also otherwise comply with the rules or ordinances of Piqua governing the filing of returns, reports or documents. Determination as to whether a generic form meets this criteria shall be the responsibility of the Administrator.

- C. The Administrator may extend the time for filing of the annual return upon the request of the taxpayer for a period of not to exceed six (6) months, or one (1) month beyond any extension requested of or granted by the Internal Revenue Service for filing of the Federal Income Tax Return (whichever occurs later). The Administrator may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon by the date the return is normally due.

No penalty or interest shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended.

- D. 1. The taxpayer making a return shall, at the time of filing thereof, pay to the Administrator the balance of tax due, if any, after deducting:
- a. The amount of City of Piqua Income Tax deducted or withheld at the source pursuant to Section 6 hereof;
 - b. Such portion of the tax as has been paid on declaration by the taxpayer pursuant to Section 7 hereof;
 - c. Any credit allowable under the provisions of Section 15 hereof.
2. Should the return, or the records of the Administrator, indicate an overpayment of the tax to which the City of Piqua is entitled under the provisions of this ordinance, such overpayment shall first be applied against any existing liability and the balance, if any, at the election of the taxpayer communicated to the Administrator, shall be refunded or transferred against any subsequent liability. Provided, however, that overpayment of less than five dollars (\$5.00) shall not be refunded.
- E. 1. AMENDED RETURNS. Where necessary, an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and/or limitations contained in Sections 11 and 15. Such amended returns shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.
2. Within three (3) months from the final determination of any federal tax liability affecting the taxpayer's City of Piqua tax liability, such taxpayer shall make and file an amended City of Piqua return showing income subject to the City of Piqua

tax based upon such final determination of federal tax liability, and pay any additional tax shown due thereon or make claim for refund of any overpayment.

Section 6: Collection at Source

- A. 1. Each employer within or doing business within the City of Piqua who employs one or more persons on a qualifying wage, commission, other compensation or other income basis shall, at the time of payment thereof, deduct the tax of one and three-fourths percent (1.75%) from the qualifying wages, commissions, other compensation or other income earned or received by Piqua residents regardless of where such compensation was earned or received and shall deduct the tax of one and three-fourths percent (1.75%) from the qualifying wages, commissions, other compensation or other income earned or received within Piqua by non-residents;
2. Notwithstanding the provisions of paragraph A. 1. of this Section, where such employer employs a Piqua resident in another taxing municipality requiring such employer to deduct its tax from all employees engaged therein, such employer shall withhold for, and remit to, the City of Piqua only the difference, if any, between the tax imposed by such other taxing municipality and the tax imposed by this ordinance;
3. Each employer shall, on or before the 15th day of the month or quarter following such withholding, make a return and remit to the City of Piqua the tax hereby required to be withheld. Employers shall deposit withholding to the City of Piqua on a monthly basis if the tax liability for the previous year equals or exceeds three thousand dollars (\$3,000.00). Such return shall be on a form or forms prescribed by, or acceptable to, the Administrator and shall be subject to the Rules and Regulations. Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such taxes have, in fact, been withheld.
4. On or before the 28th day of February following any calendar year, such employer shall file with the Administrator an information return for each employee from whom City of Piqua Income Tax has been, or should have been, withheld, showing the name, address and Social Security number of the employee, the total amount of compensation paid during the year and the amount of City of Piqua Income Tax withheld from such employee.
5. An employer is not required to make any withholding with respect to an individual's disqualifying disposition of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of the corporation with respect to whose stock the option has been issued.
6. a. An employee is not relieved from liability for a tax by the failure of the employer to withhold the tax as required by a municipal corporation or by the employer's exemption from the requirements to withhold the tax.

- b. The failure of an employer to remit to the municipal corporation the tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer in connection with the failure to remit the tax withheld.
- B. Such employer, in collecting said tax, shall be deemed to hold the same until payment is made by such employer to the City of Piqua, as a Trustee for the benefit of the City of Piqua and any such tax collected by such employer from his employees shall, until the same is paid to the City of Piqua, be deemed a trust fund in the hands of such employer.
- C. All employers that provide any contractual service within Piqua, and who employ subcontractors in conjunction with that service, shall provide Piqua the names and addresses of the subcontractors. The subcontractors shall be responsible for all income tax withholding requirements under this ordinance.
- D. In addition to the wage reporting requirements of this section, any person required by the Internal Revenue Service to report on Form 1099-Misc. payments to individuals not treated as employees for services performed shall also report such payments to the Municipality when the services were performed in the Municipality. The information may be submitted on a listing, and shall include the name, address and social security number (or federal identification number), and the amount of the payments made. Federal form(s) 1099 may be submitted in lieu of such listing. The information shall be filed annually on or before February 28 following the end of such calendar year.
- E. DOMESTIC SERVANTS. No person shall be required to withhold the tax on the qualifying wages, commissions, other compensation, and other taxable income paid domestic servants employed exclusively in or about such person's residence. However, such domestic servants shall be responsible for filing and paying their own returns and taxes.

Section 7: Declarations

- A. Every person who anticipates any taxable income which is not subject to Section 6 hereof, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 3 hereof shall file a declaration setting forth such estimated income of the estimated profit or loss from such business activity, together with the estimated tax due thereon, if any.
- B. 1. Such declaration shall be filed on or before April 15 of each year during the life of this ordinance, except that no penalties or interest shall be assessed, for not filing a declaration, on any resident taxpayer who was not domiciled in Piqua on the first day of January of the year in which they became subject to estimated payments, nor shall penalties or interest be assessed on estimated payments if the

- taxpayer has remitted an amount equal to one hundred percent of the previous year's tax liability, provided that the previous year reflected a twelve-month period.
2. Those taxpayers reporting on a fiscal year basis shall file a declaration within 15 days of the fourth month after the beginning of each fiscal year or period.
- C.
1. Such declaration shall be filed upon a form furnished by, or obtainable from, the Administrator, or on a generic form. Credit shall be taken for Piqua income tax to be withheld, if any, from any portion of such income. In addition, credit may be taken for tax payable to other taxing municipalities in accordance with the provisions of Section 15 hereof.
 2. The original declaration (or any subsequent amendment thereof) may be increased or decreased on or before any subsequent quarterly payment date as provided for herein.
 3. A generic form once completed and filed must contain all of the information required to be submitted with Piqua's prescribed returns, reports or documents, and must be in a similar format that will allow processing of the generic forms without altering Piqua's procedures for processing forms. The taxpayer or return preparer filing the generic form must also otherwise comply with the rules or ordinances of Piqua governing the filing of returns, reports or documents. Determination as to whether a generic form meets this criteria shall be the responsibility of the Administrator.
- D. The taxpayer making the declaration shall, at the time of the filing thereof, pay to the Administrator at least one-fourth (1/4) of the estimated annual tax due after deducting:
1. Any portion of such tax to be deducted or withheld at the source pursuant to Section 6 hereof;
 2. Any credits allowable under the provisions of Section 15 hereof; and
 3. Any overpayment of previous year's tax liability which taxpayer has not elected to have refunded. Provided, however, the taxpayer may elect to apply any overpayment of previous tax liability to any one or more installments of the estimated annual tax.

At least a similar amount shall be paid on or before the 15th day of the sixth, ninth and thirteenth month after the beginning of taxpayer's taxable year, provided that in case an amended declaration has been duly filed, or the taxpayer is taxable for a portion of the year only, the unpaid balance shall be paid in equal installments on or before the remaining payment dates.

- E. On or before the 15th day of the fourth month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the City of Piqua shall be paid therewith in accordance with the provisions of Section 5 hereof.

Section 8: Duties of the Administrator

- A. 1. It shall be the duty of the Administrator to receive the tax imposed by this ordinance in the manner prescribed herein from the taxpayers; to keep an accurate record thereof; and to report all monies so received to the Director of Finance.

2. It shall be the duty of the Administrator to enforce payment of all taxes owed the City of Piqua, to keep accurate records for a minimum of six (6) years showing the amount due from each taxpayer required to file a declaration and/or make any return, including taxes withheld, and to show the dates and amounts of payments thereof.
- B. Said Administrator is hereby charged with the enforcement of the provisions of this ordinance, and is hereby empowered, subject to the approval of the Board of Review, to adopt and promulgate and to enforce Rules and Regulations relating to any matter or thing pertaining to the collection of taxes and the administration and enforcement of the provisions of this ordinance, including provisions for the re-examination and correction of returns.
- C. In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Administrator may determine the amount of tax appearing to be due the City of Piqua from the taxpayer and shall send to such taxpayer and tax practitioner a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.
- D. Subject to the consent of the Board of Review and pursuant to the Rules and Regulations, the Administrator shall have the power to compromise any interest or penalty, or both, imposed by Section 10 of this ordinance.

Section 9: Investigative Powers of the Administrator Penalty for Divulging Confidential Information

- A. The Administrator, or any authorized employee, is hereby authorized to examine the books, papers, records and Federal Income tax returns of any employer or of any taxpayer or person subject to, or whom the Administrator believes is subject to the provisions of this ordinance, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due under this ordinance.

Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish upon written request by the Administrator, or the Administrator's duly authorized agent or employee, the means, facilities and opportunity for making such examinations and investigations are hereby authorized.

- B. The Administrator is hereby authorized to order any person presumed to have knowledge of the facts to appear before the Administrator and may examine such person, under oath, concerning any income which was or should have been returned for taxation or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records and Federal Income Tax returns and the attendance of all persons before the Administrator, whether as parties or witnesses, whenever the Administrator believes such persons have knowledge of such income or information pertinent to such inquiry.
- C. The refusal to produce books, papers, records and Federal Income Tax returns, or the refusal to submit to such examination by any employer or person subject or presumed to be subject to the tax, or by any officer, agent or employee of a person subject to the tax or required to withhold tax, or the failure of any person to comply with the provisions of this Section or with an order or subpoena of the Administrator authorized hereby, shall be deemed a violation of this ordinance punishable as provided in Section 12 hereof.
- D. Any information gained, as the result of any returns, investigations, hearings or verifications required or authorized by this ordinance shall be confidential, except for official purposes, or except in accordance with proper judicial order. Any person divulging such information in violation of this ordinance shall upon conviction thereof, be deemed guilty of a misdemeanor and shall be subject to a fine or penalty of not more than five hundred dollars (\$500.00) or imprisoned for not more than six (6) months, or both. Each disclosure shall constitute a separate offense.

In addition to the above penalty, any employee of the City of Piqua who violates the provision of this Section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

- E. Every taxpayer shall retain all records necessary to compute his or her tax liability for a period of six (6) years from the date his or her return is filed, or the withholding taxes are paid.

Section 10: Interest and Penalties

- A. All taxes imposed and all monies withheld or required to be withheld by employers under the provisions of this ordinance and remaining unpaid after they become due shall bear interest at the rate of one percent (1%) per month.

B. In addition to interest as provided in paragraph A hereof, penalties based on the unpaid tax are hereby imposed as follows:

1. For failure to pay taxes due, a penalty of one percent (1%) per month with a maximum of twenty-five percent (25%) of the net tax liability and with an annual minimum \$20. The \$20 minimum is waived for first-time filers and if taxes are paid within two weeks of filing.
2. For failure to remit taxes withheld or required to be withheld from employees: Three percent (3%) per month.
3. Where the taxpayer has failed to file a return by the due date or by the date resulting from extension, a failure to file fee of twenty-five dollars (\$25.00) may be assessed.
4. Where the employer has failed to file monthly or quarterly returns by the due dates, a failure to file fee of twenty-five dollars (\$25.00) may be assessed per each return.

C. EXCEPTIONS

1. A penalty shall not be assessed on an additional tax assessment made by the Administrator when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Administrator, or filed in accordance with Article VII, Section C of the Rules and Regulations; and provided further, that in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a federal audit, providing an amended return is filed and the additional tax is paid within three (3) months after final determination of the federal tax liability.
2. The city shall not impose any penalty, interest, or other similar assessment or charge against a taxpayer for the late payment or nonpayment of estimated tax liability in either of the following circumstances:
 - (a) The taxpayer is an individual who resides in the city but was not domiciled there on the first day of January of the current calendar year;
 - (b) The taxpayer has timely remitted an amount at least equal to one hundred percent (100%) of the taxpayer's tax liability for the preceding year as shown on the return filed by the taxpayer for the preceding year, provided that the return for the preceding year reflected a twelve-month period and taxpayer filed a return for the preceding year.

D. A return check fee will be assessed in an amount set periodically in the Rules and Regulations promulgated by the Tax Administrator.

- E. Upon recommendation of the Administrator, the Board of Review may abate penalty or interest, or both, or upon an appeal from the refusal of the Administrator to recommend abatement of penalty and interest, the Board may nevertheless abate penalty or interest, or both.

Section 11: Collection of Unpaid Taxes and Refunds of Overpayment

- A. All taxes imposed by this ordinance shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amounts are recoverable. Except in the case of fraud, omission of twenty-five percent (25%) or more of income subject to this tax, or failure to file a return, an additional assessment shall not be made after three (3) years from the time the return was due or filed, whichever is later. In the case of fraud, omission of 25% or more of income subject to this tax, or failure to file a return, all additional assessments shall be made and all prosecutions to recover Piqua's income taxes and penalties and interest thereon shall be brought within six (6) years after the tax was due or the return was filed, whichever is later. In those cases in which the Commissioner of Internal Revenue and the taxpayer have executed a waiver of the federal statute of limitation, the period within which an additional assessment may be made by the Administrator shall be one (1) year from the time of the final determination of the federal tax liability.
- B. Those officers or employees having control or supervision of, or charged with, the responsibility of filing the return and making payments for a corporation or association shall be personally liable for failure to file the return or pay the taxes and penalties and interest due as required. The dissolution, bankruptcy, or reorganization of any employer does not discharge the officers' or employees' liability for a prior failure of such business to file a return or pay the taxes due.
- C. Taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the date which such payment was made or the return was due, or within three (3) months after final determination of the federal tax liability, whichever is later.
- D. Amounts of less than five dollars (\$5.00) shall not be collected or refunded.

Section 12: Violations – Penalties

- A. Any person who shall:
 - 1. Fail, neglect or refuse to make any return or declaration required by this ordinance; or
 - 2. Make any incomplete, false or fraudulent return; or

3. Fail, neglect or refuse to pay the tax, penalties or interest imposed by this ordinance; or
4. Fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Administrator; or
5. Refuse to permit the Administrator or any duly authorized agent or employee to examine his or her books, records, papers and Federal Income Tax returns relating to the income or net profits of a taxpayer; or
6. Fail to appear before the Administrator and to produce his or her books, records, papers or Federal Income Tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Administrator; or
7. Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer; or
8. Fail to comply with the provisions of this ordinance, the Rules and Regulations or any order or subpoena of the Administrator authorized hereby; or
9. Give to an employer false information as to his or her true name, correct Social Security number and residence address, or fail to promptly notify an employer of any change in residence address and date thereof; or
10. Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and City of Piqua tax withheld, or to knowingly give the Administrator false information; or
11. Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this ordinance.

Shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six (6) months or both, for each offense.

- B. All prosecutions under this Section must be commenced within three (3) years from the time to the offense complained of except in the case of failure to file a return or in the case of filing a false or fraudulent return, in which event the limitation of time within which prosecution must be commenced shall be six (6) years from the date the return was due or the date the false or fraudulent return was filed.
- C. The failure of any employer or person to receive or procure a return declaration or other required form shall not excuse him or her from making any information return, return or declaration, from filing such form, or from paying the tax.

Section 13: Board of Review

- A. A Board of Review, consisting of the City Manager, who shall act as chairman, and two other individuals, each to be appointed by the Mayor of the City of Piqua, is hereby created. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearing by the Board may be conducted privately and the provisions of Section 9 hereof, with reference to the confidential character of information required to be disclosed by this ordinance, shall apply to such matters as may be heard before the Board of Review.
- B. All Rules and Regulations and amendments or changes thereto, which are adopted by the Administrator under the authority conferred by this ordinance, must be approved by the Board of Review before the same become effective. The Board shall hear and pass on appeals from any ruling or decision of the Administrator, and, at the request of the taxpayer or Administrator, is empowered to substitute alternate methods of allocation.
- C. Any person dissatisfied with any ruling or decision of the Administrator, which is made under the authority conferred by this ordinance, may appeal therefrom to the Board of Review within thirty (30) days from the announcement of such ruling or decision by the Administrator provided the taxpayer making the appeal has filed with the City of Piqua the required return or other documents concerning the obligation at issue. The appeal shall be in writing and shall state why the decision should be deemed incorrect or unlawful. The Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof.

Section 14: Use of Funds

The total income tax funds collected under the provisions of this ordinance shall be held by the Director of Finance in a separate fund known as the "INCOME TAX FUND" and shall be deposited in a separate account, or accounts, in such bank or banks, as the Director in his or her sole discretion may decide.

Relating to the first one percent (1%), not less than twenty-eight percent (28%) shall be used for the construction, operation and maintenance of streets, including the draining thereof. Not less than twenty-one percent (21%) shall be used for permanent improvements and operation of the Safety Department. Not less than seven percent (7%) shall be used for permanent improvements and operation of City parks. Not more than forty-four percent (44%) shall be used for General Fund purposes, other than those listed above, and for the purpose of paying the cost of collecting the tax levied by this ordinance and the cost of administering and enforcing the provisions thereof.

The funds collected under the provisions of this ordinance relating to the next one-half percent (.5%) levy in excess of one percent (1%) shall be used entirely for capital and operating needs of police, fire and public safety-related services.

The funds collected under the provisions of this ordinance relating to the remaining one-fourth percent (.25%) levy shall be used entirely for the construction, reconstruction and resurfacing of streets and alleys, including the installation, maintenance and reconstruction of storm drainage lines, manholes and catch basins.

Section 15: Relief and Reciprocity Provisions

It is the intent of this section that a taxpayer, subject to tax in more than one municipality on the same income, who has complied with the provisions hereof, shall not be required by this ordinance to pay a total municipal income tax on such income greater than the tax imposed at the higher rate.

- A. When a resident of Piqua is subject to and has paid, or has acknowledged liability for, a municipal income tax in another municipality on the same income taxable under this ordinance, and such other municipality does not allow a credit to its non-residents, such Piqua resident may claim a credit of the amount of such tax paid to such other municipality, but not in excess of the tax assessed by this ordinance.
- B. The City of Piqua shall grant a credit against the tax imposed by this ordinance to every taxpayer who works in a joint economic development zone created under section 715.691 or a joint economic development district created under section 715.70, 715.71, or 715.72 of the Ohio Revised Code. The credit shall not exceed the tax assessed by this ordinance on such income earned in such joint economic development zone or joint economic development district where such tax is paid.

Section 16: Saving Clause

If any sentence, clause, section or part of this ordinance, or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this ordinance and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this ordinance. It is hereby declared to be the intention of the Commission of the City of Piqua that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

Section 17: Exclusions From Taxation

The provisions of this Ordinance shall not be construed as levying a tax upon the following:

- A. Military pay or allowances of members of the Armed Forces of the United States and of members of their reserve components, including the National Guard.
- B. Poor relief, pensions, including Social Security benefits, unemployment compensation or similar payments, including disability benefits received from private industry or local, state or federal governments, or from charitable, religious or educational organizations.
- C. Alimony received
- D. Dues, contributions and similar payments received by charitable, religious, educational or literary organizations or labor unions, lodges and similar organizations.
- E. Any charitable, educational, fraternal or other type of non-profit association or organization enumerated in Section 718.01 of the Revised Code of Ohio, which is exempt from payment of real estate taxes, is exempt from payment of the tax imposed by this ordinance.
 - a. Any association or organization falling in the category listed in the preceding paragraph not exempt from the payment of real estate taxes is required to file declarations and final returns and remit the taxes levied under this ordinance on all business activities of a type ordinarily conducted for profit by taxpayers operating for profit.
 - b. Where such non-profit association or organization conducts income-producing business, both within and without the corporate limits, it shall calculate its profits allocable to the City of Piqua under the method or methods provided above.
- F. Any association, organization, corporation, club or trust, which is exempt from federal taxes on income by reason of its charitable, religious, educational, literacy, scientific, etc. purposes.
- G. Gains from involuntary conversion and capital gains, cancellation of indebtedness, interest on federal obligations, items of income already taxed by the State of Ohio, as of the date of enactment of Ordinance 33-66 (being 7/5/66), and income of a decedent's estate during the period of administration (except such income from the operation of a business).
- H. Earnings and income of all persons 17 years of age and under. Earnings and income will be taxable for the portion of the year after which they become 18.

- I. Parsonage allowance, to the extent of the rental allowance or rental value of a house provided as a part of an ordained minister's compensation. The minister must be duly ordained, commissioned or licensed by a religious body constituting a church or church denomination.
- J. Compensation paid under section 3501.28 or 3501.36 of the Revised Code to a person serving as a precinct election official, to the extent that such compensation does not exceed one thousand dollars (\$1,000) annually.
- K. Intangible income.
- L. The income of a public utility, when that public utility is subject to the tax levied under Section 5727.24 or 5727.30 of the Ohio Revised Code, except a municipal corporation may tax the following, subject to Chapter 5745 of the Ohio Revised Code:
 - a. The income of an electric company or combined company;
 - b. The income of a telephone company.

As used in Section 17 (L) of this ordinance, "combined company", "electric company", and "telephone company" have the same meanings as in Section 5727.01 of the Ohio Revised Code.

- M. The City of Piqua shall not tax the compensation paid to a nonresident individual for personal services performed by the individual in the City of Piqua on twelve (12) or fewer days in a calendar year unless one of the following applies:
 - a. The individual is an employee of another person, the principal place of business of the individual's employer is located in another municipality in Ohio that imposes a tax applying to compensation paid to the individual for services paid on those days; and the individual is not liable to that other municipality for tax on the compensation paid for such services.
 - b. The individual is a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such promoter, all as may be reasonably defined by the City of Piqua.

Section 18: Collection of Tax After Termination of Ordinance

- A. This ordinance shall continue effective insofar as the levy of taxes is concerned until repealed by the electorate, and insofar as the collection of taxes levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provisions of this ordinance are concerned, it shall continue effective until all of said taxes levied in the aforesaid period are fully paid and any and all suits and

prosecutions for the collection of said taxes or for the punishment of violations of this ordinance shall have been fully terminated, subject to the limitations contained in Sections 11 and 12 hereof.

- B. Annual returns due for all or any part of the last effective year of this ordinance shall be due on the date provided in Sections 5 and 6 of this ordinance as though the same were continuing.

SECTION 2: Ordinances 33-66, 18-67, 26-71, 28-71, 10-76, 67-78, 76-79, 24-83, 36-84, 29-88, 20-89, 84-89, 18-90, 7-97, 34-00, 39-00, 27-02, 20-03, ~~and~~ 22-04, and 25-08 as previously enacted, are hereby repealed;

SECTION 3: This Ordinance shall take effect and be in force beginning January 1, ~~2009~~ 2011.

1st Reading 1-4-2011

PASSED: _____

LUCINDA L. FESS, MAYOR

ATTEST: _____

REBECCA J. COOL
CLERK OF COMMISSION

RESOLUTION NO. R-6-11

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO
EXECUTE A LABOR CONTRACT WITH THE
FRATERNAL ORDER OF POLICE (CIVILIANS),
OHIO LABOR COUNCIL, INC.**

WHEREAS, the City Manager has negotiated a bargaining unit contract with the FOP/OLC (Civilians), and

WHEREAS, FOP/OLC voted upon and ratified the collective bargaining agreement on January 10, 2011 as attached hereto; and

WHEREAS, said contract is just and reasonable and in the best interest of the City and its employees;

NOW THEREFORE, BE IT RESOLVED by the Commission of the City of Piqua, Miami County, Ohio the majority of all members elected thereto concurring, that:

SEC. 1: The bargaining unit contract between the City and the Fraternal Order of Police (Civilians), Ohio Labor Council, Inc. to be in effect from January 1, 2011 through December 31, 2013, inclusive is hereby approved, and the City Manager is hereby authorized to execute said contract on behalf of this Commission;

SEC 2: This Resolution and the wages included will replace the wages of the bargaining unit employees listed on Schedule A, Chapter 33 of the Piqua Code;

SEC 3: This Resolution shall take effect and be in force from and after the earliest period allowed by law.

LUCINDA L. FESS, MAYOR

PASSED: _____

ATTEST: _____

REBECCA J. COOL
CLERK OF COMMISSION

AGREEMENT

BETWEEN

CITY OF PIQUA, OHIO

AND

FRATERNAL ORDER OF POLICE (CIVILIANS),
OHIO LABOR COUNCIL, INC.

JANUARY 1, 2011 THROUGH DECEMBER 31, 2013

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PREAMBLE

This Agreement is between the City of Piqua, Ohio (the City) and the Fraternal Order of Police, Ohio Labor Council, Inc. (the Union) to establish the wages, hours, and terms and conditions of employment between the parties.

ARTICLE 1. RECOGNITION AND UNION SECURITY

Section 1. Recognition

The City recognizes the Union as the exclusive bargaining representative for all full-time and part-time employees in the positions of secretaries, senior police records clerk, police records clerk and police service aides, as certified in case number 08-REP-07-0109 on December 24, 2008, by the State Employment Relations Board. The bargaining unit specifically excludes all other employees. This Article is solely for the purpose of granting exclusive recognition and defining the coverage of this Agreement, and nothing else is intended or is to be inferred from this Article.

Section 2. Change in Status

Prior to changing any of the full-time positions in this bargaining unit, that at the time of the certification of this unit were held by full-time employees, to part-time positions the City will notify the Union and meet with the Union at the Union's request to discuss the effects of such change. If modification of the agreement is necessary, the parties will execute a written memorialization of those changes.

ARTICLE 2. DUES AND FAIR SHARE FEE

Section 1. Union Dues to be Deducted

The Employer agrees to deduct Union membership dues and fees in accordance with this article.

Section 2. Authorization for Deduction

The Employer shall deduct Union membership dues and fees once each month from the wages of any eligible employee covered by this Agreement upon receiving written authorization signed individually and voluntarily by the employee. The signed payroll deduction form must be presented to the Employer. Upon receipt of the proper authorization, the Employer will deduct Union dues and fees from the payroll check for the next pay period in which dues are normally deducted following the pay period in which the authorization was received by the Employer.

Section 3. Dues to be Remitted

The Employer agrees to remit the dues and fees deducted from the eligible bargaining unit employees' pay, in accordance with this article, to the designated representative of the Union at 222 E. Town Street, Columbus, OH 43215, once each month for the duration of the Agreement.

Section 4. Indemnification

The parties agree that the Employer assumes no obligations, financial or otherwise, arising out of the provisions of this article regarding the deduction of Union dues and fees. The Union hereby agrees that it will indemnify and hold the Employer harmless from any claims, actions, or proceedings by any employee arising from deductions made by the Employer pursuant to this article. Once the funds are remitted to the Union their disposition thereafter shall be the sole and exclusive obligation and responsibility of the Union.

Section 5. Relief from Making Deduction

The Employer shall be relieved from making authorized deductions upon an employee's:

1. termination of employment;
2. transfer to a job other than one covered by the Union
3. layoff from work; or
4. an unpaid leave of absence.

The Employer shall not be obligated to make dues deductions from any employee who, during any dues months involved, shall have failed to receive sufficient wages to make all legally required deductions in addition to the deduction of Union dues.

Section 6. Fair Share Fee

Not longer than sixty (60) days from the effective date of an employee's regular appointment, any employee who does not elect to become a member of the Union shall pay to the Union a fair share fee as a condition of employment. The fair share fee is automatic and does not require the written authorization of the employee. As provided in Ohio Revised Code §4117.09(C), nothing in this article shall require any employee to remain or become a member of the Union. The fair share fee shall not exceed the dues paid by members of the Union in the same bargaining unit. The Union agrees to implement a fair share rebate plan that meets the requirements of state and federal law. Copies of the Union's rebate plan shall be available upon request.

Section 7. Notification of Dues and Fair Share Fee Amounts

The Union shall notify the Employer of the amount of its Union dues and fair

share as often as is necessary, but no less than one (1) time per year, in order to assure that the Employer is informed of the correct amount to be deducted from each paycheck. Said notice shall be given to the Employer not less than sixty (60) days in advance of the effective date of the amounts.

Section 8. Errors in Deductions

The parties agree that neither the employees nor the Union shall have a claim against the Employer for errors in the processing of deductions, unless a claim of error is made to the Employer in writing within sixty (60) days after the date such an error is claimed to have occurred. If it is found an error was made, it will be corrected at the next pay period that the Union dues deduction would normally be made by deducting the proper amount.

ARTICLE 3. MANAGEMENT RIGHTS

- A. The City reserves and retains the right to direct, manage and control the affairs of the City and its employees, except to the extent this Agreement specifically provides to the contrary.
- B. This includes, but is not limited to:
 - 1. the exercise of all functions of government granted to the City by the constitution and the statutes of the State of Ohio and the Charter of the City of Piqua;
 - 2. the securing of revenues of the City;
 - 3. the determination from time to time as to what services the City shall perform;
 - 4. the establishment or continuation of policies, practices, or procedures for the conduct of its affairs and from time to time, the change or abolition of such practices or procedures;
 - 5. the purchasing and maintaining of adequate and safe equipment;
 - 6. the determination of the tools, equipment, machinery, and methods to be used;
 - 7. the selection, transfer, assignment and layoff of employees;
 - 8. the termination of probationary employees, and the termination for just cause of other employees;
 - 9. making, amending, and enforcing reasonable work rules and regulations;

10. the determination of the number of hours per day or other period any operation may be carried on, and the times for the performance of such operations;
11. the determination of the starting and stopping times for each job and shift;
12. the selection and determination of the number and the types of employees required;
13. the establishment of training programs and upgrading requirements for employees;
14. the establishment and the changing of work schedules and assignments;
15. establishing and changing job content;
16. determining what jobs are to be created, retained or discontinued and how they are to be filled;
17. the determination of the size and composition of the work force; and
18. taking such other measures that the City or its management may determine to be necessary for the orderly and efficient operation of the work force.

The City retains all rights except to the extent this Agreement specifically and expressly provides to the contrary. The City may exercise these rights, and any other management rights granted by this Agreement or by Section 4117.08 of the Ohio Revised Code without prior consultation with the Union.

- C. Should the City fail to exercise any of its rights, or exercise them in a particular way, it shall not be deemed to have waived such rights or to be precluded from exercising them in some other way.
- D. This Article and any other provision in this Agreement granting management rights are in addition to the rights of management set forth in Section 4117.08 of the Ohio Revised Code.

ARTICLE 4. NO STRIKE - NO LOCKOUT

Section 1. No Strike by Union

During the life of this Agreement, the Union shall not cause, authorize, sanction or condone, nor shall any member of the Union take part in, any strike, sit-down, stay-in, slow-down, work stoppage, curtailment of work, concerted use of paid leave time, restriction of work, or interference with the operations of the Police Department or City of any kind for any reason, including a labor dispute between

the City and any other labor organization.

The Union shall not cause, authorize, sanction or condone, nor shall any member of the Union take part in, any picketing of the Police Department or City's buildings, offices, or premises because of a labor dispute with the City.

Section 2. Union to Take Affirmative Action to Stop

The Union agrees that it and its members will take prompt affirmative action to prevent or stop unauthorized strikes, sit-downs, slow-downs, work stoppages, curtailment of work, concerted use of paid leave time, restrictions of work or interference with the operations of the Police Department or City by notifying the officers and the public in writing that it disavows these acts. The Union further agrees that the Chief of Police and the City have the right to discipline (including discharge) any or all employees who violate this Article, except that the grievance procedure shall be available to such employees only to contend that they had not participated or engaged in such prohibited conduct.

Section 3. No Lockout by City

During the life of this Agreement, the City shall not cause, permit, or engage in any lockout of the employees.

ARTICLE 5. COOPERATION, AND CONTACT

Section 1. Cooperation

The City, the Union, and each employee covered by this Agreement will cooperate fully to maintain the highest levels of efficiency in serving the public, to perform services promptly, to maintain the highest professional and ethical standards, and to protect the property of the City, employees, and all other persons.

Section 2. Contact

All employees covered by this Agreement shall maintain a telephone for contact from the police department in addition to any department supplied telephone. Employees who maintain a non-local telephone number shall accept and pay for all telephone calls from the police department.

ARTICLE 6. NON-DISCRIMINATION

Section 1. Employer Pledge

The City shall abide by all applicable laws, state and federal, prohibiting discrimination on account of race, color, national origin, religion, creed, sex, handicap, disability, age or any other applicable law prohibiting discrimination or

retaliation in employment.

ARTICLE 7. DISCIPLINE, RECORDS AND INVESTIGATIONS

Section 1. Just Cause

The City has a right to discharge or discipline employees for just cause, and to discharge or discipline probationary employees with or without just cause.

Section 2. Probationary Employees

All newly hired employees shall serve a probationary period. The City has the right to terminate or layoff probationary employees for any reason, except to the extent provided otherwise in Article 7, Section 3. Such action shall not be subject to the grievance procedure or arbitration, or to any recourse under this Agreement.

Section 3. Forms of Discipline

Forms of disciplinary action are:

- A. Written reprimand
- B. Suspension without pay
- C. Forfeiture of accrued paid leave (in place of suspension, by mutual agreement of the Chief of Police and the employee)
- D. Discharge from employment

The principles of progressive discipline shall be followed. However, disciplinary action may begin at any step. Counseling shall not be considered disciplinary action.

Progressive discipline shall take into account the nature of the violation, the employee's record of discipline and the employee's record of performance and conduct.

Section 4. Retention of Disciplinary Records

Disciplinary records shall be maintained by the Employer, but shall cease to have force and effect and shall not be used to increase the severity of the penalty in any pending action according to the following schedule of time limits:

- A. Written reprimand - after 1 year
- B. Suspension of less than 40 hours - after 2 years
- C. Suspension of 40 hours or more - after 3 years

Section 5. Personnel Files

An employee may review his own personnel records at any reasonable time upon written request. This includes both the employee's official personnel file (maintained by the Human Resources Director) and the employee's development file (maintained by the Chief of Police). If an employee believes that any material in his file is inaccurate or unfavorable, the employee may place a signed and dated statement of rebuttal or explanation in the file.

In responding to a third party's request for an employee's personnel file, the City will comply with all applicable legal requirements. The City will make a reasonable effort to notify the employee of the request before responding to the request.

Section 6. Investigations

The City and the Union recognize the need for a process whereby management can effectively maintain the honesty and integrity of the organization through a discipline process that is not so complex and vague in its wording that it is unenforceable and yet maintains just protection, dignity and generally recognized rights of the employee.

The following procedure shall apply only to those instances whereby suspension, discharge or the filing of criminal charges is likely to occur.

- A. Employees shall be informed of the general nature of an incident prior to any interrogation and shall be informed whether the investigation focuses upon the filing of criminal charges or internal discipline.
- B. In cases of internal discipline, before an employee may be charged with insubordination for failure to answer questions or for failure to participate in an investigation, he shall be advised that such conduct, if continued, shall constitute the basis for such a charge.
- C. In cases where criminal charges may result, an employee shall be advised of his rights according to law.
- D. During interrogations where suspension, discharge or the filing of criminal charges is likely to occur, the employee shall be notified of his right to have a representative present. The representative may be a Union representative or an attorney of his own choosing and at his own expense. If the employee desires to have a representative present, he shall be given reasonable opportunity to consult with the representative before the interrogation begins.

- E. Management shall have the right to require employees to submit written reports of incidents under investigation. However, the employee shall retain the right to simultaneously submit to the Union a copy of such report. Should such a report submitted show that the employee has committed a crime, said report may not be used in any criminal proceeding against the employee. The report may be used by the City or the Union in taking action or defending said employee with respect to discharge or discipline.
- F. A copy of any tapes (audio or video) or transcripts made of discipline hearings held before the Chief of Police, HR Director or City Manager shall be made available to the Union upon request for the purpose of defending an employee in the case of discipline or discharge.
- G. An employee who has been the subject of an investigation shall be informed, in writing, of the outcome at the conclusion of the investigation. The City shall conduct all internal investigations in an expeditious manner, consistent with recognized investigative techniques, and shall not engage in unwarranted delays. The employee under investigation shall have the right to approach the City directly or through his representative to ascertain the status of the investigation.
- H. The first principle in any internal investigation is the Department's duty to the public, the second is the duty to provide fair procedures to any employee involved. Any failure of the City to comply with this Article shall not invalidate any disciplinary action or make any evidence inadmissible. Those restrictions are covered by federal law.

Section 7. Discipline

Prior to an employee being suspended, or discharged, the City shall conduct a pre-disciplinary hearing with either the Chief of Police or Deputy Police Chief. However, pending the pre-disciplinary hearing in situations involving a serious violation, the Employer has the right to suspend an employee with pay (also referred to as placing the employee on administrative leave) until the pre-disciplinary hearing is held.

Notice of pre-disciplinary hearing shall be given to the effected employee no less than forty-eight (48) hours in advance of the time set for the conference. Said notice shall be in writing and shall be given personally to the effected employee.

When the employee receives the notice of a pre-disciplinary hearing as described above, he must choose to:

1. appear at the conference to present an oral or written statement in his defense; or
2. appear at the conference and with his Union representative or attorney of his choosing (and at his own expense) who will present an oral or written statement in defense of the employee; or
3. elect in writing to waive the opportunity to have a pre-disciplinary conference.

Failure of the employee to elect and exercise one (1) of these three (3) options will serve as a waiver of the employee's right to a pre-disciplinary conference.

If the employee desires representation at the pre-disciplinary conference and that representative is unavailable at the time set for the conference, either the member who is charged, or his representative may make a request for a continuance. Such request shall not be unreasonably denied. The length of such a continuance shall be mutually agreed upon, and scheduled at the parties' earliest convenience.

The affected employee and his representative, if any, shall be provided a copy of the written report/results/recommendation not more than seven (7) calendar days from the day the pre-disciplinary conference is held unless additional time for providing said report/results/recommendation is agreed to by the parties.

The Employer will issue discipline to the effected employee no more than fourteen (14) calendar days after the written report/results/recommendation is issued.

This Section shall not be interpreted to require a pre-disciplinary hearing or any of the other procedures specified by this Section in cases of disciplinary action based on an employee's arrest or conviction for a felony offense. If the arrest is followed by acquittal or dismissal of charges, and the Department intends to impose further discipline, the Department will conduct a pre-disciplinary hearing in accordance with this section no less than two (2) weeks of the acquittal or dismissal.

Section 8. Press Releases

There shall be no press releases regarding the employee under investigation or about whom a pre-disciplinary hearing was conducted until the investigation is completed and the employee is either charged or cleared and/or notified or reasonable attempt at notification has been made of the result of the pre-disciplinary hearing.

ARTICLE 8 GRIEVANCE AND ARBITRATION

Section 1. Definition

A grievance is a claim that the City has violated or misinterpreted this Agreement. The City can answer and process a grievance in accordance with the terms of this Article without waiving the City's right to challenge the validity or arbitrability of the grievance. All time limits for processing grievances shall be calendar days; however, if a time limit is less than seven days, Saturdays, Sundays and holidays shall not be included.

Section 2. Procedure

All grievances shall be handled exclusively as set forth in this Article. Any settlement reached at any step in accordance with 4117.03(A)(5) shall be final and binding on the grievant, the City, and the Union. If a grievance is not filed or appealed on time, it shall be considered dropped. If the City does not answer on time, the grievant, at his option, may elect to have the matter considered at the next step without delay. All time limits may be extended by mutual agreement of the City, the grievant and the Union. An employee may withdraw any grievance at any point by submitting in writing a statement to that effect to the Employer and the Union, or by permitting the time requirements at any step to lapse without further appeal.

Section 3. Grievance Procedure

The City and the Union shall cooperate to provide for the prompt adjustment of grievances in a fair and reasonable manner, with a minimum of interruption of work schedules. Every reasonable effort shall be made by both the City and the Union to resolve grievances at the earliest step possible. To carry this out, the procedure below shall be followed. However the Union, the grievant and the Employer may, in writing mutually agree to skip any step or steps. A discharge grievance shall be started at Step 3, and a suspension grievance at Step 2, but with the same time limits and written requirements as for Step 1. All other disciplinary grievances will start as stated below.

Informal Step Immediate Supervisor (Verbal)

The employee shall first attempt to resolve the grievance informally with his immediate supervisor. Should the grievance remain unresolved, the employee shall further attempt to resolve it informally with his Deputy Chief. A grievance at this step may only be resolved with the prior authorization of the Chief of Police.

Step 1. Chief of Police (Written)

If the grievance is not resolved at the informal step, in order for a grievance to be arbitrable the aggrieved employee must present his signed written grievance—to the Chief of Police (or the person he has designated in writing to take his place in the grievance procedure) within seven (7) calendar days of the occurrence of the incident giving rise to the grievance. This may be extended to seven (7) calendar days after the employee became aware of the incident, or, if earlier, the date the employee should have become aware of it, using reasonable diligence, but in no case may a grievance be filed more than thirty (30) days after the occurrence. The Chief of Police (or designate) shall schedule a meeting with the grievant and his representatives, if any, within seven (7) calendar days after receipt of the grievance. The Chief of Police (or designate) shall investigate and respond in writing to the grievance within seven (7) calendar days following the meeting. The seven (7) calendar days for holding a meeting and/or providing the written response may be extended by mutual agreement of the grievant, his representative and the City.

Step 2. City Manager

If the grievance remains unsettled, the employee must, if he wishes to proceed further, appeal it in writing, signed, to the City Manager (or the person designated in writing for these purposes) within ten (10) calendar days after the Chief's response. The City Manager or his designee shall schedule a meeting between the parties within twenty-one (21) days. The City Manager (or designee) shall have fourteen (14) calendar days following the meeting in which to give his written response to the grievant and his representative.

Step 3. Arbitration

If the grievance is not settled in step 2, the Union may then appeal the decision to arbitration. To do so, the Union will notify the City Manager of its intent to arbitrate within fifteen (15) calendar days of the answer of the City Manager. Either the City or the Union may then request the appointment of an arbitrator by either the Federal Mediation and Conciliation Service (FMCS) or the American Arbitration Association (AAA) pursuant their respective rules. The parties will mutually agree on the service to be used and if they cannot agree, the party requesting arbitration selects the service.

The parties shall alternately strike the names of the arbitrators until only one (1) name remains. Either party may reject the list once and request another list of names from the chosen arbitration service until a mutually agreeable arbitrator is selected. The party requesting arbitration shall strike the first name. Nothing in this section shall prohibit the parties from mutually agreeing on an arbitrator prior to requesting a panel list.

The arbitrator shall have no power to add to, subtract from, or modify the

Agreement in any way, but shall instead be limited to the application of the terms of this Agreement in determining the dispute. The arbitrator shall also have no power to determine any jurisdictional disputes between employees covered by the Agreement and employees outside the coverage of the Agreement, and shall have no power to rule on anything that happens before the initial effective date of this Agreement or after the termination date of this Agreement. The arbitrator shall promptly hear the matter and shall render his decision within thirty (30) days from the arbitration hearing. His decision shall be final and binding upon the parties to this Agreement.

This grievance and arbitration procedure shall be the sole and exclusive remedy for all claimed violations of this Agreement and shall be in lieu of all rights under civil service rules.

Each party shall pay one-half (1/2) of any docket fee and of the cost of the arbitrator, but each party shall bear its own expenses.

Section 4. Multiple Grievances

No more than one grievance shall be placed before an arbitrator at any one hearing and in no instance shall there be multiple (two or more) grievances heard by any arbitrator unless the City and the Union agree to waive this Section.

Section 5. Content

In order to be arbitrable, all grievances must contain the following information and must be filed using the grievance form mutually agreed to by the parties:

- A. Aggrieved employee's name and signature.
- B. Aggrieved employee's classification.
- C. Date grievance was filed in writing.
- D. Date and time grievance occurred.
- E. Where grievance occurred.
- F. Description of incident giving rise to the grievance.
- G. Specific sections of the Agreement violated.
- H. Desired remedy to resolve grievance.

Section 6. Who May Bring a Grievance

A. Individual

A grievance may be brought by any member of the bargaining unit.

B. Class

Where a group of bargaining unit members desire to file a grievance involving a situation affecting each member in the same manner, one member selected by such group may process the grievance as a class action grievance, provided each employee desiring to be included in such class action grievance

signs the grievance. If more than one employee is involved in a grievance or a group of similar grievances, one of them shall be selected as spokesman.

C. Union

The Union, through its representative, may file grievances claiming violations of the recognition clause, the dues deduction clause, or any other contract right which accrues solely to the Union as a labor organization and not to individual employees. Such grievances shall initially be filed at Step 2 within the time limits for filing Step 1.

Section 7. Attendance at Grievance Step Meetings

The employee filing the grievance or the spokesman for a class action grievance or a group of grievances may attend Steps 1 and 2 of the grievance procedure without loss of pay during regularly scheduled working hours. The employee's representative (if a City employee) may also attend without such loss of pay at Steps 1 and 2.

Section 8. Issues Not Grievable

Where the alleged grievance is of a nature that it qualifies for appeal under the rules of a state or federal administrative agency such as, but not limited to the Equal Employment Opportunity Commission (EEOC), the Ohio Civil Rights Commission (OCRC) or the Department of Labor (DOL), the aggrieved employee shall utilize the appeal procedure in accordance with the rules of that governing agency rather than filing a grievance pursuant to the terms of this article.

Nothing in this grievance article shall deny bargaining unit members any rights available at law to achieve redress of their legal rights. However, once a bargaining unit member chooses to seek a remedy from another governing body or any other body that takes jurisdiction, he is thereafter denied the remedy of the Grievance Procedure provided herein.

ARTICLE 9. LEAVE OF ABSENCE

Section 1. Leave May be Granted Temporary leave of absence, with or without pay, for training purposes or for any other objective related to the employee's work may be granted and renewed by the City Manager for such periods as the City Manager may consider justifiable within the limitations of the budget.

Section 2. Leave Without Pay Personal leave of absence without pay may be granted by the City Manager for periods of time not to exceed one year for any other reason that the City Manager may consider to be to the benefit of the

City, including, but not limited to, leaves of absence for military duties, and for illness or disability not caused by the actual performance of official duties where the employee has exhausted accumulated sick leave benefits. Any such leave so granted may be extended or renewed for additional periods of time not to exceed one year for each extension. The City may require a medical examination by a physician designated by the City, under the procedure described in Article 18, Section 4 as a condition for reinstatement.

Section 3. Leave Accrual while on Unpaid Leave An employee on a leave of absence without pay shall not earn sick leave or vacation during the period of the leave of absence. An employee on a leave of absence without pay shall not receive pay for a holiday that falls during the period of the leave of absence.

Section 4. Funeral Leave An employee shall be paid for eight hours for each day lost at the regular rate due to absence caused by death in an employee's immediate family. Three (3) days shall be allowed under this Section for immediate family members. Immediate family means: spouse, parent (natural, step or in-law), child (natural, step, adopted or foster), grandparent, grandchild, brother or sister (natural, step, or in-law). Other relatives living in the same household as the employee shall be considered as immediate family. One day will be granted for attendance at a funeral of the following relatives: aunt, uncle, niece, and nephew.

Proof of death and relationship of the deceased to the employee may be required before payment of funeral leave.

Section 5. Jury Pay An employee required to serve on a jury during his/her working hours before a court empowered by law to require such service, shall be excused from duty for the time required for such service and must report for duty whenever released from jury service. The employee shall be paid the difference between jury pay and the regular hourly rate of pay. Employees must present proof of the amount of jury pay received before pay for the hours absent is granted.

Section 6. Military Service Employees who enter the military services of the United States will be afforded all rights applicable by law.

Section 7. Pregnancy Leave Pregnancy leave shall be governed by the applicable leave provisions of this Agreement. An illness due to pregnancy will be treated as any other illness.

ARTICLE 10. DRUGS AND ALCOHOL

The purpose of this Article is to provide a safer work environment, to improve an employee's health or job performance when affected by the abuse of alcohol or drugs, and to provide guidelines for the consistent handling of alcohol and drug-related situations.

Section 1. Use of Alcohol and Drugs

- A. Employees shall not possess, sell or use alcohol or controlled substances while on the job, including meal periods.
- B. Employees shall not work or report to work under the influence of alcohol or controlled substances, except as provided in subparagraph C or D below.
- C. Employees must report to their supervisors when they are experiencing a reaction to a prescription or over-the-counter drug which may affect their ability to do their job.
- D. Employees called into work due to manpower shortage, emergency or other similar incident will report to the supervisor on duty any usage of alcohol.
- E. If an employee is called into work after consuming alcohol or is reporting to work when experiencing a reaction to a prescription or over-the-counter drug which may affect his ability to do his job, the on-duty supervisor will make a determination as to fitness for duty. No drug test will be administered if subparagraph C or D applies. The on-duty supervisor will fill out and retain a form documenting his determination, with a copy to be filed with the Chief.

Section 2. Dependency Treatment

- A. Employees are urged to request assistance with any drug or alcohol problem before disciplinary action is necessary. If an employee advises the City of a drug or alcohol problem, the employee will be urged to receive counseling and, if necessary, will be permitted to take accrued paid sick leave or vacation to receive the recommended treatment. If an employee has exhausted accrued paid sick leave and vacation, he may apply for an unpaid personal leave of absence for the period of time necessary to receive the recommended treatment, which application shall not be unreasonably denied.
- B. Alcoholism and chemical dependencies are treatable. Employees covered by City- sponsored health insurance have limited coverage for treatment of alcoholism and chemical dependency. Any costs associated with treatment that are not covered by insurance will be the responsibility of the employee.

Section 3. Testing Procedure

- A. Drug and/or alcohol testing will be conducted when there is a reasonable suspicion that an employee is using or possessing controlled substances or alcohol, or abusing a controlled substance at work, or is working or reporting to work under the influence of illegal drugs, alcohol or an abused controlled substance.

Reasonable suspicion may be based upon, but is not limited to, unexplained and excessive absence, a reliable report, reporting to work with the odor of alcohol or marijuana on an employee, unusual behavior such as slurred speech or lack of coordination, the unauthorized possession of drug paraphernalia, or involvement in an on-duty accident or other on-duty incident which results in serious physical harm

B. Upon request, the Chief of Police shall identify to the employee and his representative the basis for reasonable suspicion. The Chief of Police may withhold the names of persons who have provided information if the Chief of Police identifies facts and circumstances which independently provide a basis for reasonable suspicion.

C. Testing will require that the employee provide a urine and/or blood sample, or some other medically accepted procedure will be used. Any time an employee is requested to take a drug or alcohol test, the employee will be required to sign an authorization form permitting the physician or lab to conduct the test and release the results to the City and the employee. Refusal to sign the authorization form or to submit immediately to a requested drug or alcohol test will be considered insubordination and will subject the employee to disciplinary action.

D. All test samples will be given at a licensed medical facility or doctor's office selected by the City, sealed and properly identified. Testing will be conducted by a certified laboratory, and the test results will be considered a confidential medical record not subject to public disclosure. Results will be distributed to the City and the employee only. Positive drug screens results will be confirmed by gas chromatography/mass spectrometry (GC/MS). Drugs being screened may include any controlled substance contained in Schedules I through V of Section 202 of the Controlled Substance Act, Section 21 U.S.C. 812, or as defined in O.R.C. 3719.01.

E. At any time prior to providing a sample of blood or urine, the employee will have the right to confer with an attorney or union representative as long as this does not result in an unreasonable delay in performing the test. To the extent possible, the sample must be provided within a 2 hour period after reasonable suspicion has been determined.

F. The employee shall be advised that the test is being required for administrative, internal police department purposes only and will not be used as part of a criminal investigation.

G. Employees will provide a minimum of three samples of blood or urine to be tested. One sample will be sent to the lab of the City's

choosing. One other sample, at the employee's choice, will be sent to a lab of the employee's choosing, or the sample will be preserved in the proper manner to be tested in the case of positive results on the first sample. The third sample will be preserved in the proper manner to be tested by a different lab selected by the City if the results of the City's and employee's first test are in conflict. If this is the case, the results of the third test shall be controlling.

Section 4. Rehabilitation and Counseling

A. An employee who tests positive for drugs or alcohol under this Article shall be given one opportunity for rehabilitation before disciplinary action is taken, provided that the employee's only rule violation is working or reporting to work under the influence of alcohol or controlled substances. An employee who violates any other rule under this Article shall be subject to disciplinary action, which may include discharge, for the first offense.

B. A positive drug or alcohol test, or a drug or alcohol problem, shall not excuse or mitigate any other misconduct (e.g., insubordination or dishonesty). The City shall respond to such misconduct by applying the same principles of disciplinary action as it would apply to an employee who had no positive test result and no drug or alcohol problem.

C. An employee who is entitled to an opportunity for rehabilitation under this Article will be relieved from duty immediately and placed on paid accrued sick leave. This sick leave may be conditioned upon receipt of reports that the employee is cooperating and making reasonable progress in the treatment program.

D. Within forty-five (45) days of entering the treatment program the employee must provide satisfactory medical evidence that he has completed the program and is fit to return to work and must pass another drug/alcohol screen. This time limit can be extended only based on medical or scientific evidence that a longer time is justified. However, no period longer than six (6) months total from the date of the original positive test will be permitted. Failure to meet these conditions will result in termination of employment. Accrued sick leave up to a maximum of sixty (60) calendar days and accrued vacation may be used for this leave, otherwise this leave will be unpaid.

E. The treatment program must be provided by a facility accredited by the Joint Commission on the Accreditation of Hospitals and/or licensed through an appropriate state agency.

F. Any employee who successfully completes a drug/alcohol program as described above and successfully passes a drug screen shall be

reinstated to his former position without loss of time in grade.

G. The Chief of Police may require up to two (2) tests of an employee during the six (6) month period after an employee has completed a rehabilitation program. These tests need not be based upon a reasonable suspicion of drug or alcohol use. If either test is positive, the employee's employment shall be terminated.

Section 5. Appeal

An employee may appeal action taken by the City under this Article through the grievance procedure.

ARTICLE 11. EFFECT OF LAW

If any provision of this Agreement is in conflict with any applicable federal law or regulation, that provision shall no longer be effective, but the remainder of this Agreement shall continue in full force and effect. The same is true with respect to any state law or regulation which cannot be subordinated to this Agreement. In such an event, the City and the Union may meet and confer on an alternative provision.

Where not covered by this Agreement, and where not displaced by this Agreement, all applicable laws and provisions, state, local and federal, shall apply. The conduct and grading of promotional examinations, the rating of candidates, the establishment of eligible lists for examinations and the original appointments from eligible lists are not subject to bargaining under this Agreement.

The City Commission shall adopt no ordinances, resolutions or other legislative matters in conflict with this Agreement.

The City, the Union and each employee will cooperate fully to abide by, and will abide by, all applicable laws and regulations prohibiting discrimination on account of race, color, religion, sex, national origin, unionization, age, disability or veteran status. The City may reassign a disabled employee or restructure a disabled employee's job in order to reasonably accommodate the disabled employee. The City shall notify the Union of such reassignment or restructuring in advance of its implementation. Such reassignment or restructuring shall not be overturned in arbitration provided that the arbitrator finds that the reassignment or restructuring was made in good faith for the purpose of meeting the City's obligations under the Americans with Disabilities Act or Ohio Revised Code 4112.

ARTICLE 12. NON-BARGAINING UNIT JOB DUTIES

Section 1. Assignment of Duties. The City may assign non-bargaining unit duties to bargaining unit employees without prejudice to the City's right to later exercise its management rights and remove those non-bargaining unit job duties

from the bargaining unit employees. Such removal of non-bargaining unit job duties is not grievable.

Section 2. Non-bargaining unit personnel. Jobs covered by this Agreement shall be performed by bargaining unit members except in circumstances of light duty, a non-bargaining unit member may be assigned for the period of light duty. The assignment of a non-bargaining unit member to light duty of a job duty covered by the bargaining unit is not grievable.

Section 3. Overtime. It is management's decision and discretion whether there is overtime. However, if overtime is needed for a bargaining unit job, the bargaining unit member who's job duty the overtime shall fall under shall be offered the overtime first before the overtime is offered to any other employee or assigned to a volunteer.

Events, including but not limited to, parades, car shows, the Fourth of July celebration, the Heritage Festival and all other special events, are not mandatory overtime events and may be assigned to volunteers at the discretion of the Police Chief.

ARTICLE 13. HOURS OF WORK AND OVERTIME

Section 1. Work Week and Pay Period: The standard work period for full-time employees shall be forty (40) hours per week with a non-paid lunch period each work day. Determination of starting and quitting times shall be made by the City and schedules may be changed by the City from time to time to suit varying conditions of the department.

Before any change is made to the work period as described above, the City will give the Union at least thirty (30) days notice of the proposed change. Once notified, and at the Union's request, the City will meet with the Union to discuss the effects of the change on bargaining unit members.

The City may switch from paying employees on a weekly basis to paying employees once every two weeks, provided that the City will give employees and the Union at least 8 weeks notice before putting such change into effect.

Section 2. Overtime: When an employee is required to work beyond the end of his regularly scheduled hours or is required to work at a time other than his regularly scheduled hours that has not been approved as flex time, with the approval of the Police Chief or designee, such employee shall be compensated for the actual additional time worked at time and one-half (1 ½) his regular rate of pay, for each six (6) minute interval worked (calculated and paid to the nearest [1/10th] hour). There shall be no pyramiding of overtime.

Section 3. Flextime: A flextime schedule is defined as a schedule as approved by the City Manager or his designee under which the employee works a schedule different from the traditional eight hours a day, five days a week schedule.

If flex time is approved, the employee shall not receive overtime pay for hours of work in excess of eight in any one day or in excess of eight consecutive hours worked. Instead, the employee shall receive the employee's regular rate of pay for all hours worked under the flextime schedule up to 40 hours in any week. The employee shall receive overtime pay at time and one-half the employee's regular rate for all hours worked in excess of 40 straight time hours in any week.

ARTICLE 14. WAGES

Section 1. Wage Rates: The hourly wage rates applicable to positions covered by this Agreement shall be increased by 0% effective January 1, 2011, shall be increased by 3% on January 1, 2012, and 0% on January 1, 2013. Payable by February 1, 2011, shall be a one time lump sum payment of 2% based on the 2011 wages.

Section 2. Steps: Each of the various pay ranges in the Appendix shall be divided into six steps, A through F. The time in grade for each step before the employee is eligible for a step increase is one year.

When an employee is permanently transferred to a job with equal or lower pay, he/she shall start in the new classification at the step which will provide an equal hourly rate or the least hourly reduction possible.

When an employee is permanently transferred to a job with higher pay, he/she shall start in the new classification at the step which will provide the smallest possible full step increase.

When there is a layoff and an employee bumps into another job with equal or lower pay, he/she shall start in the new classification at the step which will provide an equal hourly rate or the least hourly reduction possible.

When there is a call-back, an employee recalled to a previously held position will return to his/her previous step in that classification.

Section 3. Part-time employees Part-time employees will be paid the wage rate set forth in the Appendix at Step A for the applicable classification. Part-time employees will remain at Step A for the life of the Agreement.

Section 4. Step increases Step increases will be given as provided by applicable City ordinance or personnel regulations. Each employee's performance will be rated by his/her supervisor prior to the anniversary date the employee is eligible, by time in classification, for consideration for a step increase. An employee must receive a rating of satisfactory or better to receive a step increase. These ratings will serve not only for step increases, but also for placing probationary employees into permanent status and for promoting or transferring employees into new classifications. Employees at the top step will have their performance rated by their supervisor annually.

An employee who receives a rating of less than satisfactory may request reevaluation after 90 days from the date of the previous performance rating.

Rating forms, when completed, will be discussed with the employee. The employee is required to sign it as evidence of the fact that it has been reviewed and a copy will be returned to the employee. The signature does not necessarily mean that the employee is satisfied with the rating. If an employee receives two consecutive unsatisfactory ratings, the employee is subject to demotion or discharge.

ARTICLE 15. HOLIDAYS AND PERSONAL LEAVE

Section 1. Holidays to be Observed The following are recognized as holidays under this Agreement: New Year's Day, Martin Luther King's Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the day after Thanksgiving Day, the day before Christmas and Christmas Day.

Section 2. Holidays Falling on Saturday or Sunday If a holiday falls on a Saturday, the preceding Friday will be observed as a holiday. If a holiday falls on a Sunday, the following Monday shall be observed as a holiday. For purposes of this Article, employees who work other than a normal schedule will have their first day off treated as Saturday and their second day off treated as Sunday.

Section 3. Payment for Holiday In order for a full-time employee to receive pay for the holiday, the employee must work the employee's scheduled shift immediately before and immediately after the holiday. Full-time employees on vacation, approved sick leave, personal leave or leave of absence with pay (including paid funeral leave), shall be considered as working their regular scheduled days for purposes of this Article. Part-time employees shall not receive pay for a holiday.

Section 4. Payment for Working on a Holiday Eligible employees who are not scheduled to work on a designated holiday shall be paid eight hours work at applicable straight time. Eligible employees who work on a designated holiday shall be paid their holiday pay, plus one and one-half their regular rate of pay for all hours actually worked.

Section 5. Personal Leave Days Employees will be credited with five (5) personal leave days effective May 1st of each year. Employees with less than one year's service with the City on May 1st will receive a pro-rated amount of personal leave. Personal leave days may be taken only on a day mutually agreeable to the employee and the employee's supervisor. Personal leave may be taken from May 1 to April 30 of the following year, provided that seniority vacation requests made under Article 16 (Vacation), Section 3 shall have priority over and shall supersede previously scheduled personal leave days. Personal leave days not taken by the following May 1st will be forfeited. The City's consent will not be unreasonably withheld. The City shall give the employee a copy of the employee's denial or approval of request forms for use of personal leave days

within five (5) working days. Part-time employees shall not receive personal days.

ARTICLE 16. VACATIONS

Section 1. Vacation and vacation pay shall be granted to all full time employees who have completed at least one full year of service on the following basis: 10 days after the first full year of service, 15 days after eight years of continuous service, 20 days after 15 years continuous service, and 25 days after 25 years of continuous service. In addition, any employee who has accumulated in excess of 60 sick leave days at the termination of his regular vacation may convert sick days to vacation days as described in Article 17 (Sick Leave), Section 4. No employee shall receive more than six (6) week's vacation credit in one year.

Employees hired after the date of execution of this agreement shall be eligible for vacation on the following basis: 10 days after the first full year of service, 15 days after eight years of continuous service, 20 days after 15 years or more of continuous service

It is agreed that any person hired as a full-time employee by the City of Piqua will be given credit for prior service with other political subdivisions of the State of Ohio for the purpose of determining the amount of vacation the person will receive as an employee of the City of Piqua. Such prior service, if any, will be recognized after one year of employment with the City of Piqua.

Section 2. Vacations must be scheduled in advance with the employee's supervisor. The vacation period for each employee will begin on the first anniversary date of employment. Vacation credits will be granted on a monthly basis and can be used at any time before the employee's next anniversary date. Vacation credits cannot be carried over from one anniversary date to the next.

Section 3. Vacation leave requests shall be granted on a first-come, first-served basis, so long as the request meets the operational requirements of the Department.

Requests to change vacation will be considered only if at least one weeks' notice is given and will be granted as scheduling permits, consistent with efficient operations. In cases of conflict, the first to apply shall have first choice. The supervisor may waive the requirement of one week's notice, but such waiver is solely at the supervisor's discretion and an employee whose request for a waiver is rejected has no recourse to the grievance procedure.

Section 4. In the case of retirement, resignation, disability, dismissal or death, vacation credit will be prorated according to the terms listed below:

Employees entitled to two weeks shall be paid .8333 days for each full month worked beyond his/her anniversary date.

Employees entitled to three weeks shall be paid 1.25 days for each full month worked beyond his/her anniversary date.

Employees entitled to four weeks shall be paid 1.6667 days for each full month worked beyond his/her anniversary date.

Employees entitled to five weeks shall be paid 2.0833 days for each full month worked beyond his/her anniversary date.

Section 5. The City Manager may permit an employee to accumulate and carry over two (2) weeks vacation leave to the following anniversary year.

Section 6. An employee who is entitled to vacation of three or more weeks may convert up to one hundred twenty (120) hours per year to cash in place of time off if the employee notifies the City at least two weeks before the employee wishes the payment.

Section 7. An employee hired after execution of this agreement, who is entitled to vacation of three or more weeks may convert up to forty (40) hours per year to cash in place of time off if the employee notifies the City at least two weeks before the employee wishes the payment.

ARTICLE 17. SICK LEAVE

Section 1. Full time employees shall earn and accumulate sick leave credits on the basis of a maximum of one and one-quarter (1 ¼) days (10 hours) for each completed month of service. Regular part-time employees and full-time employees who receive pay for less than a full month shall earn and accumulate sick leave credits for each completed month of service pro-rated in accordance with their paid hours for that month. Credit shall be accumulated by employees on extended sick leave only if there is an intention to and a reasonable expectation of a return to work. Unused sick leave shall be accumulated up to 1440 hours for sick leave purposes. Accumulated sick leave may not be converted except as specified in this Article or the Severance Article.

Section 2. Use of Sick Leave: Sick leave may be used for absence due to illness, injury, treatment of illness or injury, an employee's enforced quarantine due to exposure to a contagious disease and, where it reasonably necessitates the employee's absence, for illness or injury in employee's immediate family. Immediate family means spouse, parent (natural, step or in-law), children (natural or step), or other relative living in the employee's household. Sick leave will not be granted while an employee is on vacation unless proof of illness or injury is submitted. A reasonable amount of time for traveling to and from the site where an illness or injury is treated will be considered as sick leave.

Section 3. Approval of Sick Pay: The City reserves the right to require the employee to complete an absence slip and turn it into the immediate supervisor

for approval before sick leave pay is granted. In the case of an absence of three consecutive days or more, medical documentation must be submitted along with the form. The City also reserves the right to require a medical examination by a physician designated and paid for by the City as a condition for granting sick leave pay. Probationary employees must work a minimum of thirty calendar days before sick leave can be granted. The Union agrees to support the City in its efforts to control the misuse of sick leave.

With the City Manager's approval, any employee in cases of hardship with full intentions and a reasonable expectation of staying as a City employee, may be advanced sick leave up to one year's credit (120 hours) when needed and requested. Accumulated sick leave, vacation and personal days must be taken before an advancement of sick leave will be made. If the employee's employment terminates before the 120 hours or time advanced is earned, the employee must pay back in cash the unearned time to the City within six months of termination of employment except where the termination of employment is due to death or termination by the City.

Section 4. Conversion to Cash or Vacation: Employees may convert up to a maximum of 40 hours in excess of 480 hours accumulated sick leave to cash or vacation once during any calendar year with a 30 day advance notice. This conversion will be on the basis of one day of cash or vacation for one day of sick leave.

It is agreed that sick leave which can be converted to cash is sick leave which was earned in years prior to the year in which the conversions occur.

Section 5. Sick Leave Donation:

- a. All available time (sick time, personal and vacation time) is to be exhausted before being eligible to receive donations of sick time.
- b. The recipient will receive donated hours on an as required, hourly basis only.
- c. The hours donated but not used remain with the donor. The maximum number of hours donated per employee is forty (40). Employees with a minimum of 480 hours accumulated sick leave may be allowed to donate in excess of forty (40) hours with the approval of the City Manager.
- d. The hours donated will be kept on an equity basis i.e., the number of hours credited will be based upon donor and recipient pay rate conversions to hours.
- e. Hours donated will be used in the order in which they are received.

ARTICLE 18. INJURY PAY

Section 1. If an employee suffers a compensable injury during the course of employment with the City while performing an assigned task, the City will pay the employee's normal weekly wage for up to 26 weeks following the date of injury. Such payments shall take the place of the employee's receipt of temporary total disability payments for the period of time during which injury pay is provided. If a Worker's Compensation check for temporary total disability is issued, the employee must endorse his Workers' Compensation check over to the City in order to receive injury pay for the period of time covered by the Worker's Compensation check.

Section 2. An employee who suffers a compensable injury during the course of employment with the City while performing an assigned task, will be paid his/her wages while receiving medical treatment on the day of injury, but the total payment for time worked and medical treatment shall not exceed eight hours.

Section 3. The City may require an employee to perform duties within the limitations of such injury during the period of the compensable injury. The City and the Union agree to support a transitional work program to help injured workers return to their regular job duties by temporarily providing more limited job duties consistent with the medical restrictions resulting from the allowed conditions in an employee's workers' compensation claim. In order to provide an employee with suitable transitional work, the City may assign the employee to work in a different job classification or department, or to a temporary transitional work job created specifically to accommodate an injured worker's medical restrictions. During the time the City provides transitional work, the City will continue to pay the employee the pay rate applicable to the employee's regular job classification.

Section 4. In determining an employee's mental or physical ability to perform work under this Article or under any provision of this Agreement, the City may rely upon medical evidence presented by the employee, or may require the employee to submit to an examination by a physician selected and paid for by the City. If an employee does not agree with the results of the City's examination, he/she may appeal to a third physician agreed upon by the City's physician and the employee's physician. The results of the third physician shall be binding on the City and the employee, and the examination shall be paid half by the City and half by the employee.

ARTICLE 19. UNIFORMS AND EQUIPMENT

Section 1. Initial Issue of Uniforms and Equipment

The City shall provide each newly hired employee with the uniforms items listed below as initial issue upon hire. The Chief of Police may determine other necessary uniform, clothing, and equipment items, which shall be issued as the new employee's initial uniform issuance at discretion of the Chief, in accordance

with IRS regulations, under the authority of the Chief in Article 19, Section 3 to set and prescribe the uniform, equipment, and attire of the Department.

Records Clerks/Secretarys

- 3 pairs - pants
- 5 - shirts (combined long and short sleeve)
- 1 - sweater

Police Service Aide

- 3 pairs - pants
- 5 - shirts (combined long and short sleeve)
- 1 – sweater
- 1 – jacket
- 1 pair – boots
- 1 – winter hat
- 1 – duty hat
- 1 – duty belt

Section 2. Uniform, Clothing and Equipment Allowance

On January 1st of each year, civilian personnel shall be given a \$250 clothing allowance. All employees may purchase uniform clothing and equipment needs for duty as authorized by the Chief of Police and shall maintain their initial issue uniform as specified above out of this allowance. Any unused portion of an employee's clothing allowance up to \$100 will be carried over to the next calendar year in addition to the authorized uniform allowance of that next calendar year, not to exceed a maximum on-going balance of \$350. The City will provide the Union a report showing each employee's uniform balance on a semi-annual basis.

The annual uniform allowance of \$250 commences at the completion of 12 months of service and will be pro rated between the period of the employee's completion of 12 months of service and the next January 1st.

Section 3. Employees Uniform, Clothing, and Equipment

All items of uniforms, equipment, and clothing, applicable and acceptable to police work, shall be purchased through the regular City purchasing procedures and must have the prior approval of the Chief of Police. Such purchases shall be made by purchase order, with the purchase order issued by the City to the vendor and payment made directly to the vendor. The Chief of Police shall determine appropriate vendors. It shall be the responsibility of the Chief of Police and/or his designated representative to maintain records on the disposition of these items and to approve all purchases including determining the need for replacement.

The Chief of Police shall prescribe the uniform, attire, and equipment of each work unit to include acceptable standards of cleanliness and condition. An employee shall be subject to discipline if the aforementioned conditions are violated.

The City shall provide or pay for any special uniforms and/or equipment required by the Chief of Police. Additional items of uniform or equipment desired by the employee and authorized by the Chief shall be charged to the employee's clothing allowance. Bullet resistant vests provided to the Police Service Aide, who may be required to wear one, shall be replaced as specified by the manufacturer.

ARTICLE 20. EDUCATIONAL BENEFITS

Section 1. Education Benefits

The City seeks the benefits that derive from a highly educated work force. Provided that the money is available and the funds have been budgeted, the City will pay for all tuition, books, and any other related expenses for college level courses applicable to a degree in the areas of Criminal Justice, Law Enforcement, Public Administration, Business Administration, Behavioral Science, Computer Science or Information Technology or other courses of study that directly relate to law enforcement or the duties of the employees covered by this Agreement and are approved by the Chief of Police at the time the fees are due, subject to a limitation of one thousand dollars (\$1,000) per employee in any one (1) calendar year. The course of instruction or class is subject to approval by the Chief and the employee must obtain a passing grade. To be eligible for reimbursement, the degree must be earned while employed with the City of Piqua Police Department.

Provided that the money is available and the funds have been budgeted, the City will pay for tuition, books, and any other related expenses for college level courses applicable to one masters degree only in the areas of Criminal Justice, Law Enforcement, Public Administration, Business Administration, Behavioral Science, Computer Science or Information Technology or other courses of study that directly relate to law enforcement or the duties of the employees covered by this Agreement and are approved by the Chief of Police at the time the fees are due, subject to a limitation of one thousand dollars (\$1,000) per employee in any one (1) calendar year. The course of instruction or class is subject to approval by the Chief and the employee must obtain a minimum of a "C" or better as defined by the specific educational institution's standards or a "pass" in a pass/fail class. To be eligible for reimbursement, the degree must be earned while employed with the City of Piqua Police Department. No doctoral programs are qualified for reimbursement by the City.

The employee may submit a list and approximate cost of those courses he

desires to enroll in by September 30th of the year prior to that enrollment. The City of Piqua will budget a minimum of three thousand dollars (\$3,000) per year for educational benefits for police employees in the bargaining unit. The Chief of Police may, at his option, either pro-rate the total amount available among all those making requests or allocate the amount available among those employees requesting courses to those courses which are most applicable to the employees' duties. If a portion of this budget is reserved for an employee who does not attend or pass the approved course or class, the Chief may apply that amount to another employee attending an approved course or class, up to the specified per employee maximum amount. The employee shall provide a written memo to the Police Chief no later than June 30th indicating that he intends to continue to use the funds requested within the calendar year. Failure to provide such memo shall cause the use of funds to be forfeited and made available to another employee.

Section 2. Reimbursement of Benefits

The employee must remain with the Piqua Police Department for three (3) years from the date of the completion of the course. Should the employee voluntarily resign from the Piqua Police Department prior to this time limit, or be discharged for just cause, he shall reimburse the City in full except as provided below.

After successful completion of a course of instruction such reimbursement shall be made at a rate of thirty-three and one third (33 1/3) percent write off per year of service after completion of said course of instruction.

After the employee has completed three (3) years of service after completion of the course, he is not required to reimburse the City for tuition, books, or other related expenses paid for by the City. The City will waive an employee's obligation to reimburse the City as part of an agreement between the Union and the City to accept an employee's resignation in place of disciplinary action.

ARTICLE 21. TRAINING

The City of Piqua recognizes the need for training of personnel. Bargaining unit members may make a request to attend training related to their jobs. The City will approve and/or provide training based on the needs of the department.

ARTICLE 22. MILEAGE EXPENSES - PRIVATE VEHICLES

All employees who are authorized, by the chief or a deputy chief, to use their private vehicles on City business shall be compensated at the prevailing City rate for each mile driven and documented. The City agrees to furnish the employee with a vehicle for city business whenever available.

ARTICLE 23. SEVERANCE

An employee who terminates his employment with the City for any reason shall have his termination pay computed in the following manner:

Section 1. Vacation Leave

He shall be paid for any vacation time earned in the year the employee terminates his employment, and any accumulated vacation, holiday or personal time off up to the maximum accumulation limit as specified in the vacation, holiday and personal leave articles.

Section 2. Sick Leave

(A) Conversion Upon Termination or Permanent Layoff: Employees with eight years of service or more, except those discharged for conviction of theft, theft related offense or felony, may convert up to the same number of hours accumulated and unused sick leave upon termination of employment or permanent layoff as indicated in (B) below. Sick leave will be converted on the basis of the following formula:

8 -15 years	= 1 for 3
16 - 25 years	= 1 for 2
over 25 years	= 1 for 1

(B) Conversion Upon Retirement or Death: There shall be payable to an employee, upon retirement in accordance with the provisions of the Ohio Public Employees Retirement System or upon death of an active employee, to the employee's beneficiary designated in writing on the form provided by the City and delivered to the City (or if no valid designation has been made, the estate), in addition to any OPERS benefits, payment for all accumulated sick up to and including 1440 hours. This payment may be made weekly or in a lump sum at the option of the Director of Finance, with due regard to the financial status of the City.

For employees hired after December 31, 2000, unused sick time shall be cumulative up to and including 960 hours for retirement and death benefits, and shall be cumulative up to and including 720 hours upon other termination of employment (except for dismissal for conviction of any theft, theft related offense or felony offense), on the same conversion formula applicable to employees hired before December 31, 2000. Upon retirement, the employee shall also be paid for accumulated sick time, at the current hourly rate, any hours earned above 720 hours up to 1560 hours at the rate of 1 for 3 for a combined total of up to 1000 hours.

For employees hired after the date of execution of this agreement, unused sick time shall be cumulative up to and including 480 hours for retirement and death benefits, and shall be cumulative up to and including 480 hours upon other termination of employment (except for dismissal for conviction of any theft, theft related offense or felony offense), on the same conversion formulas applicable to employees hired before the date of execution of this agreement. Upon retirement, the employee shall also be paid for accumulated sick time, at the current hourly rate, for hours earned above 480 hours up to 720 at the rate of 1 for 3, for a combined total of up to 560 hours.

(C) Conversion Upon Permanent Disability If the employee is permanently disabled during his employment as a City of Piqua Employee, or retires in accordance with the provisions of the Ohio Public Employees Retirement System, he shall receive payment for his full accumulation up to one thousand four hundred forty (1440) hours (720 hours for employees hired after December 31, 2000; 560 hours for employees hired after execution of this agreement) of sick time and all accumulated vacation time at the time of his permanent disability. The determination to make payments either in a lump sum or on a weekly basis, but at no lesser rate of pay than the employee's weekly rate of pay, will be at the option of the Director of Finance with due regard to the financial status of the City.

ARTICLE 24. GROUP INSURANCE

Section 1. Health Insurance.

(a) **Benefits Offered.** The City will offer health insurance benefits throughout the term of this Agreement. The benefits will include a high deductible health plan (HDHP) and, at the employee's option, either a health savings account (HSA) or a health reimbursement account (HRA). The HDHP will have "network" deductibles of \$2,000 for individual coverage and \$4,000 for family coverage. Benefits will be as provided in the carrier's certificate of coverage.

For the 2011 and 2012 plan years, the City will fund 75% of the HSA and HRA accounts (\$1,500 for individual coverage and \$3,000 for family coverage). Employee HSA's will be funded 1/12th of the annual total each month. Employee HRA's will be funded entirely in January. The employee's contribution of the premium shall be 15% for the 2011 and 2012 plan years. The 2013 plan year will be subject to a re-opener. Employees hired during a plan year shall have the City's contribution to their HSA prorated based upon the number of full months employed by Piqua during that initial plan year. Health insurance shall run on the plan year or calendar year rather than the contract year.

The City shall select the carrier for the HDHP annually after consulting with the Insurance Committee. The City will maintain comparable coverage for the duration of this Agreement. Comparable coverage shall mean that the City shall

solicit quotes annually from up to three carriers and request standard products which most closely match the plan design then in effect. Exact match of plan design need not be obtained. Bargaining unit employees shall be offered the same benefits on the same terms applicable to the City's unrepresented employees.

b) Insurance Committee. The unit shall designate one bargaining unit employee to represent the bargaining unit on the City's Insurance Committee. The Insurance Committee will meet periodically to (1) review the benefits being provided and the cost of those benefits and (2) to consider alternatives to maintain acceptable benefit levels at an acceptable cost to employees and the City. Any recommendation approved by a majority of the members of the Insurance Committee will be submitted to the City Manager for his consideration.

(c) Option Out. Eligible employees who decline the city offered health insurance benefits, will be entitled to receive a one-time payment per health insurance year (2011, 2012) of \$2,000 for those eligible for family coverage and \$1,000 for individual coverage.

Section 2. Life Insurance. The City shall provide and pay the necessary premium for group life insurance in the amount of \$50,000 for each employee covered by this Agreement.

ARTICLE 25. SENIORITY

Section 1. Application of Seniority

"Seniority" shall accrue to all employees in accordance with the provisions of this Article. Seniority, as defined in Section 2 of this Article, will apply wherever employee seniority rights are established in the terms and conditions of this Agreement.

Section 2. Accrual of Seniority

Seniority shall be computed on the basis of uninterrupted length of continuous service as an employee with the City.

A. No Break in Service

The following situations shall not constitute a break in continuous service:

1. absence while on approved leave of absence;
2. absence while on approved sick leave or disability leave;
3. military leave; and
4. a layoff of twelve (12) months duration or less.

B. Break in Service

The following situations constitute breaks in continuous service for which seniority is lost:

1. discharge or removal for just cause, when undisputed or upheld by an arbitrator at final appeal;
2. retirement;
3. layoff for more than twelve (12) months;
4. failure to return to work within fourteen (14) calendar days of a recall from layoff;
5. failure to return to work at the expiration of leave of absence; and,
6. resignation.

ARTICLE 26. LAYOFF AND RECALL

Section 1. Layoff

Whenever there is a reduction in the number of employees due to lack of funds, lack of work, or other legitimate reasons, the City Manager shall determine the number to be laid off. Employees shall be laid off at the time and in the number specified by the City Manager in reverse order of their seniority. Part-time and seasonal employees shall be laid off before probationary employees and all probationary employees before permanent employees. The City shall notify the Union before taking such action.

Section 2. Recall

When there is a recall, those who have been laid off shall, for a period of time not to exceed twenty-four (24) months or their length of seniority, whichever is less, be eligible to be called back to work in the inverse order of their layoff.

Section 3. Notice of Recall

Notice of recall shall be sent by certified mail, return receipt requested, to the last mailing address provided in writing by the employee. The Employer shall be deemed to have fulfilled its obligations by mailing the recall notice by certified or registered mail, return receipt requested, to the last mailing address provided by the employee.

The recalled employee shall have ten (10) calendar days following the date of receipt of the recall notice to notify the City of his intention to return to work and shall have fourteen (14) calendar days following the receipt of the recall notice in which to report to duty, unless a different date for returning to work is specified in

the notice or unless another date is mutually agreed to between the Employer and the employee. An Employee who refuses recall or does not report to work as specified in this section shall be considered to have resigned his position.

ARTICLE 27. UNION BUSINESS

Section 1. Union Representatives

The Union is authorized to select one (1) associate and one (1) alternate to conduct approved Union business for the bargaining unit. The Union shall certify in writing to the City and the Chief of Police the names of the associate and two alternates. These certifications shall be kept current by the Union at all times.

The Union will identify the members of its negotiation team at the time it provides the City with written notice of a desire to renegotiate terms of this agreement. No more than two (2) employees shall be included on the Union's negotiation team. The associate and the two alternates shall be compensated at their regular rate for their scheduled duty hours during which they attend negotiating sessions for a new contract. They shall not, however, be compensated for time spent beyond their regularly scheduled hours. At the end of the negotiating session, they shall return to their regular assignment if the session ends before the end of their regularly scheduled shift.

An associate or alternate shall be compensated at the employee's regular rate for scheduled duty hours during which the employee attends meetings at the specified steps of the grievance procedure with representatives of the City. This does not include attendance at any arbitration.

The associate and the alternates may consult in the assembly area before the start of and at the completion of the day's work. Upon notification to and consent of the supervisor, the associate and the alternates shall be permitted access to work areas at all reasonable times for the purpose of adjusting grievances, assisting in the settlement of disputes, and for the purpose of carrying into effect the provisions and aims of this Agreement, subject to the understanding that work assignments are not interfered with.

The associate and the alternates, upon giving reasonable notice, and upon authorization from the Chief, shall be allowed to use vacation, holiday or personal time off to attend the annual state FOP/OLC conference or FOP/OLC training seminars. All expenses shall be the responsibility of the employee attending the conference or seminar.

Section 2. Bulletin Board

The City shall provide space for a bulletin board in the records area of the Department not visible to the public for the exclusive use of the employees covered by this Agreement. This bulletin board will not be used for official

departmental functions and will not be used to post derogatory materials concerning the City. Upon request of the Chief or his designee, the Union shall cause the immediate removal of any material posted in violation of this Article.

Section 3. Ballot Boxes

The Union shall be permitted, with prior notification to the Chief of Police or his designee, to place a ballot box at the Police Department in an area not accessible to the public, for the purpose of collecting members' ballots on all Union issues subjected to ballots. Such boxes shall be the property of Union and shall be removed as soon as practicable after the Union vote has been concluded.

Section 4. Union Meetings

The Union shall be permitted, upon prior notification to the Employer or his designee, to hold meetings for Union members on City and/or Police Department facilities, subject to availability. The request for meeting space shall be in writing and shall be delivered to the appropriate official at least forty-eight (48) hours prior to the time of the meeting, and shall state the date and time of the meeting.

Section 5. Non-employee Representative

A representative of the Union shall have access to the City's premises for the purposes of administering this contract with the consent of the City. The City will not unreasonably withhold such consent. The representative must first contact the Chief of Police and make the necessary arrangements for the place and/or the duration of the visit. The representative shall act in accordance with the terms of the consent and shall in no case interfere with any work

Section 6. Contract Copies

The Union shall provide a copy of this Agreement to all bargaining unit members of the Police Department no later than thirty (30) calendar days after the Agreement has been filed with SERB.

ARTICLE 28. AMERICANS WITH DISABILITIES ACT AND FAMILY AND MEDICAL LEAVE ACT COMPLIANCE.

Section 1. Compliance The City has the right to take steps reasonably necessary to comply with the Americans with Disabilities Act and with the Family and Medical Leave Act, or to remove doubts about such compliance.

Section 2. Honesty Any dishonesty in connection with obtaining benefits of any sort under the Americans with Disabilities Act or the Family and Medical Leave Act, including reasons for leave, statements of disability, statements of fitness for duty, or anything else, will result in discharge.

Section 3. Eligibility and Duration Under the Family and Medical Leave Act, an employee who has been employed by the City of Piqua for at least one year and has worked at least 1,250 hours in the previous twelve months, may take up to twelve weeks of FMLA leave during a rolling twelve-month period, for any of the following reasons: the birth and care of a son or daughter; the placement with the employee of a son or daughter for adoption or foster care; when needed to care for the employee's spouse, child, or parent with a serious health condition; or because of the employee's serious health condition that makes the employee unable to perform the functions of his or her job. A "rolling twelve-month period" means the 365 (or 366 where applicable) days immediately preceding any day the employee takes leave.

Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

A special leave entitlement permits eligible employees to take up to 26 weeks of leave to care for a covered service member during a single 12-month period. A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

Section 4. Notice and Application An employee must provide at least thirty days advance notice before the family or medical leave is to begin if the need for leave is foreseeable, such as for expected birth or planned medical treatment. If thirty days notice is not practicable, then the employee must provide notice on the day of or within three (3) business days after having knowledge. An employee shall complete a leave of absence application form, available from his or her supervisor, when beginning leave, or as soon after that as is practicable. The employee must list on this form the reasons for the requested leave, the expected start of the leave, and the expected length of the leave. If the employee is requesting intermittent leave or a reduced leave schedule, the employee shall state the reasons why the intermittent leave or a reduced leave schedule is medically necessary and the schedule of treatment. (Intermittent leave and reduced leave schedule are not available for birth or adoption leaves).

Section 5. Medical Certification An employee requesting leave to care for the employee's spouse, child or parent, or due to the employee's own serious health condition, must submit a medical certification completed by the health care provider of the employee or the employee's ill family member, demonstrating the need for the leave. The City of Piqua will provide a form for this. If the employee's leave (whether full time, intermittent, or on a reduced schedule) is for more than thirty days, then he or she shall submit a new medical certification after thirty days, and after each thirty days after that. When the duration of the condition listed in the original certification exceeds 30 days, a new medical certification shall be required if the employee's leave is beyond the specified duration or every six months, whichever occurs first. A second opinion may be required by the City at the City's expense; a third opinion may also be required if needed to resolve a dispute between the first and second opinions. The cost of a third opinion shall be shared equally between the City and the employee. If a third opinion is needed, the doctor will be chosen by mutual agreement between the City and the employee.

Section 6. Pay and Benefits All family and medical leaves are without pay, except employees will be required to use all paid leave, paid personal days and vacation for absences covered by the Family and Medical Leave Act prior to being granted leave without pay. The unpaid portion of family and medical leaves are without benefits, except that group health and hospitalization insurance will be continued during the family and medical leave (up to twelve weeks in a twelve month period) with the same terms, conditions and employee contributions applicable to employees who are actively at work.

Section 7. Return From Family or Medical Leave Employees must tell their supervisor of the date they will be able to return to work, in writing, no later than one week in advance. An employee on medical leave due to the employee's own serious health condition must, as a condition to returning to work, submit a medical certificate releasing the employee to return to his or her job.

Section 8. Restrictions All leave which may be available or taken under the Family and Medical Leave Act is subject to the restrictions, limitations and conditions provided in that law and any valid regulations promulgated under it.

ARTICLE 29. LABOR/MANAGEMENT MEETINGS

Section 1. Meetings to be Held

In the interest of sound labor-management relations, a joint committee, not to exceed four (4), half of whom shall represent the City and half of whom shall represent the Union, may meet from time to time by mutual agreement upon a request by either party to discuss subjects of mutual concern.

Section 2. Agenda to be Furnished

An agenda will be furnished by the party requesting the meeting at least five (5) working days before the scheduled meeting along with the names of the Union representatives who will be attending. Labor/Management meetings shall not be negotiation sessions to alter or amend the basic Agreement.

Matters which may be discussed at such meetings include:

- A. The administration of this Agreement;
- B. Changes made by the City which affect bargaining unit employees;
- C. Grievances which have not been processed beyond the final step of the grievance procedure, when such discussions are mutually agreed to in advance by the parties;
- D. General information of interest to the parties;
- E. Ways to increase productivity and to improve efficiency; and
- F. Safety matters relating to employees.

Section 3. Attendance at the Meetings

Union representatives attending Labor/Management meetings shall not suffer loss in their regular pay while attending any meetings provided for under this Article which are held during the employee's regular working hours. With the prior approval of the Chief of Police, Union representatives may confer with bargaining unit members in preparation for such meetings without a loss in their regular pay.

ARTICLE 30. TERM OF AGREEMENT

Section 1. Effective Dates

The Agreement shall become effective on January 1, 2011 and shall remain in full force and effect until 11:59 p.m., December 31, 2013. The parties shall continue in full force and effect all the terms and conditions of this Agreement

after expiration until a new agreement is signed or the statutory dispute settlement procedures are completed.

Section 2. No Contractual Obligations Outside Effective Dates

Notwithstanding anything else in this Agreement, no act, omission, or event occurring before the initial effective date or after the termination of this Agreement shall give rise to any rights or liabilities under this Agreement nor shall it be subject to arbitration.

Section 3. Negotiations for a New Contract

If either party desires to modify or amend this Agreement, it shall give written notice of such intent no earlier than one hundred twenty (120) calendar days prior to, nor later than ninety (90) calendar days prior to, the expiration date of this Agreement. Such notice shall be by certified mail. Negotiations between the parties for a successor agreement shall commence no later than thirty (30) days from the date of the mailing of the notice to negotiate. Both parties shall negotiate in good faith in an earnest effort to complete negotiations and fully conclude a new agreement forty-five (45) days before the termination date.

EXECUTION

Signed at Piqua, Ohio on _____.

**For the Fraternal Order of Police,
Ohio Labor Council, Inc:**

For the City of Piqua:

Andrea H. Johan
Staff Representative

Frederick E. Enderle, City Manager

Randy Petty, Bargaining
Committee Member, Civilian Unit

Elaine G. Barton, HR Director

Bruce Jamison, Chief of Police

Stacy M. Wall, Law Director

Cynthia A. Holtzapple, ACM/Fin. Dir.

RESOLUTION NO. R-7-11

**A RESOLUTION REAPPOINTING JULIA (JUDY) TERRY TO
THE GROW PIQUA NOW BOARD**

NOW, THEREFORE, BE IT RESOLVED by the Commission of the City of Piqua, Miami County, Ohio, the majority of all members elected thereto concurring, that:

SEC. 1: Julia (Judy) Terry is hereby reappointed as a member of the Grow Piqua Now Board for a term of (3) years to expire on December 31, 2013, or until her successor is confirmed and qualified;

SEC. 2: This Resolution shall take effect and be in force from and the earliest period allowed by law.

LUCINDA L. FESS, MAYOR

PASSED: _____

ATTEST: _____
REBECCA J. COOL
CLERK OF COMMISSION

RESOLUTION NO. R-8-11

**A RESOLUTION APPOINTING A MEMBER TO THE
ENERGY BOARD**

BE IT RESOLVED by the Commission of the City of Piqua, Miami County, Ohio, the majority of all members elected thereto concurring, that:

SEC. 1: Sharon L. Lyons is hereby appointed to fill the unexpired term of Brian Kellogg as a member of the Energy Board for a term to expire on February 28, 2015 or until her successor is confirmed and qualified;

SEC. 2: This Resolution shall take effect and be in force from and after the earliest period allowed by law.

LUCINDA L. FESS, MAYOR

PASSED: _____

ATTEST: _____
REBECCA J. COOL
CLERK OF COMMISSION

RESOLUTION NO. R- 9-11

**A RESOLUTION OF APPRECIATION FOR THE
PUBLIC SERVICE OF RICK MAGGERT AS
A CITY EMPLOYEE**

WHEREAS, Rick Maggert has retired as Assistant Fire Chief with the Piqua Fire Department; and

WHEREAS, his retirement follows over 35 years of faithful and dedicated service to the City and its citizens;

NOW, THEREFORE, BE IT RESOLVED by the Commission of the City of Piqua, Miami County, Ohio, all members elected thereto concurring, that:

SEC. 1: In recognition and appreciation of the public service of Rick Maggert as a Assistant Fire Chief, this Commission tenders its unanimous and respectful tribute by this Resolution, which shall be a matter of public and permanent record.

SEC. 2: This Resolution shall take effect and be in force from and after the earliest period allowed by law.

LUCINDA L. FESS, MAYOR

PASSED: _____

ATTEST: _____
REBECCA J. COOL
CLERK OF COMMISSION

RESOLUTION NO. R-10-11

A RESOLUTION TO REQUEST THE MIAMI COUNTY BOARD OF ELECTIONS TO SET A SPECIAL ELECTION ON MARCH 1, 2011 FOR THE PURPOSE OF A RECALL ELECTION FOR COMMISSIONER LUCINDA L. FESS, COMMISSIONER WILLIAM VOGT, COMMISSIONER JOE WILSON AND COMMISSIONER JULIA TERRY

WHEREAS, a committee of citizens circulated petitions pursuant to City Charter Section 120 seeking the recall of Commissioner Lucinda L. Fess, Commissioner William Vogt, Commissioner Joe Wilson and Commissioner Julia Terry; and

WHEREAS, on December 27, 2010, said petitions were submitted to the City Commission Clerk; and

WHEREAS, on December 30, 2010, the Miami County Board of Elections verified the required minimum number of signatures needed for recall petitions; and

WHEREAS, the City Commission Clerk notified the four commissioners of the verified recall petitions and all four commissioners declined resigning from their position; and

WHEREAS, Charter Section 122 requires the City Commission to set the date of a Special Election for the purpose of the recall election.

NOW THEREFORE, BE IT RESOLVED by the Commission of the City of Piqua, Miami County, Ohio, the majority of all members elected thereto concurring, that:

SECTION 1. The City Commission requests that the Miami County Board of Elections set a Special Election for March 1, 2011, for the purpose of the recall election of Commissioner Lucinda L. Fess, Commissioner William Vogt, Commissioner Joe Wilson and Commissioner Julia Terry.

SECTION 2. The City Director of Law shall prepare the exact language to be placed on the ballot as governed by Section 124 of the Piqua City Charter.

SECTION 3. The Commission Clerk shall send a certified copy of this Resolution to the Miami County Board of Elections.

SECTION 4. This Resolution shall take effect and be in force from the earliest period allowed by law.

LUCINDA L. FESS, MAYOR

PASSED: _____

ATTEST: _____
REBECCA J. COOL
CITY COMMISSION CLERK

***For Regular Meeting of City Commission
January 18, 2011***

To: Fred Enderle, City Manager

From: Stacy M. Wall, Law Director

Date: January 10, 2011

Re: Special Election

PURPOSE:

To set a special election date for the purpose of a recall of four city commissioners.

RECOMMENDATION:

To adopt the Resolution setting the special election date as March 1, 2011.

BACKGROUND:

A group of citizens circulated a petition for the recall of four commissioners. Per the Charter, the Clerk issues the petition and the Board of Election certifies whether there are 1,000 valid signatures from registered voters of Piqua. The original petition did not contain the required number of signatures but the Charter permits a 10 day correction period where supplemental petitions can be circulated. The committee circulated supplemental petitions and submitted them for validation on December 27, 2010. The Board of Elections certified enough signatures to satisfy the requirement of 1,000 signatures per petition. On December 30, 2010, the City Clerk notified each commissioner subjected to the recall that he or she had five days to resign. Since none of the commissioners resigned, Charter Section 122 requires the Commission to set a special election date between 40 and 60 days after the Commission has been notified. Therefore, the election should be set between February 13th and March 5th.

ALTERNATIVES:

The Commission could select a different date other than the proposed March 1 for the election.

DISCUSSION:

It is recommended that the resolution be adopted with a March 1st Special Election date. March 1st is the first Tuesday of the month, which is the day elections are traditionally held. This may avoid confusion as to when the election is. March 1st also allows for the necessary time for the Board of Elections to prepare for an election. The Board of Elections has indicated that it needs at least 30 days to prepare.

FINANCIAL IMPACT:

There is a financial impact from holding a special election. However, an estimated cost of the election was included in the 2011 budget and the resolution is not to decide whether to have an election, it is only to set the date for the election.

CONFORMITY TO CITY PLANS & POLICIES:

The resolution is in compliance with the Charter. The Charter mandates a special election be held and this resolution is the next step which requires the Commission to set the date of the election.