



CITY OF TEXARKANA
CITY COUNCIL
MINUTES • OCTOBER 10, 2016

Council Chambers**Regular Meeting****6:00 PM**

220 TEXAS BLVD.
TEXARKANA, TX 75501

I. CALL TO ORDER, ROLL CALL, ESTABLISHMENT OF QUORUM

Attendee Name	Title	Status	Arrived
Bob Bruggeman	Mayor	Present	
Jean H. Matlock	Ward 1	Present	
Willie Ray	Ward 2	Present	
Tina Veal-Gooch	Ward 3	Present	
Brian Matthews	Ward 4	Present	
Christy P. Paddock	Ward 5	Present	
Josh Davis	Ward 6	Present	

Staff Present: City Manager John Whitson, Jennifer Evans, Shirley Jaster, Kristin Peeples, Sherry Jackson Hawkins, David Orr, Eric Schlotter, Robby Robertson, Jim Powell, Karey Parker and Craig Hicks.

Legal Counsel: Louise Tausch

II. INVOCATION AND PLEDGE BY MAYOR BOB BRUGGEMAN

III. MAYOR'S REMARKS AND ITEMS OF COMMUNITY INTEREST

Upcoming City Council Meetings:

Monday, October 24, 2016 at 6:00 p.m.
Monday, November 14, 2016 at 6:00 p.m.
Monday, November 28, 2016 at 6:00 p.m.

Upcoming Joint City Meeting:

The Texarkana Chamber of Commerce will host the first "Joint Texarkana Community Committee" meeting with Texarkana, Arkansas on Tuesday, October 11th at 3:00 p.m. The meeting will be held at the chamber building located at 819 No. State Line Avenue. The meeting will be open to the public.

Parks & Recreation Events:

October 13 th	Movies in the Park - "Angry Birds"	Spring Lake Park
October 20 th	Movies in the Park - "Goosebumps"	Spring Lake Park
October 20 th	Fall Festival	Spring Lake Park
October 22 nd	Softball Tournament	Karrh and Wallace Parks
October 27 th	Movies in the Park - "The Town that Dreaded Sundown" - Original	Spring Lake Park
October 29 th	Community Yard Sale & Electronics Recycling	Spring Lake Park

"Movies will start at 7:00 p.m."

For a complete list of Parks & Recreation activities and information call 903-798-3978 or visit the city website: <http://tx-texarkana.civicplus.com>

Mayor Bruggeman said Texarkana has been busy the past week with lots of well attended activities:

National Night Out was held on Tuesday, October 4th - Mayor Bruggeman thanked Council Member Paddock for co-hosting the Shilling South Subdivision block party. He also thanked Police and Fire Department staff for supporting the approximately twenty block parties held around the city.

The 79th NAACP Convention was held Thursday, Friday and Saturday, October 6th-8th at the Texarkana Convention Center. Several comments were made that this event had an excellent turnout and great city support.

A first time "Fly-In" was held on Saturday, October 8th at the Texarkana Regional Airport. Mayor Bruggeman thanked Council Member Davis for his support. This event was geared towards getting community youths interested and involved in the field of aviation.

The Komen Race for the Cure is scheduled for Saturday, October 15th and will be held at the Four States Fairgrounds. Opening ceremonies begin at 8:00 a.m. and the race begins at 9:00 a.m.

Texarkana Arts and Historic District will celebrate the Texas Cultural District Designation by the Texas Commission on the Arts on Tuesday, October 25th at 10:00 a.m. The event will be held at the U.S. Post Office in Downtown Texarkana. The largest photo EVER will be taken of attendees across the state line. Everyone is invited to attend and be a part of the celebration.

Mayor Bruggeman recognized and welcomed students from Mr. Littman's government class at Texas High School.

Presentations

1. Manufacturing Month Proclamation

Mayor Bruggeman read the proclamation to the audience.

2. Fire Fighter Collective Bargaining Ballot Measure Update

City Manager Whitson gave an update on the fire fighter collective bargaining ballot measure and shared some new slides in his presentation. The revised presentation would be available on the city's website beginning Tuesday, October 11th.

Appointments to Boards & Commissions

Council Member Matthews recommended the reappointment of Linda Hooks to the Community Healthcare board. Council Member Veal-Gooch acknowledged Ms. Hooks in the audience.

(6:46 p.m.)

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Tina Veal-Gooch, Ward 3
SECONDER:	Brian Matthews, Ward 4
AYES:	Matlock, Ray, Veal-Gooch, Matthews, Paddock, Davis
EXCUSED:	Bruggeman

IV. OPEN FORUM: COMMENTS FROM THE PUBLIC (LIMIT 5 MINUTES EACH)

Items scheduled for "Public Hearing" or have been heard at a previous "Public Hearing" are not to be addressed at the "Open Forum".

There were no public comments made at Open Forum.

V. ITEMS FOR CONSIDERATION

Consent Items

(6:46 p.m.)

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Christy P. Paddock, Ward 5
SECONDER:	Josh Davis, Ward 6
AYES:	Matlock, Ray, Veal-Gooch, Matthews, Paddock, Davis
EXCUSED:	Bruggeman

1. Consider approval of the minutes of the Regular Meeting of the City Council held on September 26, 2016 at 6:00 PM.

Fire Fighter Ballot Initiative CM Presentation

*Action Items - None***VI. FIRST BRIEFINGS**

1. Ordinance No. 2016-117 amending Chapter 11 Sec. 105-99 of the International Residential Code.

Public Hearing: October 24, 2016
Second Briefing: November 14, 2016
Council Vote: November 28, 2016

Shirley Jaster briefed this item.

RESULT:	MOVED FORWARD	Next: 10/24/2016 6:00 PM
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2. Ordinance No. 2016-119 amending the Code of Ordinances Secs. 28-1(b),130-5,140-179 and 140-239 for sidewalk board type signs to be allowed for advertising in the Central Business zoning district.

Public Hearing: October 24, 2016
Second Briefing: November 14, 2016
Council Vote: November 28, 2016

Shirley Jaster briefed this item.

RESULT:	MOVED FORWARD	Next: 10/24/2016 6:00 PM
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VII. PUBLIC HEARINGS

1. Motion to move Ordinance No. 2016-110 up for council vote.
(7:04 p.m.)

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Christy P. Paddock, Ward 5
SECONDER:	Josh Davis, Ward 6
AYES:	Matlock, Ray, Veal-Gooch, Matthews, Paddock, Davis
EXCUSED:	Bruggeman

2. Ordinance No. 2016-110 granting a Specific Use Permit to allow the one additional use of a tattoo studio for the application of permanent cosmetics on a .34 acre tract (Tract 49) in the MEP & P HRS, A-421, located in a tenant space at 4066 Summerhill Square. Alan Schimming, owner. Jordan Chandler, agent.

Public Hearing: October 10, 2016
Second Briefing: October 24, 2016
Council Vote: November 14, 2016

Donovan Driver, representative for Alan Schimming, spoke at the hearing. Jordan Chandler spoke and asked for council consideration to expedite the vote on this agenda item. Lucretia Barry spoke in favor of this agenda item.

(7:05 p.m.)

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Tina Veal-Gooch, Ward 3
SECONDER:	Willie Ray, Ward 2
AYES:	Matlock, Ray, Veal-Gooch, Matthews, Paddock, Davis
EXCUSED:	Bruggeman

3. Motion to move Ordinance No. 2016-111 up for council vote.

(7:07 p.m.)

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Brian Matthews, Ward 4
SECONDER:	Willie Ray, Ward 2
AYES:	Matlock, Ray, Veal-Gooch, Matthews, Paddock, Davis
EXCUSED:	Bruggeman

4. Ordinance No. 2016-111 rezoning a 1.574 acre tract of land in the MEP & P HRS, A-18, located at 6872 Hampton Road. General Retail to Commercial. Mike Berry, Texarkana Hampton Road LLC, owner. Jason Vanderhoof, agent.

Public Hearing: October 10, 2016
Second Briefing: October 24, 2016
Council Vote: November 14, 2016

There were no public comments made at this hearing.
(7:08 p.m.)

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Brian Matthews, Ward 4
SECONDER:	Josh Davis, Ward 6
AYES:	Matlock, Ray, Veal-Gooch, Matthews, Paddock, Davis
EXCUSED:	Bruggeman

5. Resolution No. 2016-113 establishing a Community Relations Expenditures Policy.

Public Hearing: October 10, 2016
Second Briefing: October 24, 2016
Council Vote: November 14, 2016

There were no public comments made at this hearing.

RESULT:	MOVED FORWARD	Next: 10/24/2016 6:00 PM
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6. Resolution No. 2016-114 authorizing the expenditure of Community Relations funds in support of the KCS Holiday Express Train event.

Public Hearing: October 10, 2016
Second Briefing: October 24, 2016
Council Vote: November 14, 2016

There were no public comments made at this hearing.

RESULT:	MOVED FORWARD	Next: 10/24/2016 6:00 PM
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7. Motion to move Resolution No. 2016-115 up for council vote.

Mayor Bruggeman asked the City Secretary for a roll call vote.
(7:26 p.m.)

RESULT:	ADOPTED [5 TO 1]
MOVER:	Brian Matthews, Ward 4
SECONDER:	Jean H. Matlock, Ward 1
AYES:	Matlock, Ray, Matthews, Paddock, Davis
NAYS:	Veal-Gooch
EXCUSED:	Bruggeman

8. Resolution No. 2016-115 authorizing the expenditure of Community Relations funds in support of the Live United Bowl Team's Banquet.

Public Hearing: October 10, 2016
Second Briefing: October 24, 2016
Council Vote: November 14, 2016

Alan Brown addressed council and asked for council consideration to expedite the vote on this agenda item. Dean Barry spoke at this hearing. Vicki Huckabee spoke at this hearing. Mayor Bruggeman asked the City Secretary for a roll call vote.

(7:30 p.m.)

RESULT:	ADOPTED [5 TO 1]
MOVER:	Brian Matthews, Ward 4
SECONDER:	Josh Davis, Ward 6
AYES:	Matlock, Ray, Matthews, Paddock, Davis
NAYS:	Veal-Gooch
EXCUSED:	Bruggeman

9. Resolution No. 2016-116 revising the Fire Department's swap time policy.

Public Hearing:	October 10, 2016
Second Briefing:	October 24, 2016
Council Vote:	November 14, 2016

There were no public comments made at this hearing.

RESULT:	MOVED FORWARD	Next: 10/24/2016 6:00 PM
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VIII. SECOND BRIEFING WITH UPDATES - NONE

IX. SECOND BRIEFING WITHOUT UPDATES - NONE

X. ITEMS FOR DISCUSSION

Staff Updates

City Manager Whitson said a one-page fact sheet regarding the fire fighter ballot issue has been prepared for the council. An electronic copy would be available on the city's website beginning Tuesday, October 11th.

Mayor Bruggeman asked Mr. Whitson to share with council how one city employee was affected by the recently adopted budget which incorporated raises for city staff. Mr. Whitson stated that an employee in the Public Works Department tearfully expressed appreciation for receiving a raise that he would allow him to more abundantly provide for his family's needs.

XI. ADMINISTRATIVE COMMENTS

1. City Council

Council Member Davis recognized and thanked Senior Pastor Brad Morgan of Williams United Methodist Church for his attendance at the meeting.

Council Member Matthews asked if the traffic circle "roundabout" situation at Gibson Lane and Pavilion Parkway has been corrected. City Manager Whitson responded that the markings which caused the confusion have now been re-stripped and traffic seems to be flowing smoothly.

2. City Staff

Staff had no comments for council.

XII. ADJOURNMENT

A motion was made to adjourn the meeting.
(7:44 p.m.)

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Willie Ray, Ward 2
SECONDER:	Brian Matthews, Ward 4
AYES:	Matlock, Ray, Veal-Gooch, Matthews, Paddock, Davis
EXCUSED:	Bruggeman



Jennifer Evans
City Secretary



Bob Bruggeman
Mayor

City of Texarkana, Texas

Briefing SheetVersion:
Update Date: 10/4/2016 2:42 PM**Lead Department:** City Manager**Action Officer:** Jennifer Evans, City Secretary**Subject:** Manufacturing Month Proclamation**Updates/History of Briefing:**

NOT APPLICABLE

Executive Summary and Background Information:**Potential Options:**

None

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Fiscal Implications:

None

Staff Recommendation:

Mayor to proclaim October 2016 as "Manufacturing Month" in Texarkana USA.

Advisory Board/Committee Review:

NONE

Board/Committee Recommendation:

NOT APPLICABLE

Advisory Board/Committee Meeting Date and Minutes:

NOT APPLICABLE

Attachments

- a. Manufacturing Month Proclamation October 2016 (PDF)

A Joint Proclamation

WHEREAS, the Texarkana USA Chamber of Commerce represents businesses, professionals and organizations in the region and seeks to develop and expand the local economy; and

WHEREAS, Manufacturing directly and indirectly affects our economy; and

WHEREAS, Manufacturing has the highest multiplier effect of any economic sector—for every \$1.00 spent in manufacturing, another \$1.32 is added to the economy; and

WHEREAS, Manufacturing is a primary industry, creating products sold locally, nationally and/or globally, bringing money into the local economy; and

WHEREAS, Manufacturing employs more than 12 million workers, or 9% of the total workforce nationally, with over 17,000 employees within our region representing approximately 14% of the total workforce; and

WHEREAS, Manufacturing affects employment in our community area, with every manufacturing job adding four local jobs that are created and supported; and

WHEREAS, Manufacturing in our area includes operations in Military Vehicle Manufacturing, Food Manufacturing, Transportation Equipment Manufacturing, Fabricated Metal Manufacturing, Paper Manufacturing, Wood Product Manufacturing, Machinery Manufacturing, Chemical Manufacturing, and Furniture Manufacturing; and

WHEREAS, Manufacturing employers offer a wide variety of job opportunities requiring varying levels of experience and education, allowing employees to improve their skill sets and advance their careers; and

WHEREAS, October is recognized as Manufacturing Month.

NOW, THEREFORE, we, Bob Bruggeman, Mayor of Texarkana, Texas, and Ruth Penney Bell, Mayor of Texarkana, Arkansas, do hereby proclaim October as

MANUFACTURING MONTH

and encourage all members of the community to celebrate our manufacturers.


Bob Bruggeman, Mayor
City of Texarkana, Texas


Ruth Penney Bell, Mayor
City of Texarkana, Arkansas

Attest:

Jennifer Evans, City Secretary
City of Texarkana, Texas

Attest:

Heather Soyars, City Clerk
City of Texarkana, Arkansas



City of Texarkana, Texas

Briefing SheetVersion:
Update Date: 10/6/2016 11:00 AM**Lead Department:** City Manager**Action Officer:** John Whitson, City Manager**Subject:** Fire Fighter Collective Bargaining Ballot Measure Update**Updates/History of Briefing:**

NOT APPLICABLE

Executive Summary and Background Information:

Texarkana fire fighters are seeking collective bargaining with the city which must be first approved by the voters to permit the city and the fire fighters to collectively bargain. The item will be on the November General Election ballot. The attached presentation provides facts about the fire department, fire fighters, and fire protective services provided by the city.

Potential Options:

- None
-

Fiscal Implications:

NOT APPLICABLE

Staff Recommendation:

NOT APPLICABLE

Advisory Board/Committee Review:

NOT APPLICABLE

Board/Committee Recommendation:

NOT APPLICABLE

Advisory Board/Committee Meeting Date and Minutes:

NOT APPLICABLE

Attachments

- FF Ballot CB City Council Presentation Update 20161010 (PDF)

Fire Fighter Measure

Texarkana, Texas

Update – 10 OCT 16

Adoption of the state law applicable to fire fighters that establishes collective bargaining if a majority of the affected employees favor representation by an employees association, preserves the prohibition against strikes and lockouts, and provides penalties for strikes and lockouts.

Adoption of the state law applicable to fire fighters that establishes collective bargaining if a majority of the affected employees favor representation by an employees association, preserves the prohibition against strikes and lockouts, and provides penalties for strikes and lockouts.

establishes collective bargaining through
representation by an employees association

Means

establishes collective bargaining through
representation by an employees association

Means

Unionization of the Fire Department

What is the Fire Department Doing without Unionization?

ISO

- International Organization for Standardization
- Current Fire Department Rating = 2
 - Second best available
 - Achieves the best possible fire insurance rates for property owners
 - No additional benefit of a 1 rating
 - Points awarded for various factors
 - Achieved maximum points available in many areas, including
 - Training
 - Water Supply

Equipment

- Fielded two new Quints and one new Brush Truck in 2015
- In 2016 Added Fire Apparatuses to the Capital Equipment Plan
 - Will field new Apparatuses in the following years:
 - 2019
 - 2020
 - 2021
 - All apparatuses will be replaced every 15 years
 - (previously, equipment was expected to last 20 years)

Personal Protective Equipment (PPE)

- Bunker Gear
 - State Mandates 10 year replacement
 - Texarkana replaces every 5 years except for Helmet and Boots
- Air Packs
 - All replaced in 2015
 - Compressor replaced in 2015

Personnel

- Changed personnel leave policies to be more flexible
 - Was required to schedule leave a year or more in advance
 - May request leave one shift in advance
 - Was based on seniority department-wide
 - Now based on seniority at each station
- In 2016 Changed Longevity Pay Amount
 - Law requires \$4 per month per year-of-service
 - Changed to \$5 per month per year-of-service
 - Eliminated the \$100 (net) annual customer service pay

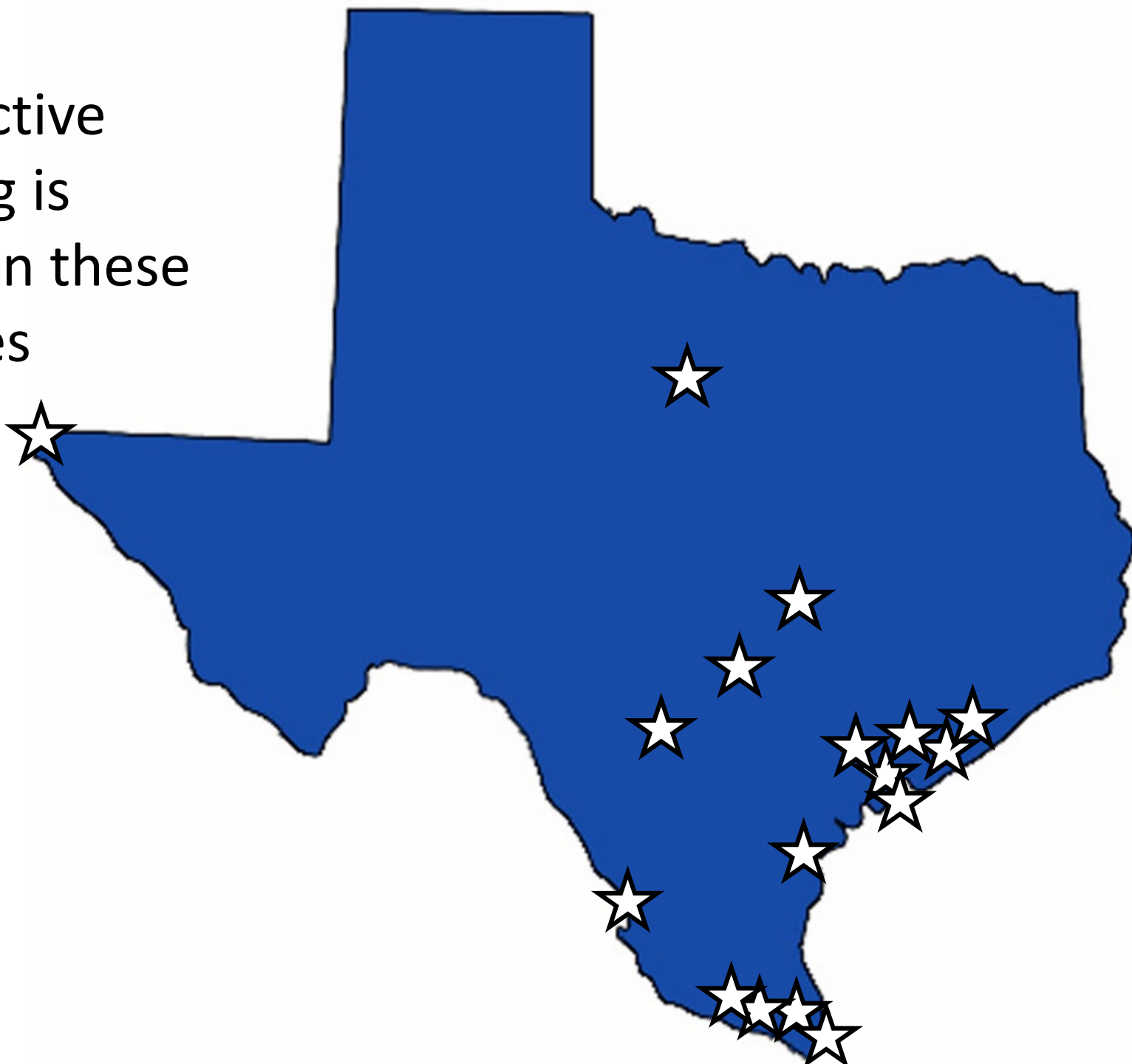
Quint Response Staffing

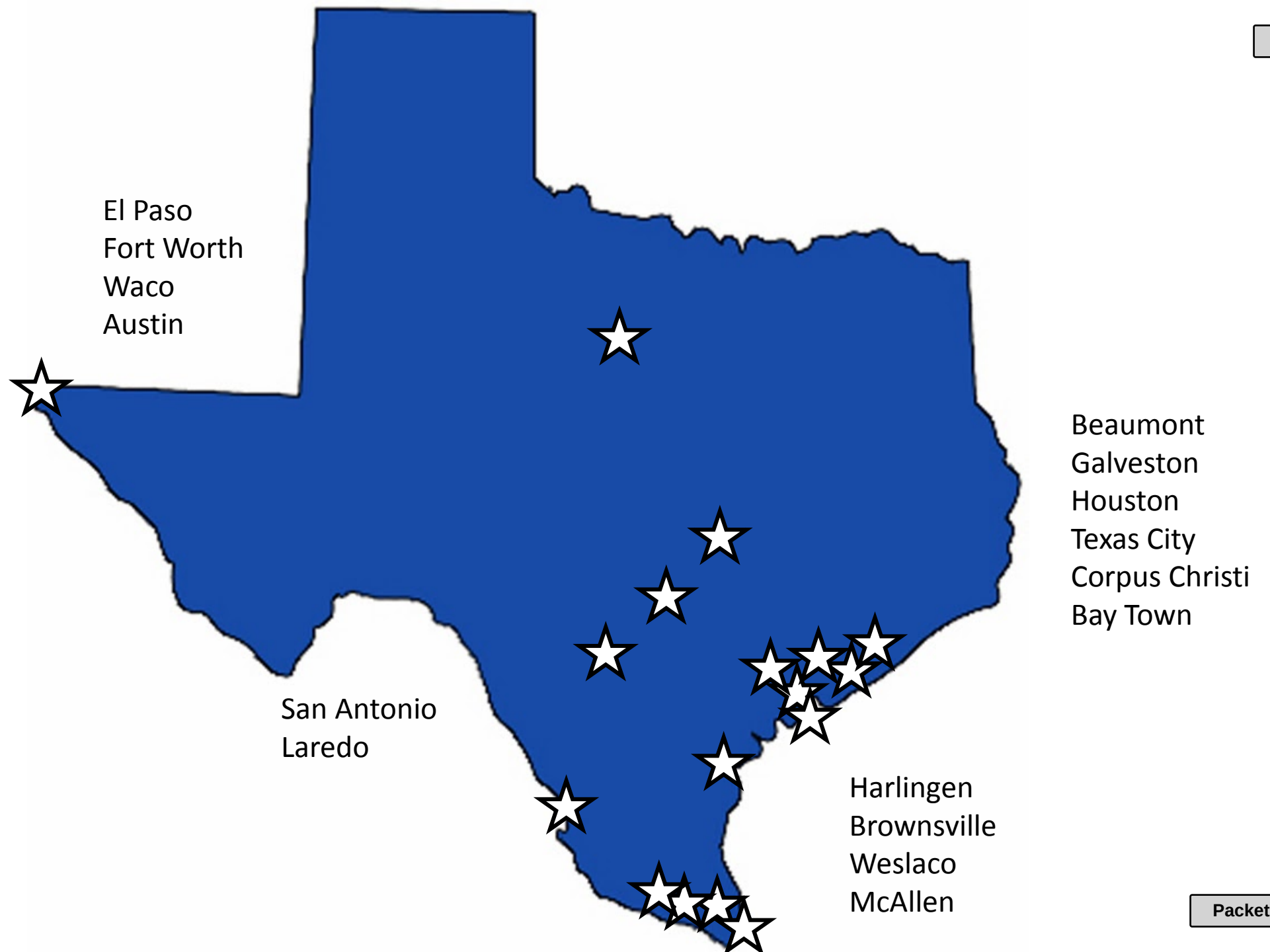
- Quint (now)
 - 4 person crew
- Truck/Pumper/Engine (was)
 - 3 person crew
- Ladder (was)
 - 1 person
- Rescue (was)
 - 2 person crew

Response

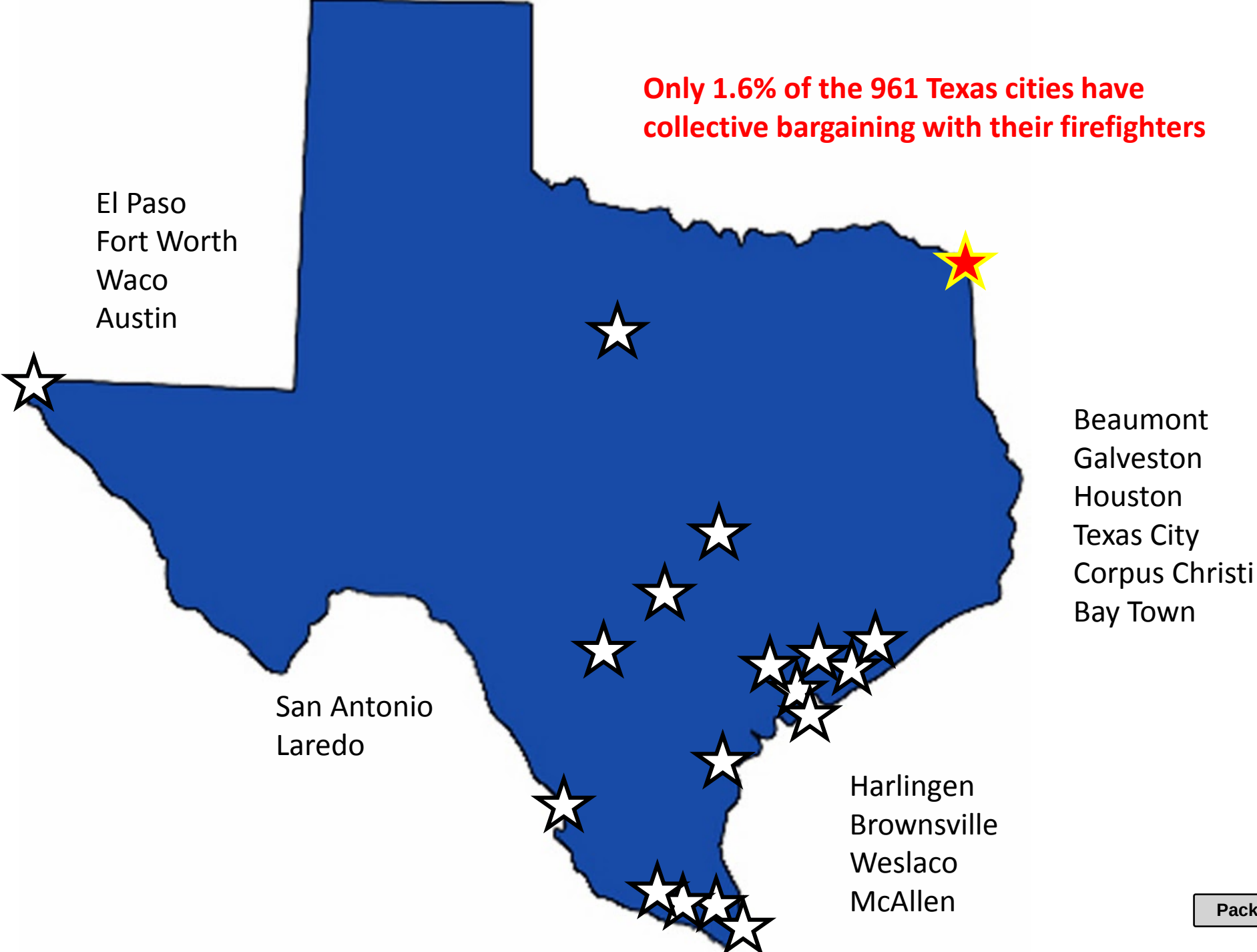
- Just over 4 minutes on average
- Three new stations in 2018
 - Closer to optimal locations for coverage zones
- Ms. Vernice Smith stated, “Earlier this year, my neighbor’s house caught fire. Flames were inches from my house when our heros arrived. I don’t get around as well as I used to. Had my home caught fire, I would have had little chance.”
 - This is the level of service the Texarkana, Texas Fire Department **Currently Delivers**

Fire Collective
Bargaining is
available in these
Texas cities





Only 1.6% of the 961 Texas cities have collective bargaining with their firefighters



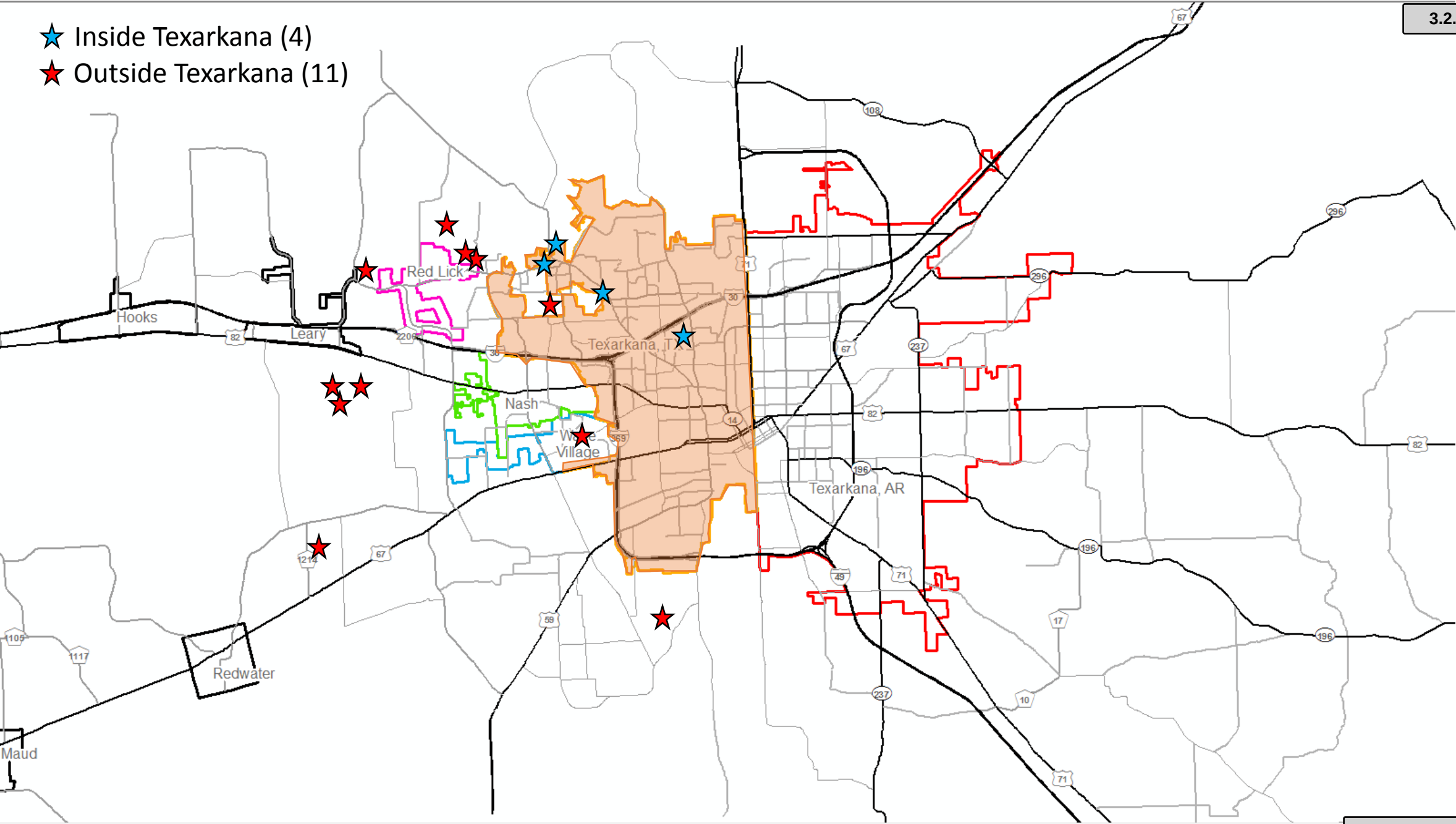
All Texas cities that have collective bargaining with their firefighters are larger than

Houston	2,296,224
San Antonio	1,469,845
Austin	931,820
Fort Worth	833,319
El Paso	681,124
Corpus Christi	324,074
Laredo	255,473
Brownsville	183,887
McAllen	140,269
Waco	132,356
Beaumont	118,129
Baytown	76,335
Harlingen	65,774
Galveston	50,180
Texas City	46,639
Weslaco	37,601
Texarkana	37,225

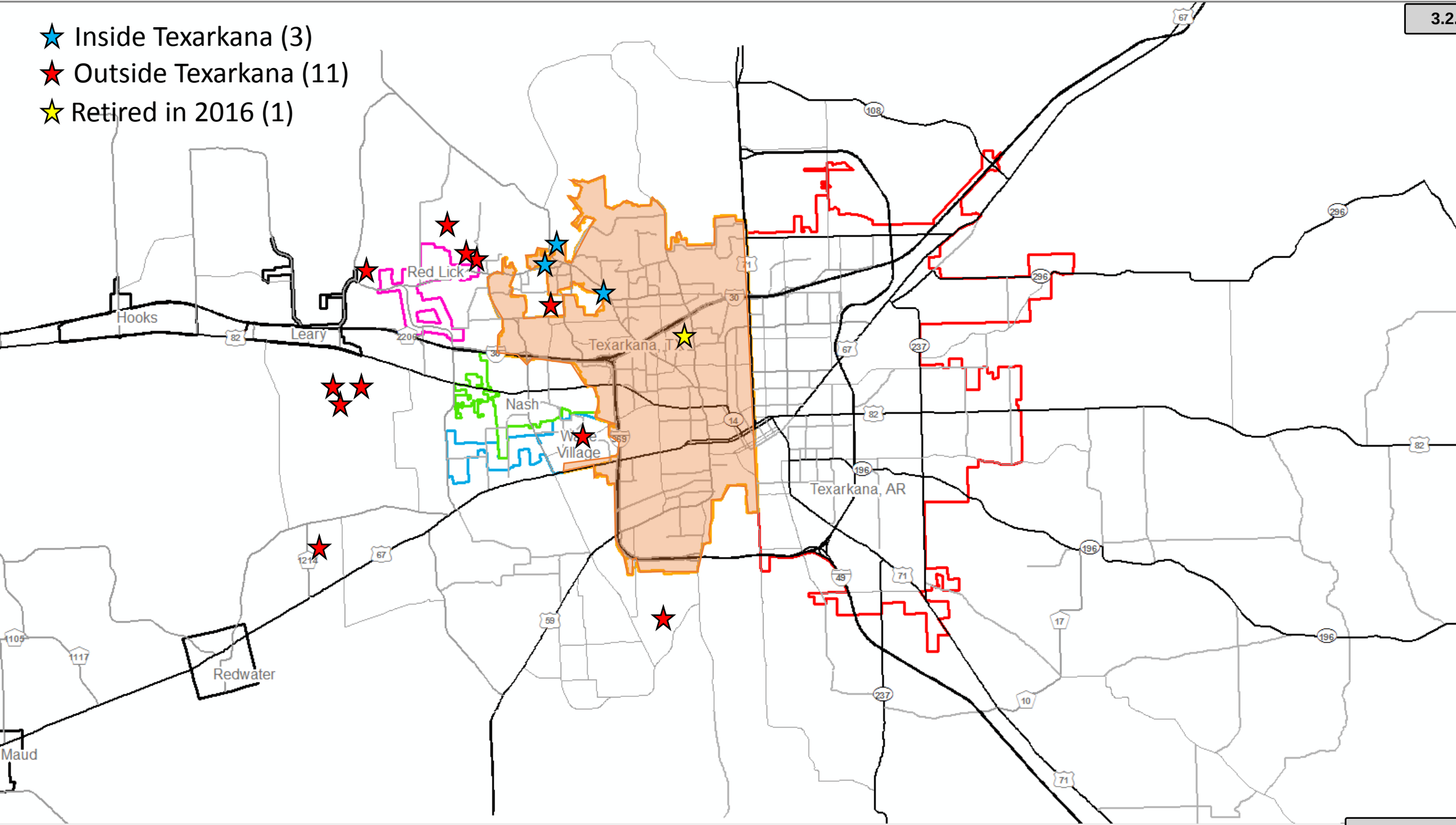
Texarkana Fire Department 2015 Demographics

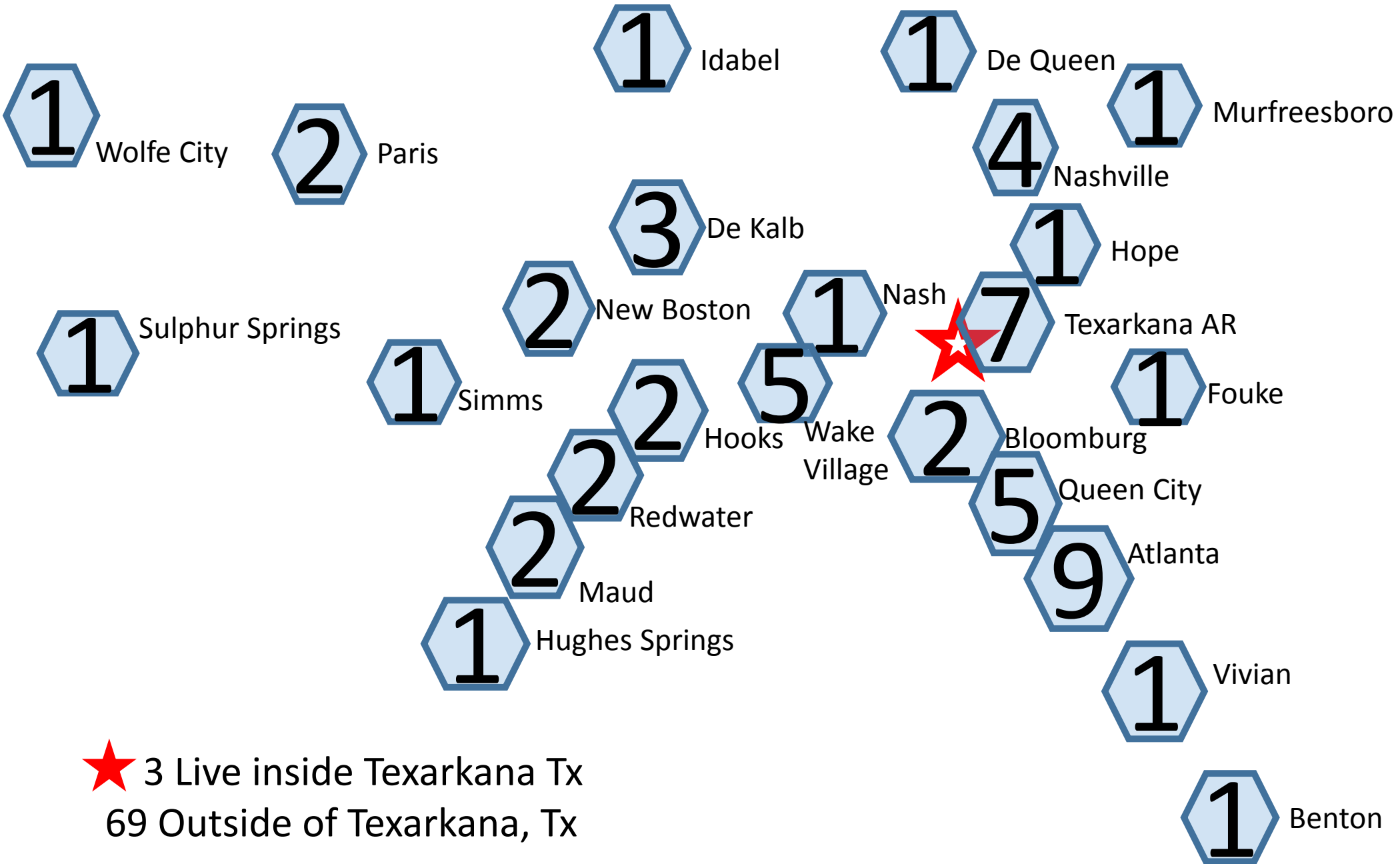
- Departmental Personnel
 - 81 Total
 - 4 Management and support
 - 77 Classified as Firefighter for Collective Bargaining
- Residency of the 72 Firefighters
 - 15 Have Texarkana, Texas Mailing Addresses
 - 11 Live outside the city's boundary
 - 4 Reside inside Texarkana
 - 57 Live elsewhere

- ★ Inside Texarkana (4)
- ★ Outside Texarkana (11)



- ★ Inside Texarkana (3)
- ★ Outside Texarkana (11)
- ★ Retired in 2016 (1)





International Association of FireFighters (IAFF)

- Website:

“Perhaps no piece of information is as important as the local’s contract, memorandum of understanding or salary schedule.”

- IAFF Guide to Collective Bargaining:

“These negotiations result in written agreement covering wages, hours, fringe benefits, discipline, safety, and other working conditions.”

International Association of FireFighters (IAFF)

- Website:

“Perhaps no piece of information is as important as the local’s contract, memorandum of understanding or salary schedule.”

- IAFF Guide to Collective Bargaining:

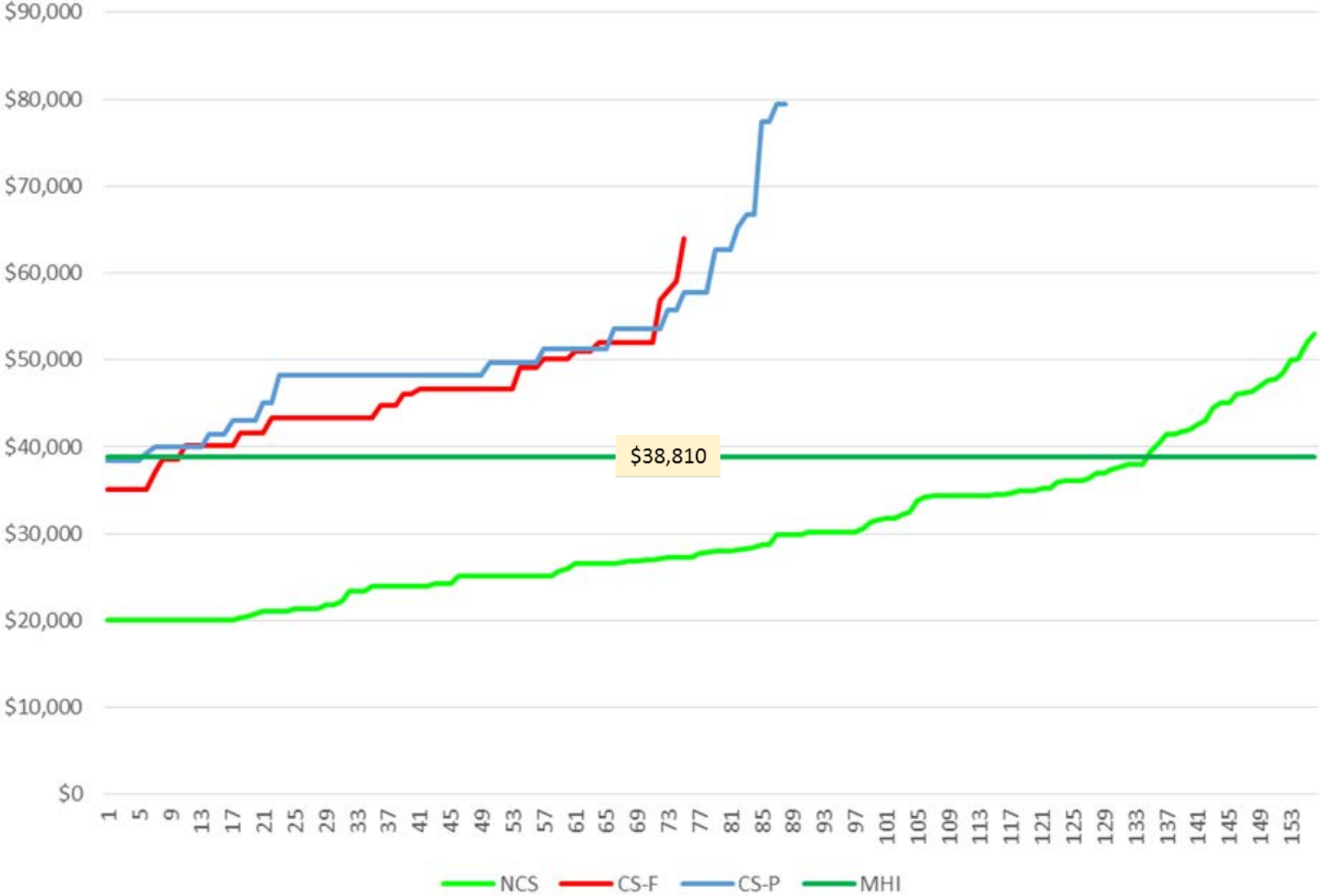
“These negotiations result in written agreement covering wages, hours, fringe benefits, discipline, safety, and other working conditions.”

- **“Safety” is not first on the list**

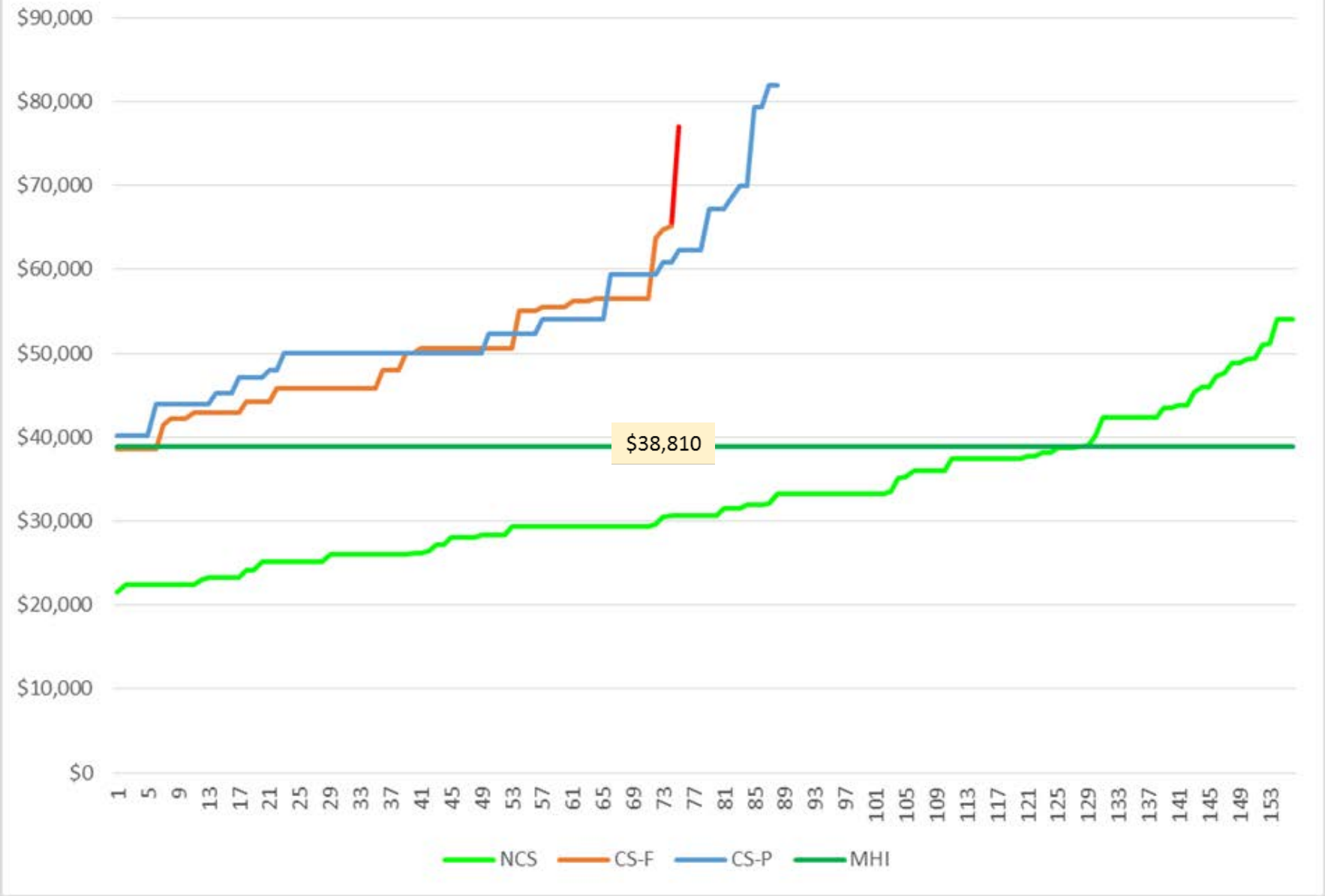
Local Government Code Section 174.002 states:

“The policy of this state is that a political subdivision shall provide its fire fighters and police officers with compensation and other conditions of employment that are substantially the same as compensation and conditions of employment prevailing in comparable private sector employment”

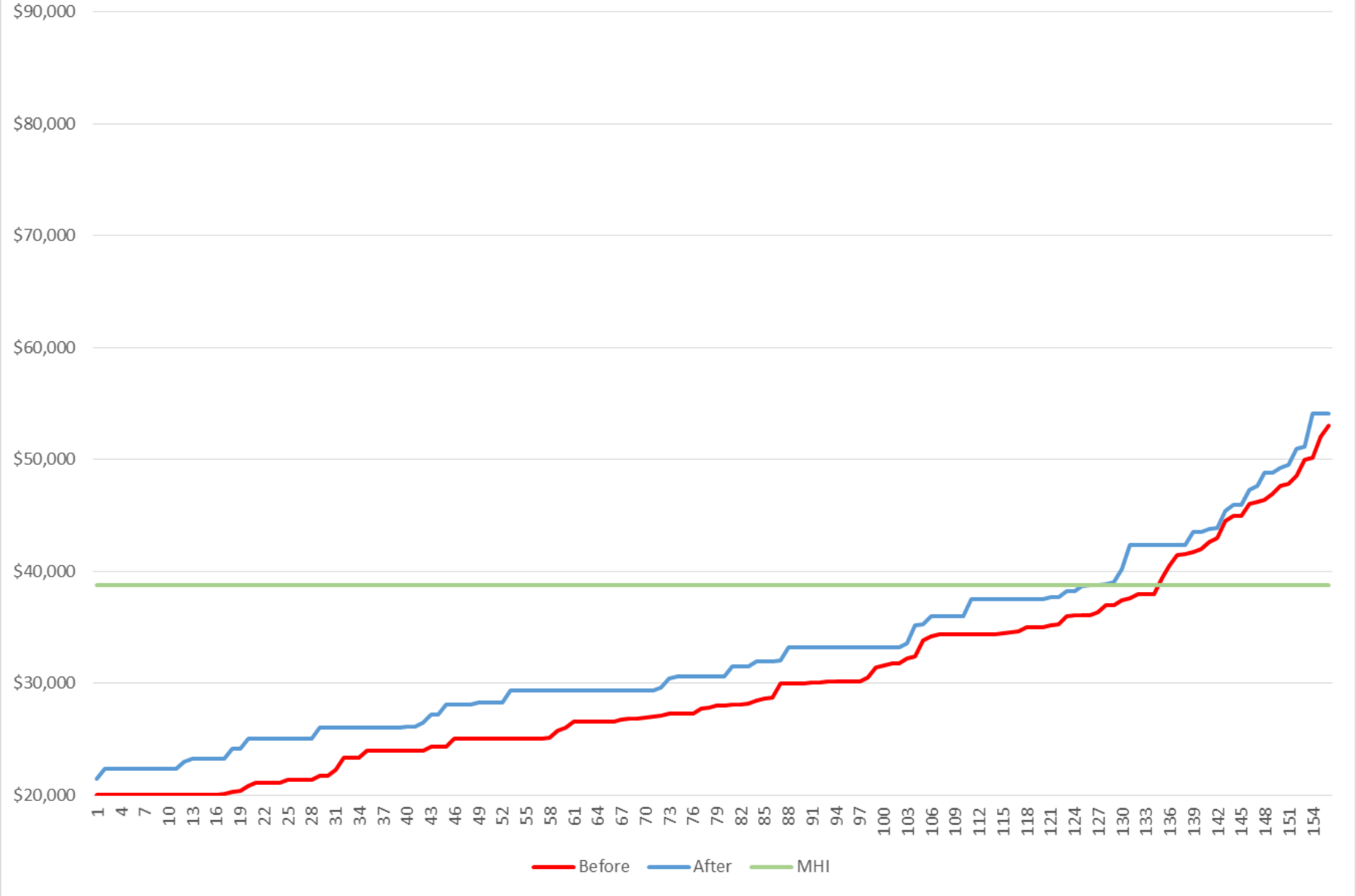
Employee Salaries to Texarkana Median Household Income
Before 2017 Pay Adjustment



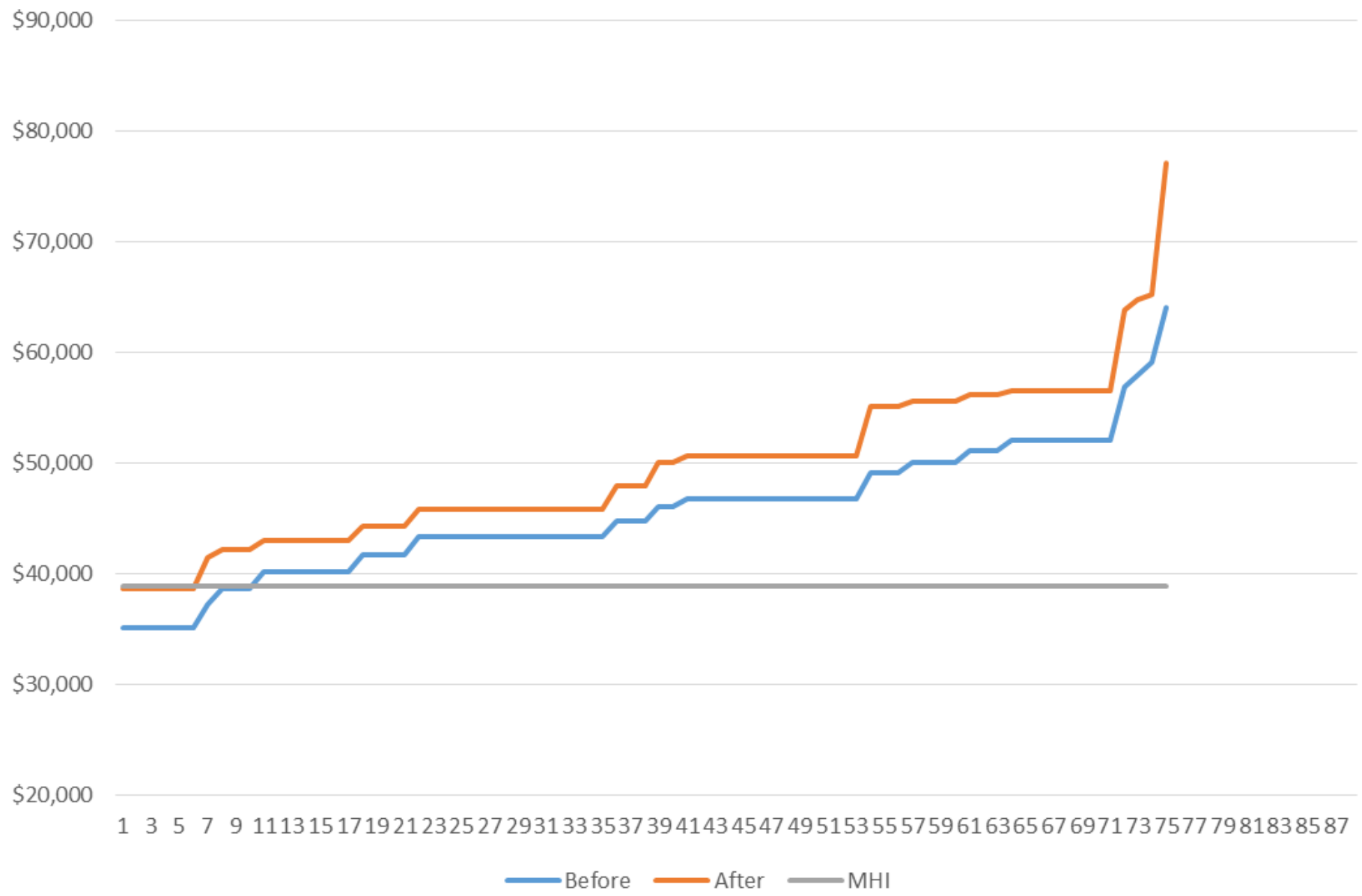
Employee Salaries to Texarkana Median Household Income
After 2017 Pay Adjustment



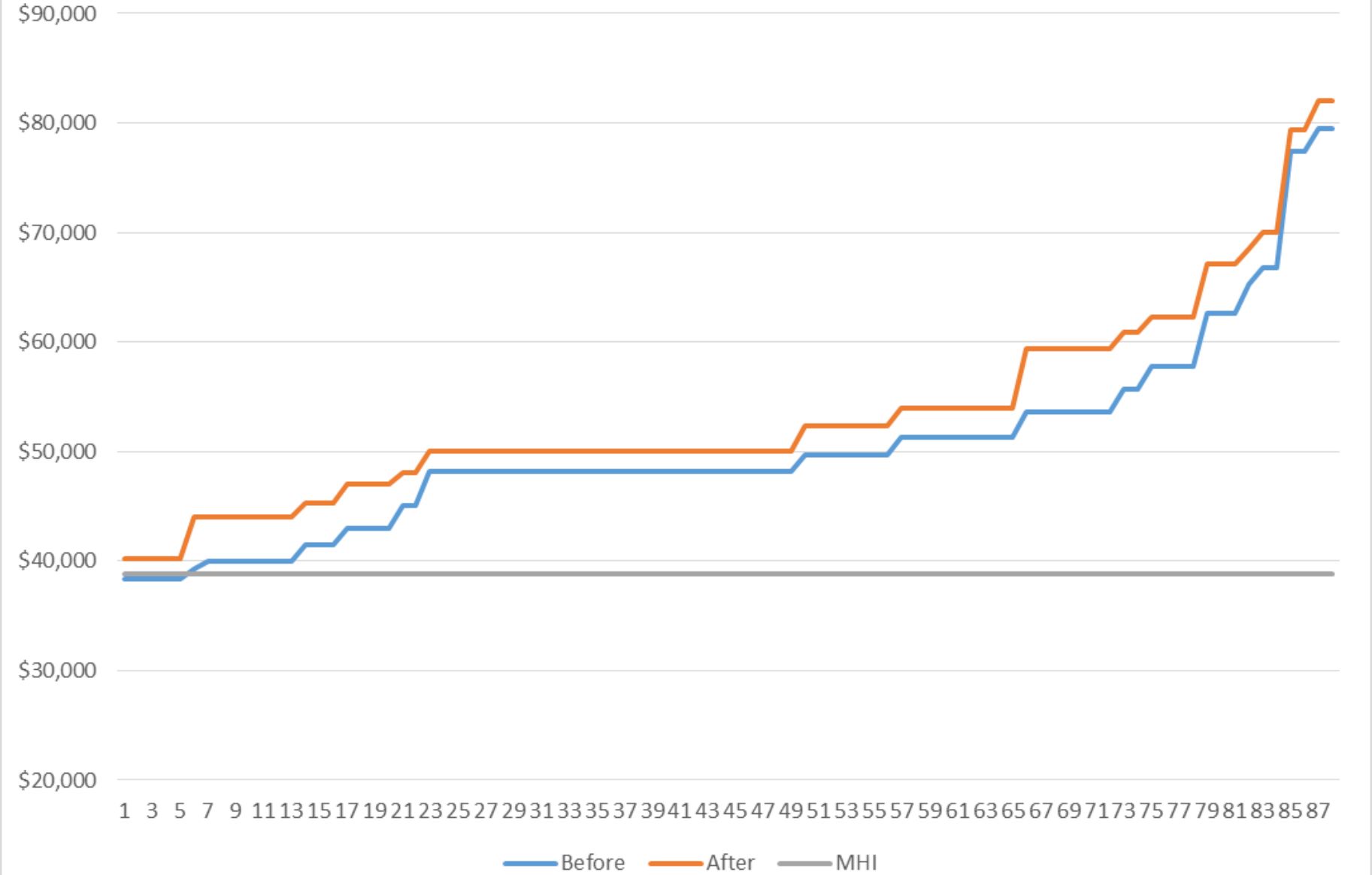
Non-Civil Service Employee Salaries to Texarkana Median Household Income
Before and After 2017 Pay Adjustment



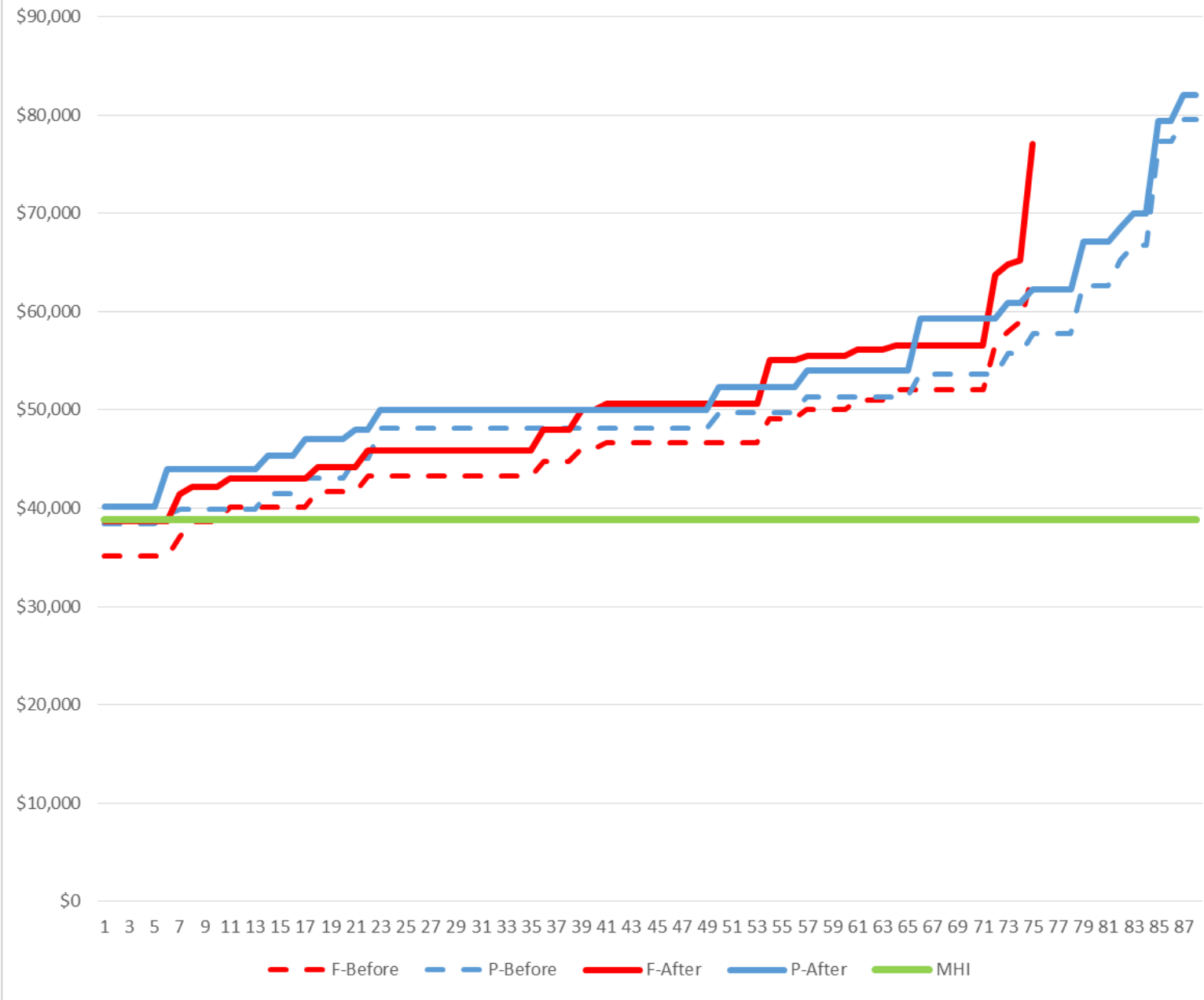
CS - Fire Employee Salaries to Texarkana Median Household Income
Before and After 2017 Pay Adjustment

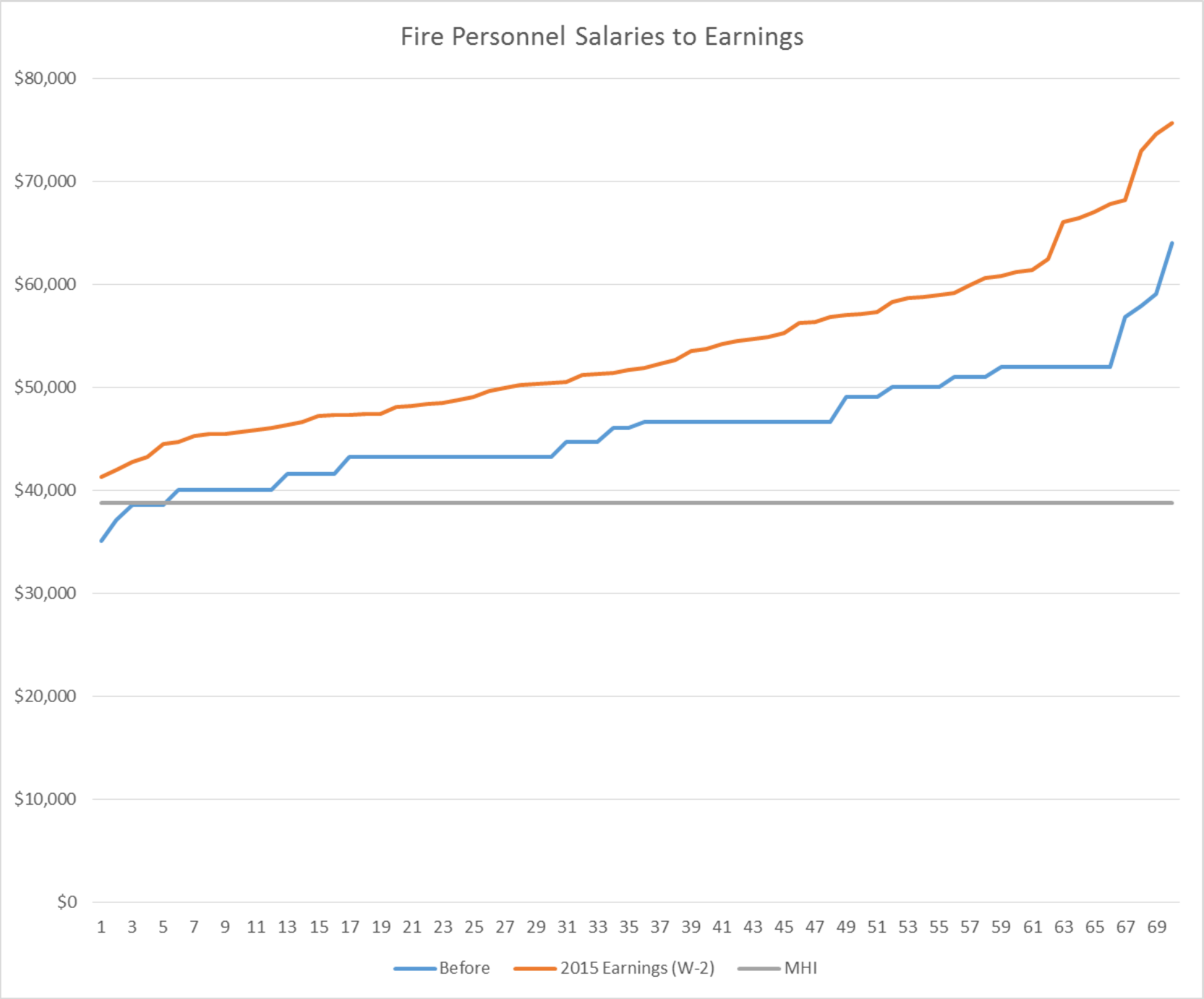


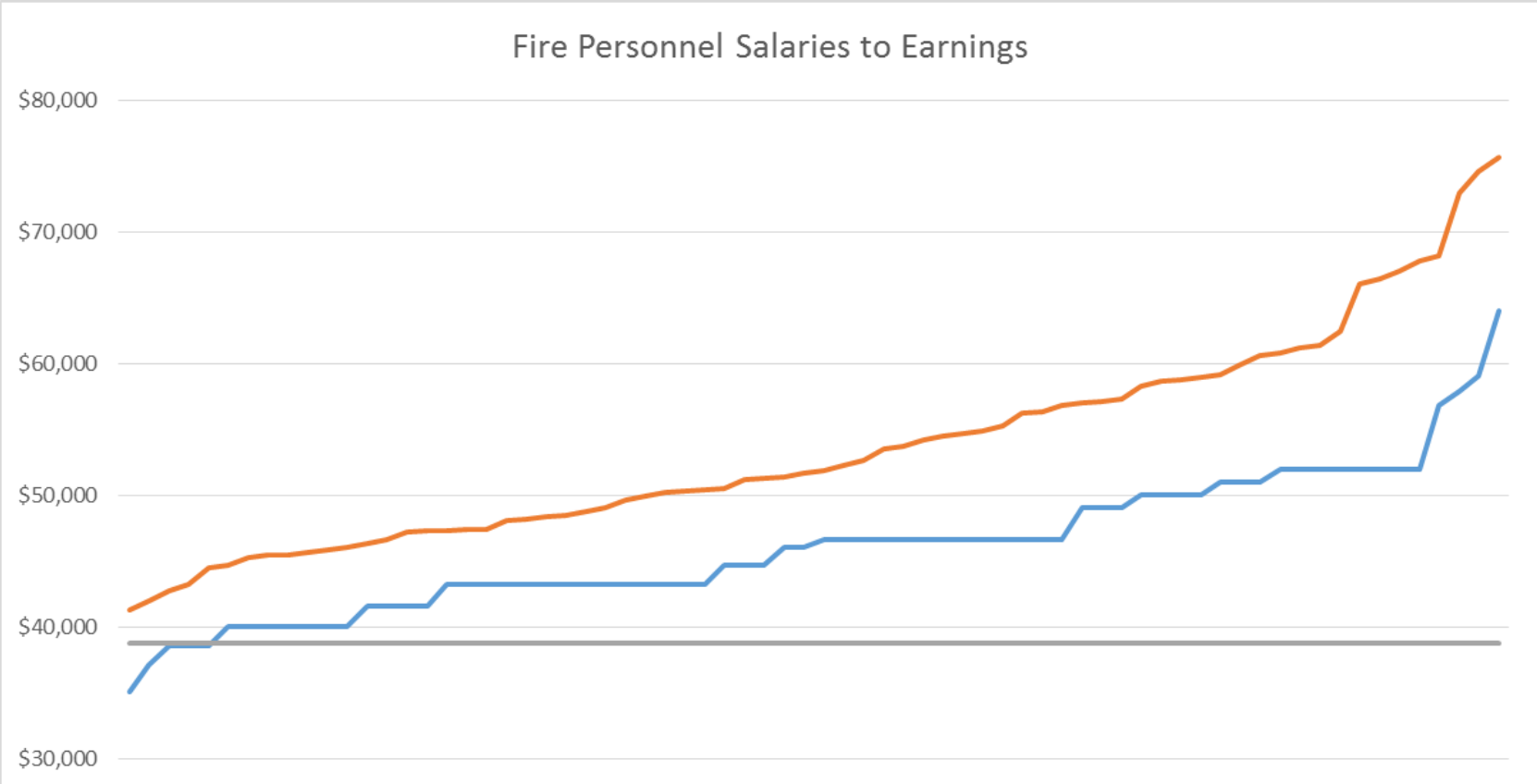
CS - Police Employee Salaries to Texarkana Median Household Income
Before and After 2017 Pay Adjustment



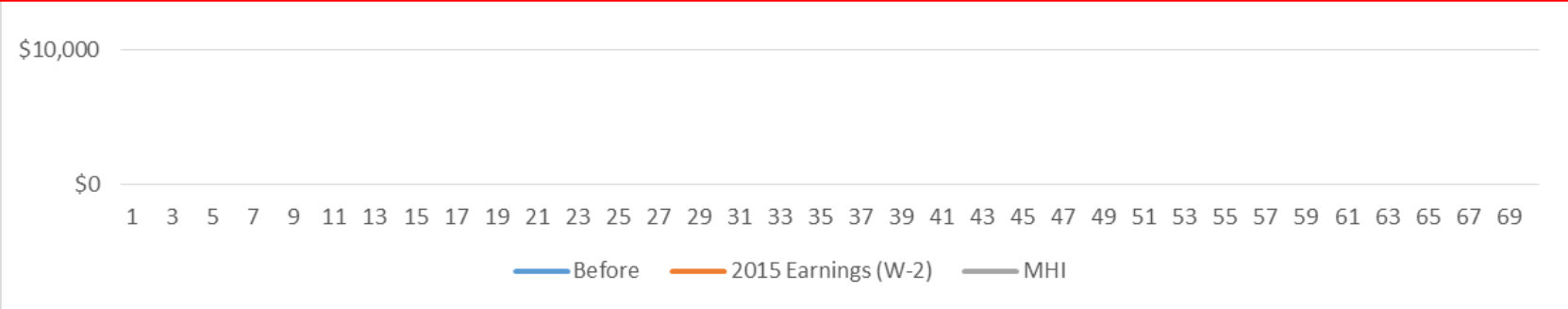
CS - Fire and Police Salaries to Texarkana Median Household Income
Before and After 2017 Pay Adjustment



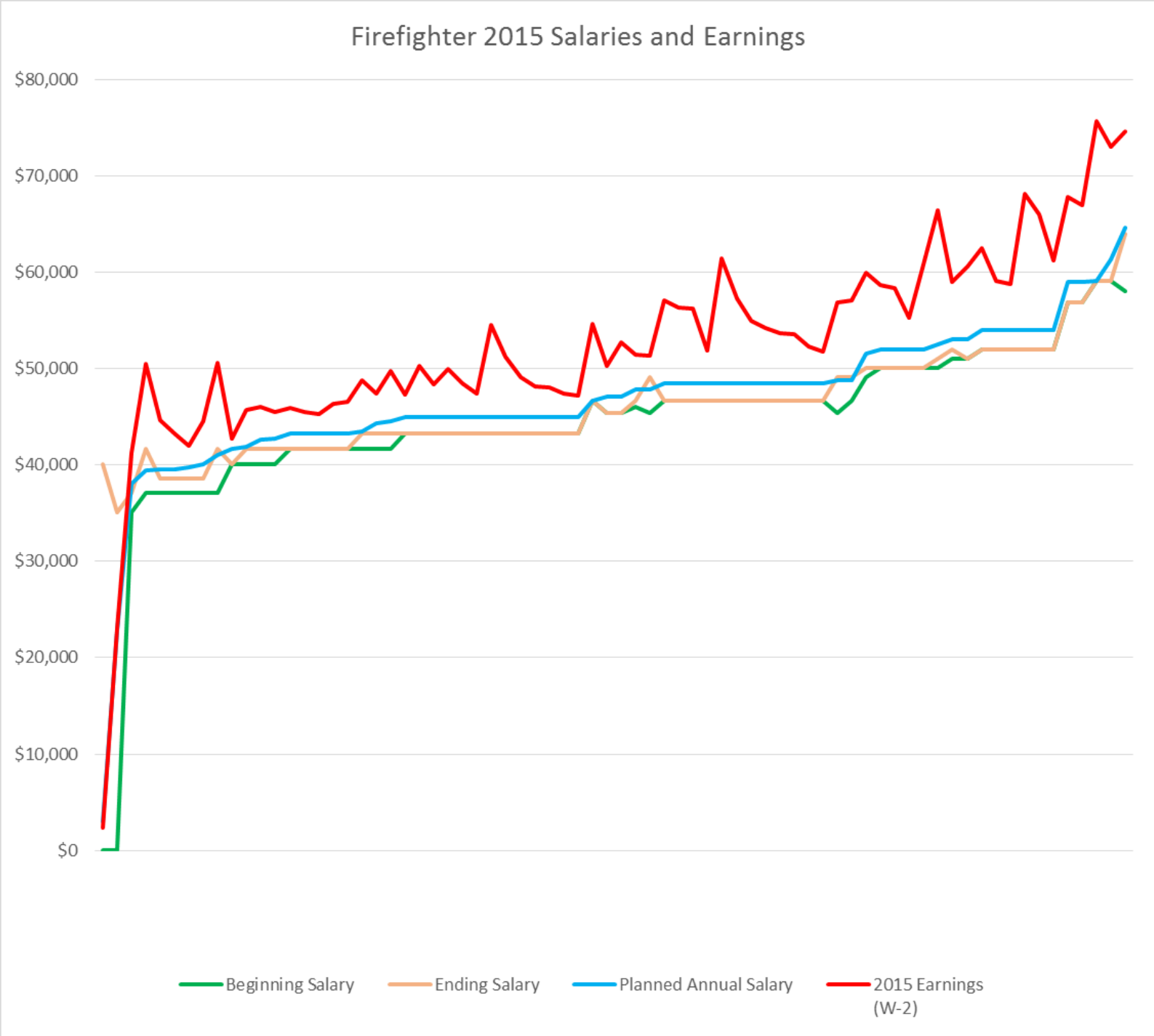


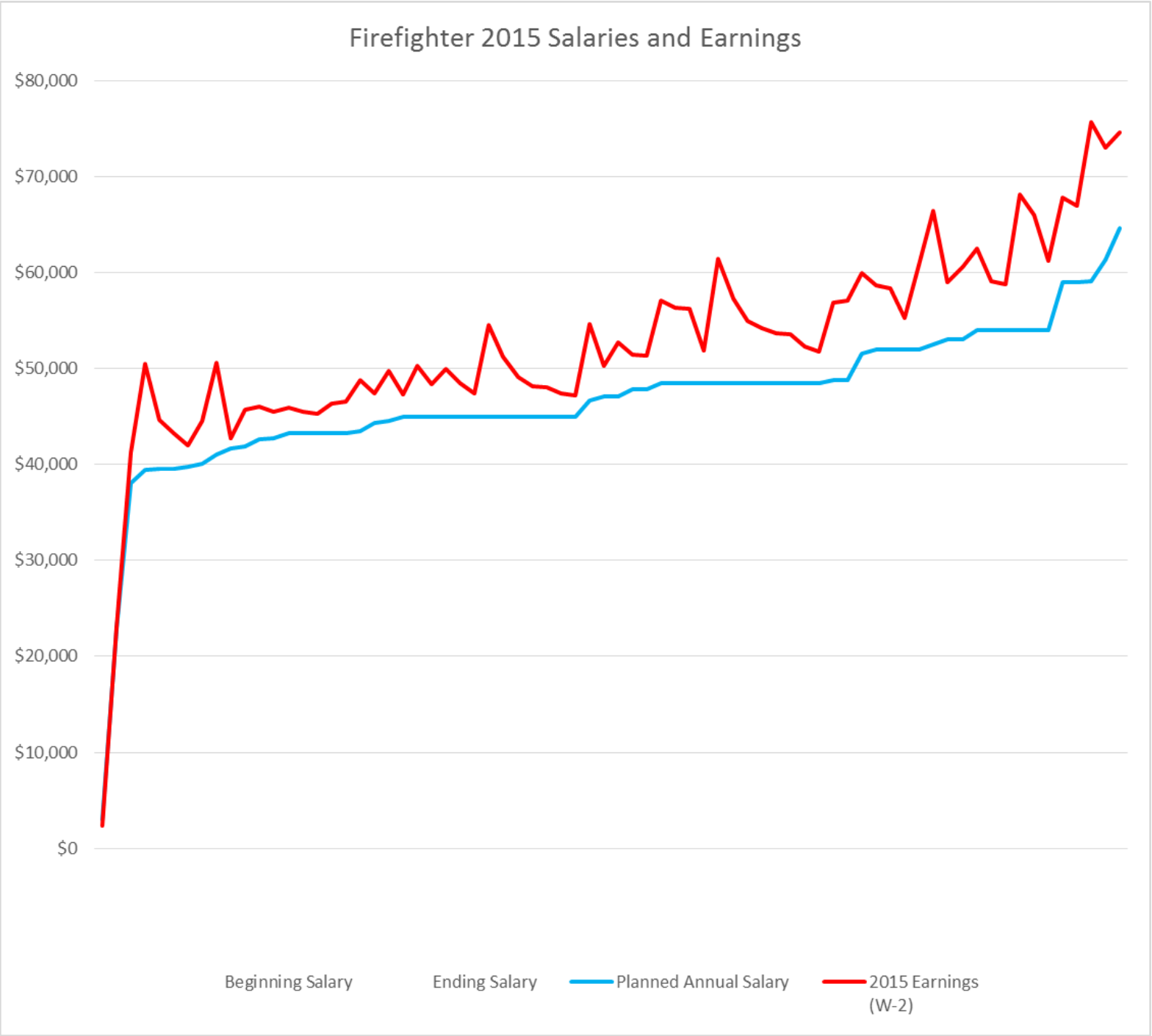


Fire personnel, on average, earn 16% more than their stated salary
Fire personnel, on average, stated salary is 18% greater than the Median Household Income
Fire personnel, on average, earn 38% more than the Median Household Income

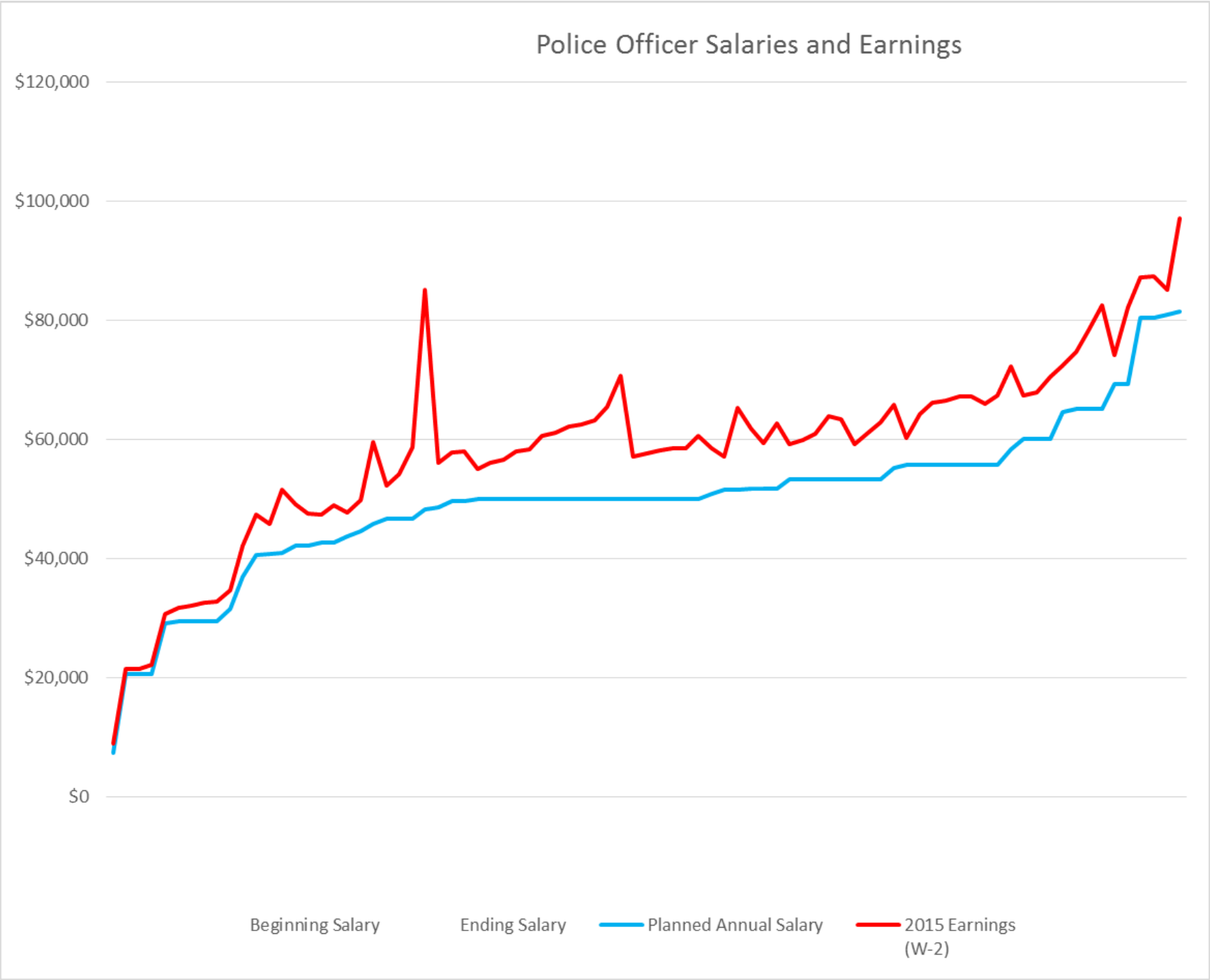


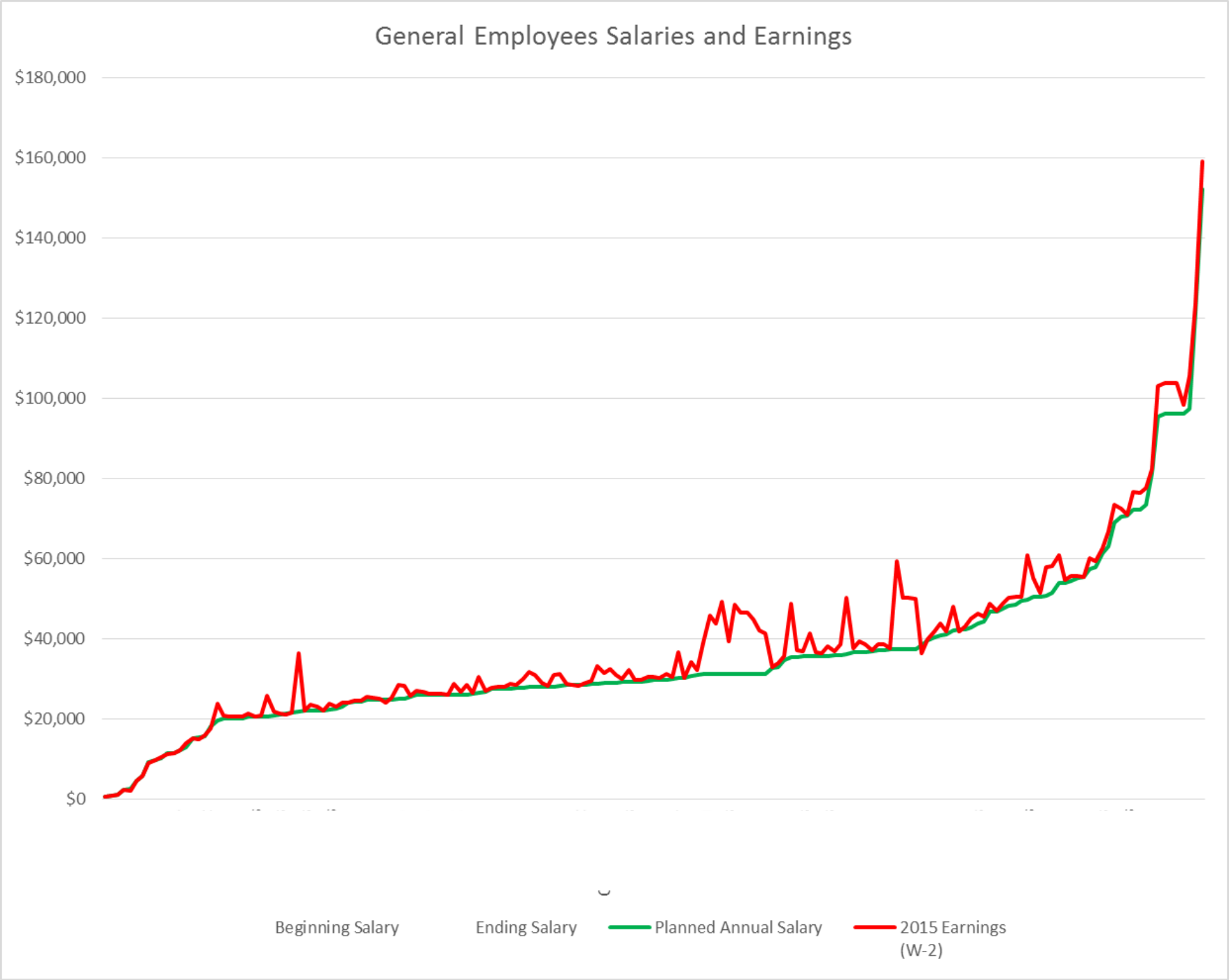
Firefighter 2015 Salaries and Earnings











	NCS	CS-Fire	CS-Police	Totals
Employees receiving pay adjustment	156	75	88	319
Total Salary Before Adjustment	\$4,681,627	\$3,404,680	\$4,425,790	\$12,512,097
Average Salary Before Adjustment	\$30,010	\$45,396	\$50,293	\$39,223
Total Salary After Adjustment	\$5,109,757	\$3,699,093	\$4,694,039	\$13,502,889
Average Salary After Adjustment	\$32,755	\$49,321	\$53,341	\$42,329
Average Increase in Pay	\$2,744	\$3,926	\$3,048	\$3,106
Average Percentage Increase	9.14%	8.65%	6.06%	7.92%
Total Increase in Salaries	\$428,130	\$294,413	\$268,249	\$990,792
Lowest Salary Before Adjustment	\$20,000	\$35,116	\$38,386	\$20,000
Lowest Salary After Adjustment	\$21,500	\$38,643	\$40,188	\$21,500
Amount of Change in Lowest Salary	\$1,500	\$3,527	\$1,802	\$1,500
Percent Change in Lowest Salary	7.50%	10.04%	4.69%	7.50%
Texarkana Per Capita Income (2014)	\$23,973			
Texarkana Median Household Income (MHI) (2014)	\$38,810			
Employees Paid Above MHI before Adjustment	22	65	83	170
Employees Paid Below MHI before Adjustment	134	10	5	149
Employees Paid Below MHI after Adjustment	127	6	0	133
Employees Paid Above MHI after Adjustment	29	69	88	186

	NCS	CS-Fire	CS-Police	Totals
Employees receiving pay adjustment	156	75	88	319
Total Salary Before Adjustment	\$4,681,627	\$3,404,680	\$4,425,790	\$12,512,097
Average Salary Before Adjustment	\$30,010	\$45,396	\$50,293	\$39,223
Total Salary After Adjustment	\$5,109,757	\$3,699,093	\$4,694,039	\$13,502,889
Average Salary After Adjustment	\$32,755	\$49,321	\$53,341	\$42,329
Average Increase in Pay	\$2,744	\$3,926	\$3,048	\$3,106
Average Percentage Increase	9.14%	8.65%	6.06%	7.92%
Total Increase in Salaries	\$428,130	\$294,413	\$268,249	\$990,792
Lowest Salary Before Adjustment	\$20,000	\$35,116	\$38,386	\$20,000
Lowest Salary After Adjustment	\$21,500	\$38,643	\$40,188	\$21,500
Amount of Change in Lowest Salary	\$1,500	\$3,527	\$1,802	\$1,500
Percent Change in Lowest Salary	7.50%	10.04%	4.69%	7.50%
Texarkana Per Capita Income (2014)	\$23,973			
Texarkana Median Household Income (MHI) (2014)	\$38,810			
Employees Paid Above MHI before Adjustment	22	65	83	170
Employees Paid Below MHI before Adjustment	134	10	5	149
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Employees Paid Above MHI after Adjustment	29	69	88	186

	NCS	CS-Fire	CS-Police	Totals
Employees receiving pay adjustment	156	75	88	319
Total Salary Before Adjustment	\$4,681,627	\$3,404,680	\$4,425,790	\$12,512,097
Average Salary Before Adjustment	\$30,010	\$45,396	\$50,293	\$39,223
Total Salary After Adjustment	\$5,109,757	\$3,699,093	\$4,694,039	\$13,502,889
Average Salary After Adjustment	\$32,755	\$49,321	\$53,341	\$42,329
Average Increase in Pay	\$2,744	\$3,926	\$3,048	\$3,106
Average Percentage Increase	9.14%	8.65%	6.06%	7.92%
Total Increase in Salaries	\$428,130	\$294,413	\$268,249	\$990,792
Lowest Salary Before Adjustment	\$20,000	\$35,116	\$38,386	\$20,000
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Before Adjustment		
	Average Salary	Compared
NCS	\$30,010	
Fire	\$45,396	\$15,386
Police	\$50,293	\$4,897

	NCS	CS-Fire	CS-Police	Totals
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After Adjustment		
	Average Salary	Compared
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Fire	\$49,321	\$16,566
Police	\$53,341	\$4,020

	NCS	CS-Fire	CS-Police	Totals
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Total Salary Before Adjustment	\$4,681,627	\$3,404,680	\$4,425,790	\$12,512,097
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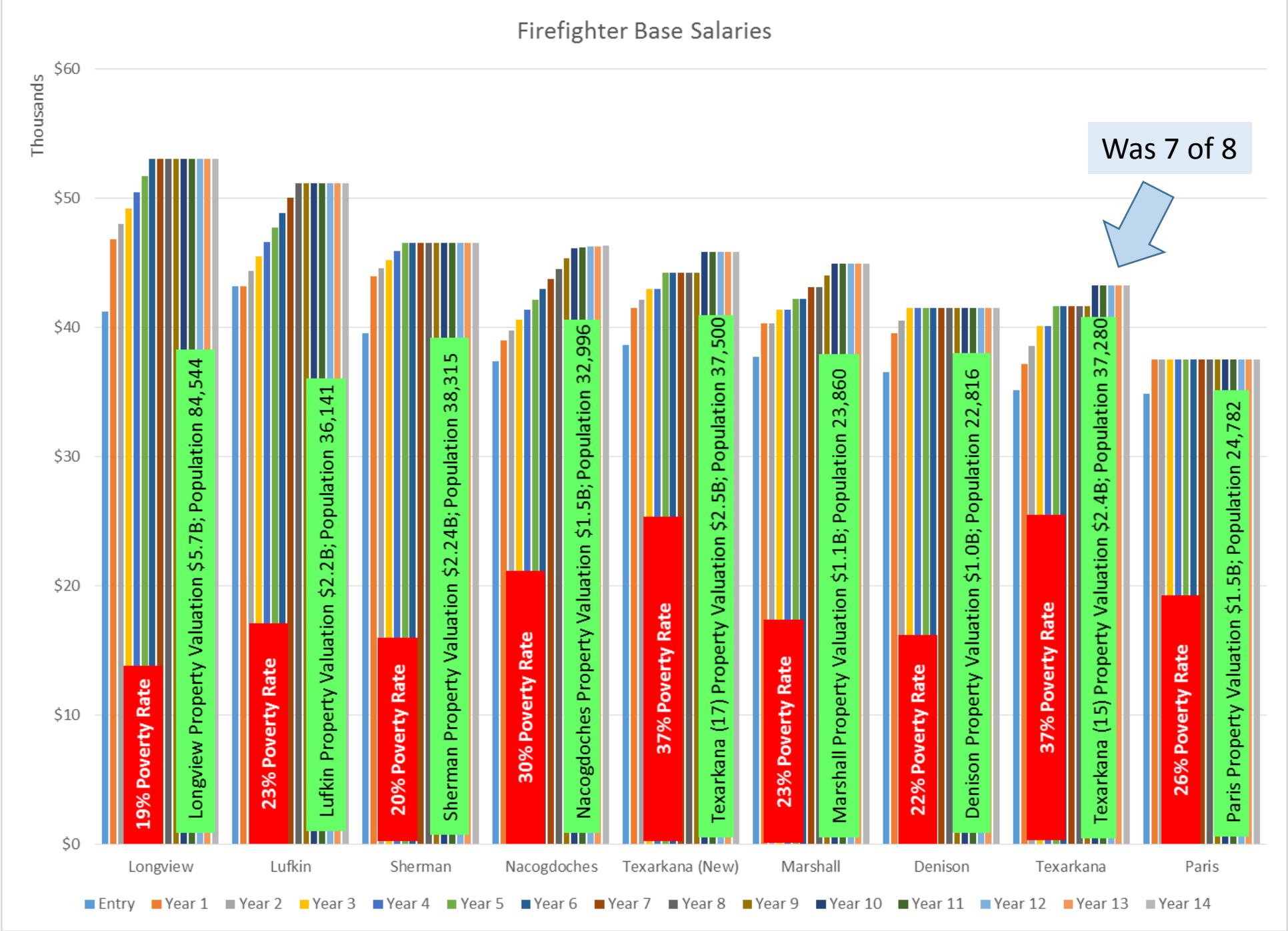
After Adjustment		
	Average Salary	Compared
NCS	\$32,755	
Fire	\$49,321	\$16,566
Police	\$53,341	\$4,020

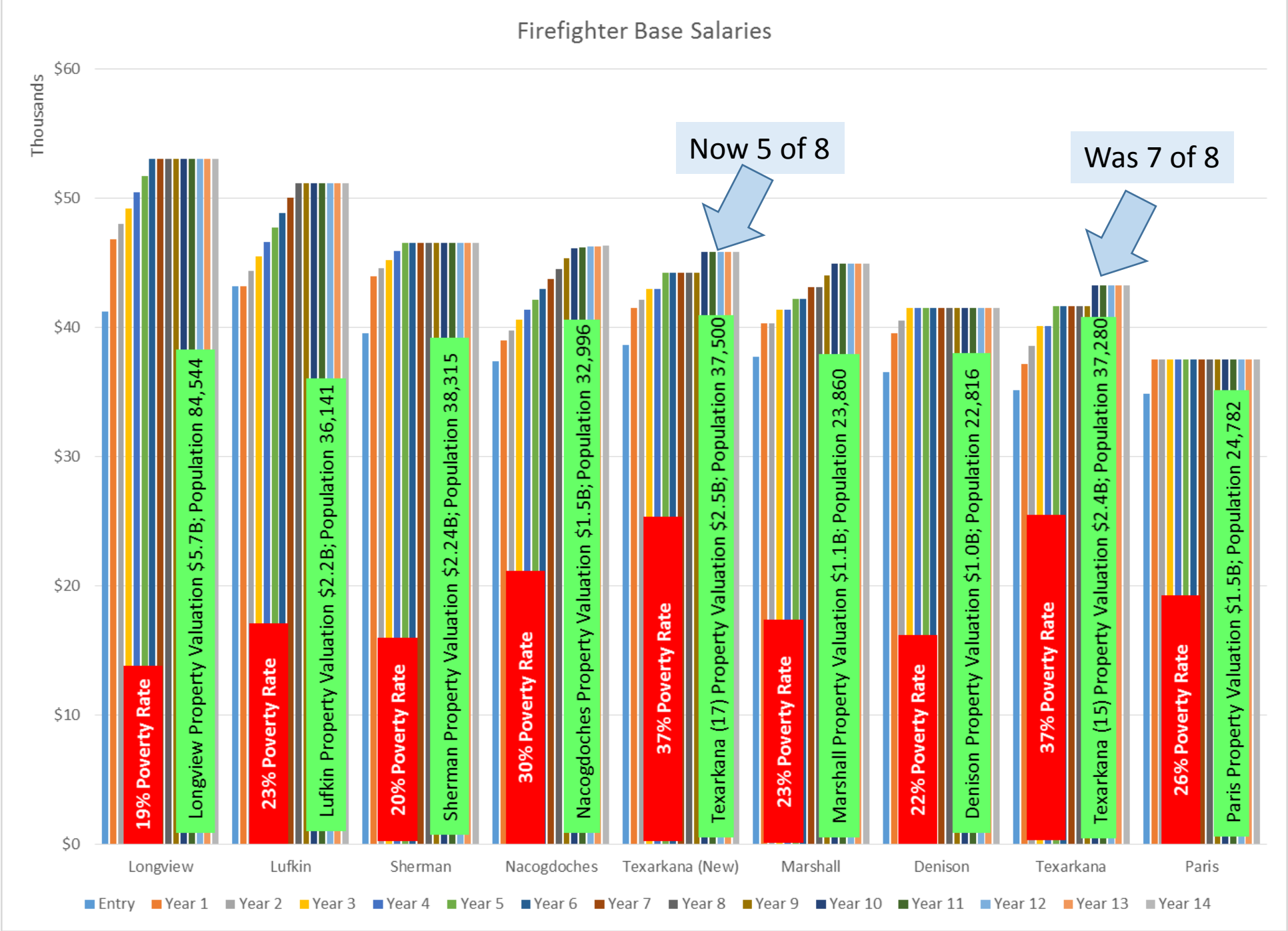
Average Increases		
	Average Increase	Compared
NCS	\$2,744	
Fire	\$3,926	\$1,182
Police	\$3,048	-\$878

	NCS	CS-Fire	CS-Police	Totals
Employees receiving pay adjustment	156	75	88	319
Total Salary Before Adjustment	\$4,681,627	\$3,404,680	\$4,425,790	\$12,512,097
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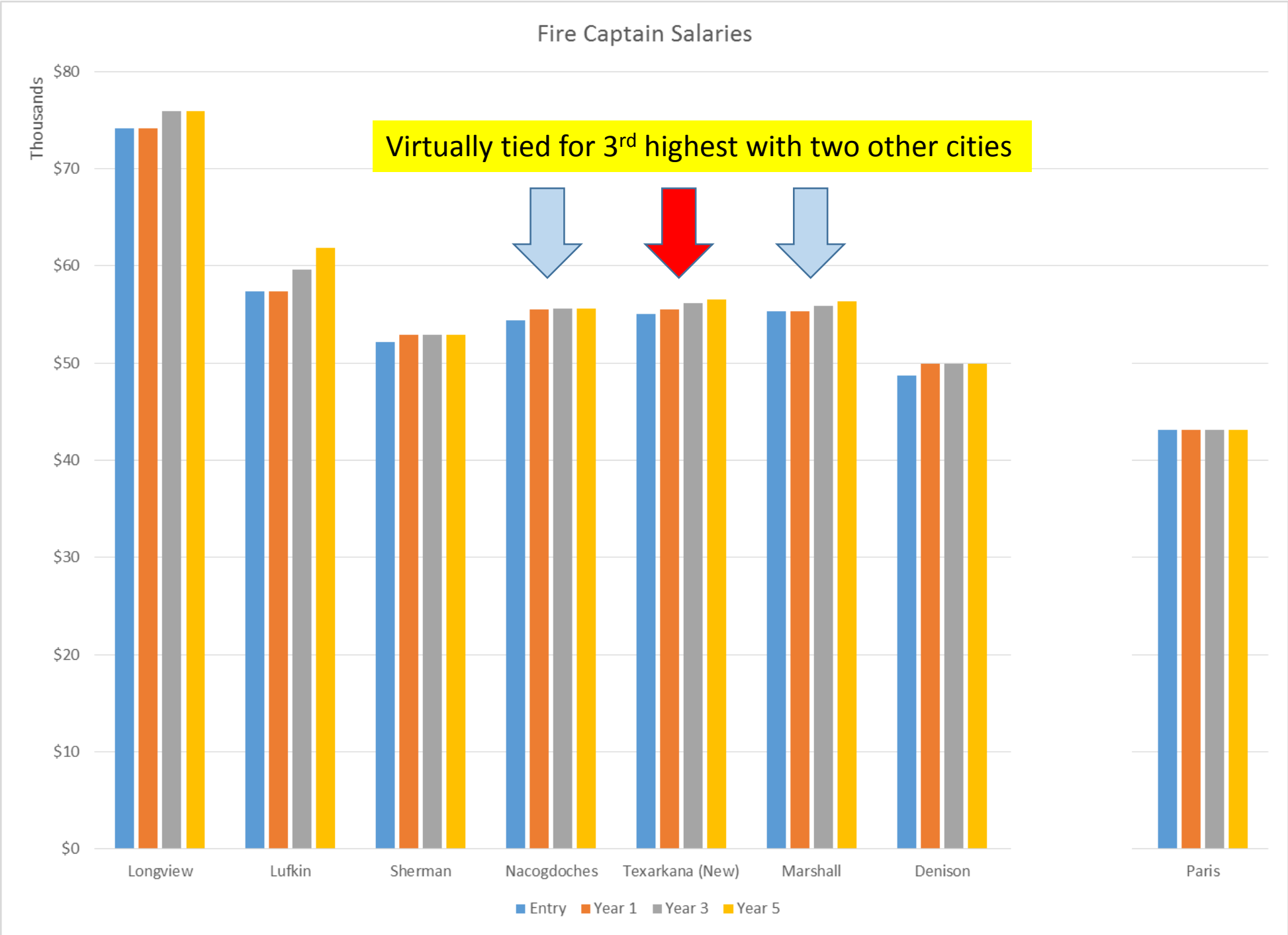
Change in Lowest Salary		
	Change	Compared
NCS	\$1,500	
Fire	\$3,527	\$2,027
Police	\$1,802	-\$1,725





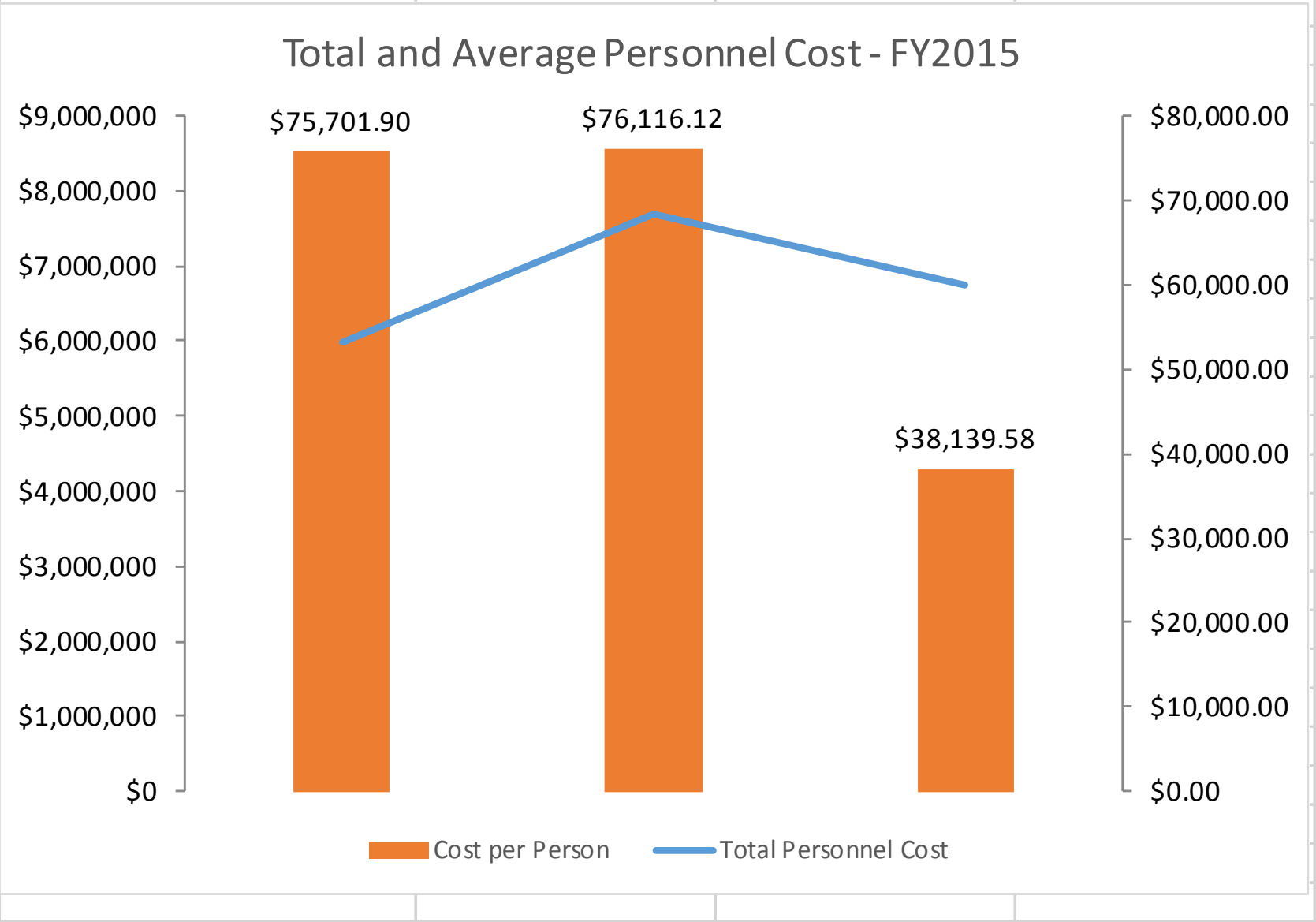
Fire Driver Engineer Salaries







	Fire	Police	All Others
Total Personnel Cost	\$5,980,450	\$7,687,728	\$6,750,706
Number of Personnel	79	101	177
Cost per Person	\$75,701.90	\$76,116.12	\$38,139.58



City of Texarkana Retirement Systems and MEDICARE Contributions				
	City Contribution			General Employee Contribution
General Retirement (TMRS)	15.480%			7.000%
FICA	6.200%			6.200%
Medicare	1.450%			1.450%
Totals				14.650%
City Total: General Employee	23.130%	5 Years/Age 60 or 20 Years Any Age		

City of Texarkana Retirement Systems and MEDICARE Contributions				
	City Contribution		Police Officer Contribution	General Employee Contribution
Police Retirement (TMRS)				
General Retirement (TMRS)	15.480%			7.000%
FICA	6.200%			6.200%
Medicare	1.450%			1.450%
Totals				14.650%
City Total: Police Officer				
City Total: General Employee	23.130%	5 Years/Age 60 or 20 Years Any Age		

City of Texarkana Retirement Systems and MEDICARE Contributions				
	City Contribution		Police Officer Contribution	General Employee Contribution
Police Retirement (TMRS)	16.760%		7.000%	
General Retirement (TMRS)	15.480%			7.000%
FICA	6.200%			6.200%
Medicare	1.450%		1.450%	1.450%
Totals				14.650%
City Total: Police Officer				
City Total: General Employee	23.130%	5 Years/Age 60 or 20 Years Any Age		

City of Texarkana Retirement Systems and MEDICARE Contributions				
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FICA	6.200%			6.200%
Medicare	1.450%		1.450%	1.450%
Totals			8.450%	14.650%
City Total: Police Officer	18.210%	5 Years/Age 60 or 20 Years Any Age		
City Total: General Employee	23.130%	5 Years/Age 60 or 20 Years Any Age		

City of Texarkana Retirement Systems and MEDICARE Contributions				
	City Contribution	Firefighter Contribution	Police Officer Contribution	General Employee Contribution
Firefighter Retirement				
Police Retirement (TMRS)	16.760%		7.000%	
General Retirement (TMRS)	15.480%			7.000%
FICA	6.200%			6.200%
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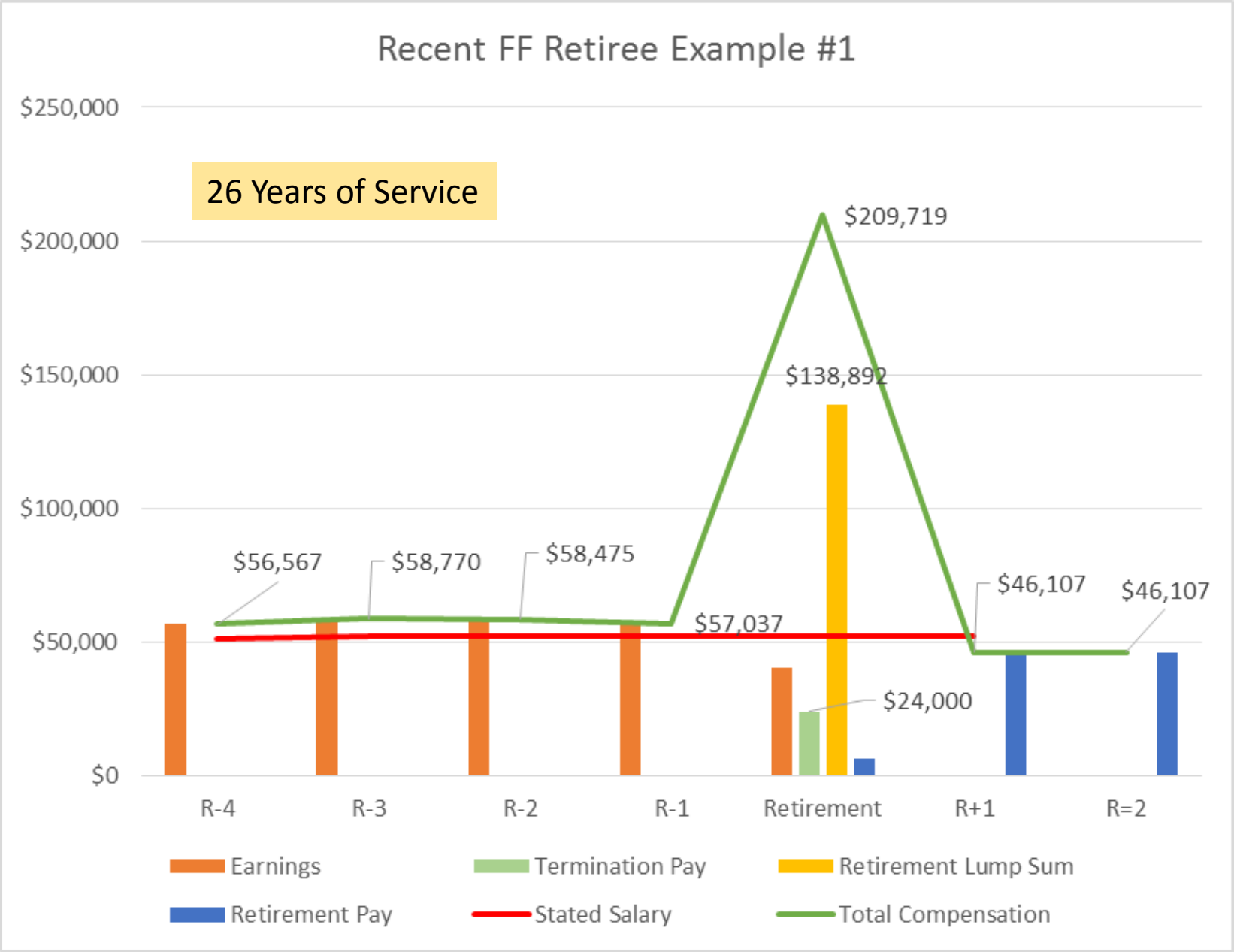
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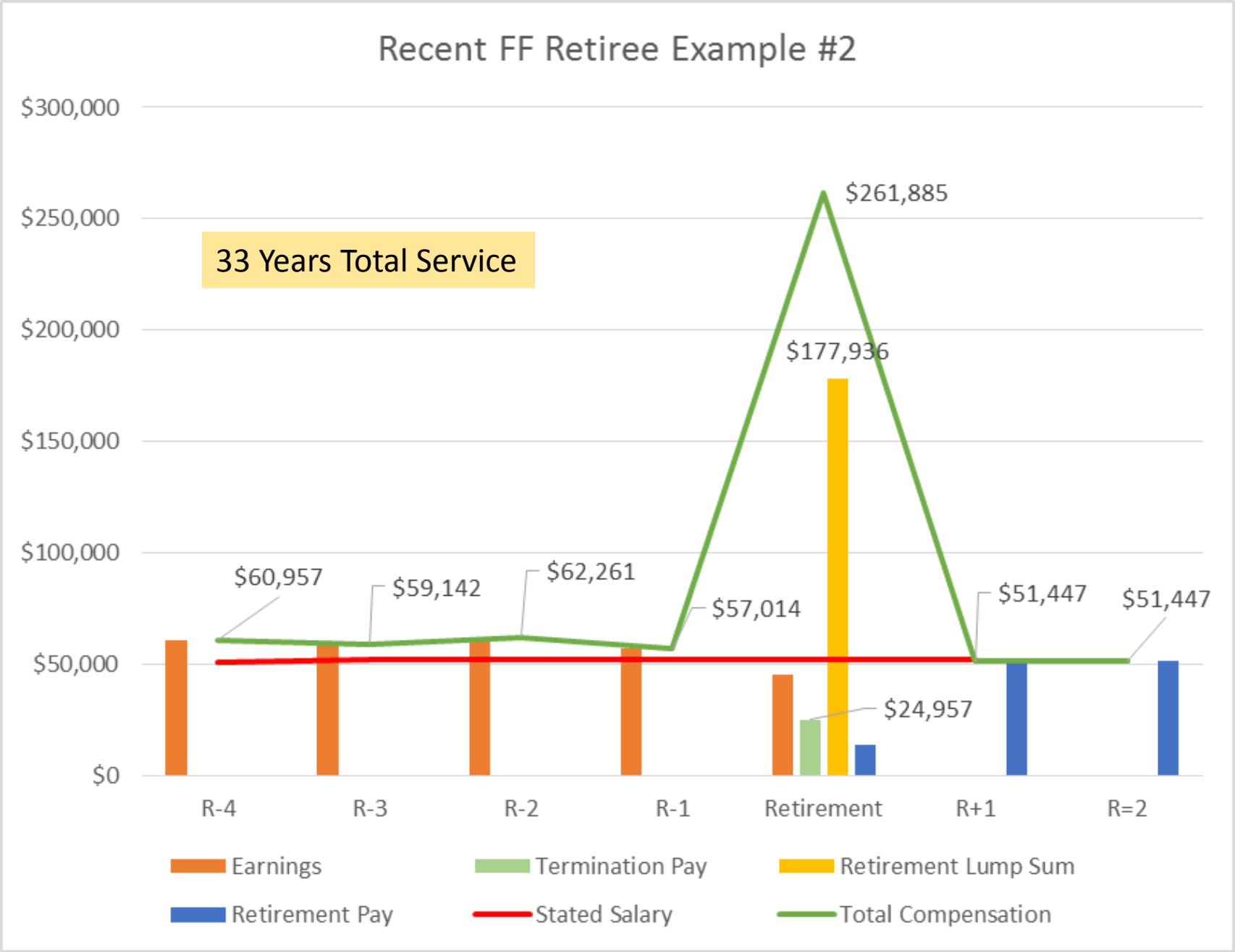
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City Total: Police Officer	18.210%	5 Years/Age 60 or 20 Years Any Age		
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Local Government Code Section 174.002 also states when collective bargaining is exercised:

“Because of the essential and emergency nature of the public service performed by fire fighters and police officers, a reasonable alternative to strikes is a system of arbitration conducted under adequate legislative standards. Another reasonable alternative, if the parties fail to agree to arbitrate, is judicial enforcement of the requirements of this chapter regarding compensation and conditions of employment applicable to fire fighters and police officers”

Local Government Code Section 174.002 also states when collective bargaining is exercised goes on to say:

“With the right to strike prohibited, to maintain the high morale of fire fighters and police officers and the efficient operation of the departments in which they serve, alternative procedures must be expeditious, effective, and binding.”

There is no City Council “VETO”

Questions and Comments



CITY OF TEXARKANA
CITY COUNCIL
MINUTES • SEPTEMBER 26, 2016

Council Chambers**Regular Meeting****6:00 PM**

220 TEXAS BLVD.
TEXARKANA, TX 75501

I. CALL TO ORDER, ROLL CALL, ESTABLISHMENT OF QUORUM

Attendee Name	Title	Status	Arrived
Bob Bruggeman	Mayor	Present	
Jean H. Matlock	Ward 1	Present	
Willie Ray	Ward 2	Present	
Tina Veal-Gooch	Ward 3	Present	
Brian Matthews	Ward 4	Present	
Christy P. Paddock	Ward 5	Present	
Josh Davis	Ward 6	Present	

Staff Present: City Manager John Whitson, Jennifer Evans, Shirley Jaster, Eric Schlotter, Jim Powell, Kyle Dooley, Lisa Thompson, Karey Parker, David Orr, Robby Robertson, Craig Hicks, and Jerry Sparks.

Legal Counsel: Louise Tausch

II. INVOCATION AND PLEDGE BY COUNCIL MEMBER JEAN MATLOCK

III. MAYOR'S REMARKS AND ITEMS OF COMMUNITY INTEREST

Upcoming City Council Meetings:

Monday, October 10, 2016 at 6:00 p.m.
Monday, October 24, 2016 at 6:00 p.m.
Monday, November 14, 2016 at 6:00 p.m.
Monday, November 28, 2016 at 6:00 p.m.

Upcoming Joint City Meeting:

The Texarkana Chamber of Commerce will host the first “Joint Matters Committee” meeting with Texarkana, Arkansas on Tuesday, October 11th at 3:00 p.m. The meeting will be held at the chamber building located at 819 No. State Line Avenue. The meeting will be open to the public. Mayor Bruggeman expressed appreciation to Texarkana Chamber of Commerce President Mike Malone for leading this effort.

Minutes Acceptance: Minutes of Sep 26, 2016 6:00 PM (Consent Items)

Parks & Recreation Events:

October 1 st & 2 nd	Softball Tournament	Karrh & Wallace Parks
October 6 th	Movies in the Park - "Jungle Book" (7:00 p.m.)	Spring Lake Park

For a complete list of Parks & Recreation activities and information call 903-798-3978 or visit the city website: <http://tx-texarkana.civicplus.com>

Mayor Bruggeman welcomed Texas High School students in the audience from Mr. Littman's government class who were participating in a class assignment. Also recognized were members of Boy Scout Troop 3 from Sacred Heart Catholic Church. The boy scouts were working on their "Citizenship in the Community" merit badges.

Mayor Bruggeman was excited to announce the birth of his new grandson, Shepherd "Shep" Lane Friday who was born on Saturday, September 24th. "Welcome Shep"!



The Mayor reminded everyone that next Tuesday, October 4th is National Night Out. There will be numerous block parties throughout the city. Citizens were reminded to turn on their porch lights for this special event.

The Mayor announced that last week the city held the first Comprehensive Planning meeting at the Texarkana Convention Center. City staff was joined by 91 citizens from the community. The second public Comprehensive Planning meeting will be held on Tuesday, November 15th at the Texarkana Convention Center beginning at 6:00 p.m. Citizens are once again invited to attend.

The Mayor welcomed Louise Tausch as Legal Counsel filling in for Jeff Lewis.

Appointments to Boards & Commissions

There were no appointments made to any board or commission.

IV. OPEN FORUM: COMMENTS FROM THE PUBLIC (LIMIT 5 MINUTES EACH)

Items scheduled for "Public Hearing" or have been heard at a previous "Public Hearing" are not to be addressed at the "Open Forum".

There were no public comments made at Open Forum.

V. ITEMS FOR CONSIDERATION

Consent Items

(6:12 p.m.)

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Tina Veal-Gooch, Ward 3
SECONDER:	Brian Matthews, Ward 4
AYES:	Matlock, Ray, Veal-Gooch, Matthews, Paddock, Davis
EXCUSED:	Bruggeman

1. Consider approval of the minutes of the Regular Meeting of the City Council held on September 12, 2016 at 6:00 PM.

Action Items - None

VI. FIRST BRIEFINGS

1. Ordinance No. 2016-110 granting a Specific Use Permit to allow the one additional use of a tattoo studio for the application of permanent cosmetics on a .34 acre tract (Tract 49) in the MEP & P HRS, A-421, located in a tenant space at 4066 Summerhill Square. Alan Schimming, owner. Jordan Chandler, agent.

Public Hearing: October 10, 2016
 Second Briefing: October 24, 2016
 Council Vote: November 14, 2016

David Orr briefed this item.

RESULT:	MOVED FORWARD	Next: 10/10/2016 6:00 PM
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2. Ordinance No. 2016-111 rezoning a 1.574 acre tract of land in the MEP & P HRS, A-18, located at 6872 Hampton Road. General Retail to Commercial. Mike Berry, Texarkana Hampton Road LLC, owner. Jason Vanderhoof, agent.

Public Hearing: October 10, 2016
 Second Briefing: October 24, 2016
 Council Vote: November 14, 2016

David Orr briefed this item.

RESULT:	MOVED FORWARD	Next: 10/10/2016 6:00 PM
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3. Resolution No. 2016-113 establishing a Community Relations Expenditures Policy.

Public Hearing: October 10, 2016
 Second Briefing: October 24, 2016
 Council Vote: November 14, 2016

City Manager Whitson briefed this item.

RESULT:	MOVED FORWARD	Next: 10/10/2016 6:00 PM
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4. Resolution No. 2016-114 authorizing the expenditure of Community Relations funds in support of the KCS Holiday Express Train event.

Public Hearing: October 10, 2016
 Second Briefing: October 24, 2016
 Council Vote: November 14, 2016

City Manager Whitson briefed this item.

RESULT:	MOVED FORWARD	Next: 10/10/2016 6:00 PM
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5. Resolution No. 2016-115 authorizing the expenditure of Community Relations funds in support of the Live United Bowl Team's Banquet.

Public Hearing: October 10, 2016
 Second Briefing: October 24, 2016
 Council Vote: November 14, 2016

City Manager Whitson briefed this item.

RESULT:	MOVED FORWARD	Next: 10/10/2016 6:00 PM
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6. Resolution No. 2016-116 revising the Fire Department's swap time policy.

Public Hearing: October 10, 2016
 Second Briefing: October 24, 2016
 Council Vote: November 14, 2016

Eric Schlotter briefed this item. Louise Tausch provided legal comments for council consideration.

RESULT:	MOVED FORWARD
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Next: 10/10/2016 6:00 PM

VII. PUBLIC HEARINGS

1. Resolution No. 2016-118 joint with Riverbend Water Resources District to the U.S. Army Corps of Engineers concurring and confirming requests made for sponsorship for any existing or new water reallocated out of Lake Wright Patman.

Public Hearing: September 26, 2016
 Second Briefing: September 26, 2016
 Council Vote: September 26, 2016

Steve Mayo briefed this item. Mayor Bruggeman thanked Steve Mayo and Liz Fazio for their service to the city in regards to water matters. The Mayor also thanked several members from the Riverbend Water Resources District for their attendance at the meeting.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Christy P. Paddock, Ward 5
SECONDER:	Brian Matthews, Ward 4
AYES:	Matlock, Ray, Veal-Gooch, Matthews, Paddock, Davis
EXCUSED:	Bruggeman

VIII. SECOND BRIEFING WITH UPDATES - NONE

IX. SECOND BRIEFING WITHOUT UPDATES - NONE

X. ITEMS FOR DISCUSSION

Staff Updates - Fire Fighter Ballot Initiative

City Manager Whitson gave a slide presentation providing current information about the Texarkana, Texas Fire Department and the fire fighter ballot initiative regarding collective bargaining. Louise Tausch added legal comments for council consideration.

Mayor Bruggeman thanked Mr. Whitson for the comprehensive report and informative material shared with the council. The report will soon be made available on the city's website and will be attached the minutes of this meeting. Mayor Bruggeman also thanked Louise Tausch for her comments in reference to federal laws that pertain to employment issues.

XI. ADMINISTRATIVE COMMENTS

1. City Council

Mayor Bruggeman asked for an update on the Interstate 30 gateway welcome sign. Kyle Dooley said a recent conversation held with MTG Engineers staff addressed the issue of whether to supply electricity to the sign or use solar power. It was decided to finalize plans to supply electricity to the site to provide back lighting to the sign. The bid process will soon follow.

2. City Staff

Staff had no comments for council.

XII. ADJOURNMENT

A motion was made to adjourn the meeting.
(7:41 p.m.)

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Willie Ray, Ward 2
SECONDER:	Tina Veal-Gooch, Ward 3
AYES:	Matlock, Ray, Veal-Gooch, Matthews, Paddock, Davis
EXCUSED:	Bruggeman



Jennifer Evans
City Secretary



Bob Bruggeman
Mayor

Fire Fighter Measure

Texarkana, Texas

Adoption of the state law applicable to fire fighters that establishes collective bargaining if a majority of the affected employees favor representation by an employees association, preserves the prohibition against strikes and lockouts, and provides penalties for strikes and lockouts.

Adoption of the state law applicable to fire fighters that establishes collective bargaining if a majority of the affected employees favor representation by an employees association, preserves the prohibition against strikes and lockouts, and provides penalties for strikes and lockouts.

establishes collective bargaining through
representation by an employees association

Means

establishes collective bargaining through
representation by an employees association

Means

Unionization of the Fire Department

What is the Fire Department Doing without Unionization?

ISO

- International Organization for Standardization
- Current Fire Department Rating = 2
 - Second best available
 - Achieves the best possible fire insurance rates for property owners
 - No additional benefit of a 1 rating
 - Points awarded for various factors
 - Achieved maximum points available in many areas, including
 - Training
 - Water Supply

Equipment

- Fielded two new Quints and one new Brush Truck in 2015
- In 2016 Added Fire Apparatuses to the Capital Equipment Plan
 - Will field new Quints in the following years:
 - 2019
 - 2020
 - 2021
 - All apparatuses will be replaced every 15 years
 - (previously, equipment was expected to last 20 years)

Personal Protective Equipment (PPE)

- Bunker Gear
 - State Mandates 10 year replacement
 - Texarkana replaces every 5 years except for Helmet and Boots
- Air Packs
 - All replaced in 2015
 - Compressor replaced in 2015

Personnel

- Changed personnel leave policies to be more flexible
 - Was required to schedule leave a year or more in advance
 - May request leave one shift in advance
 - Was based on seniority department-wide
 - Now based on seniority at each station
- In 2016 Changed Longevity Pay Amount
 - Law requires \$4 per month per year-of-service
 - Changed to \$5 per month per year-of-service
 - Eliminated the \$100 (net) annual customer service pay

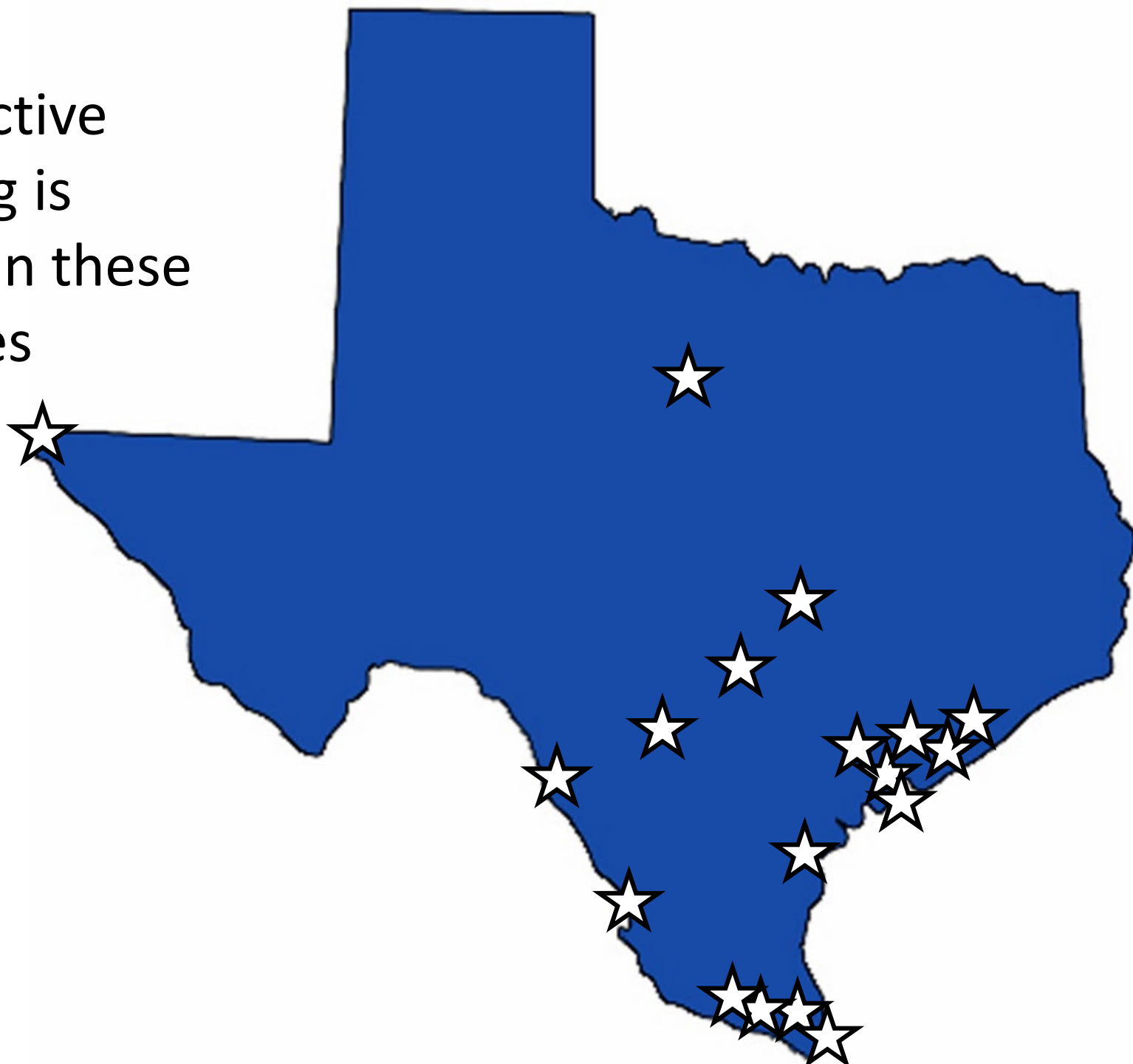
Response Staffing

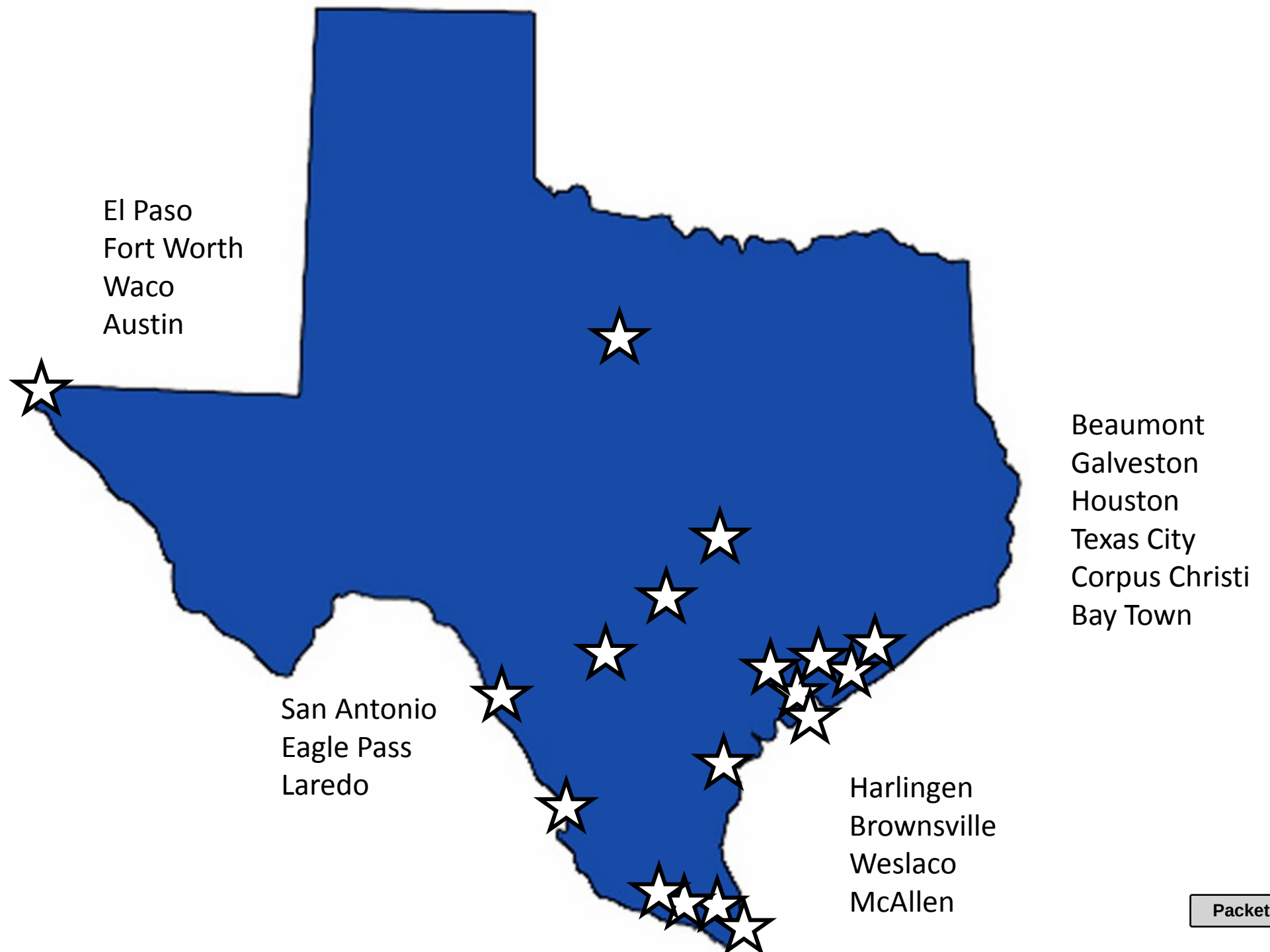
- Quint (now)
 - 4 person crew
 - Truck/Pumper/Engine (was)
 - 3 person crew
 - Ladder (was)
 - 1 person
- Rescue (now)
 - 2 person crew

Response

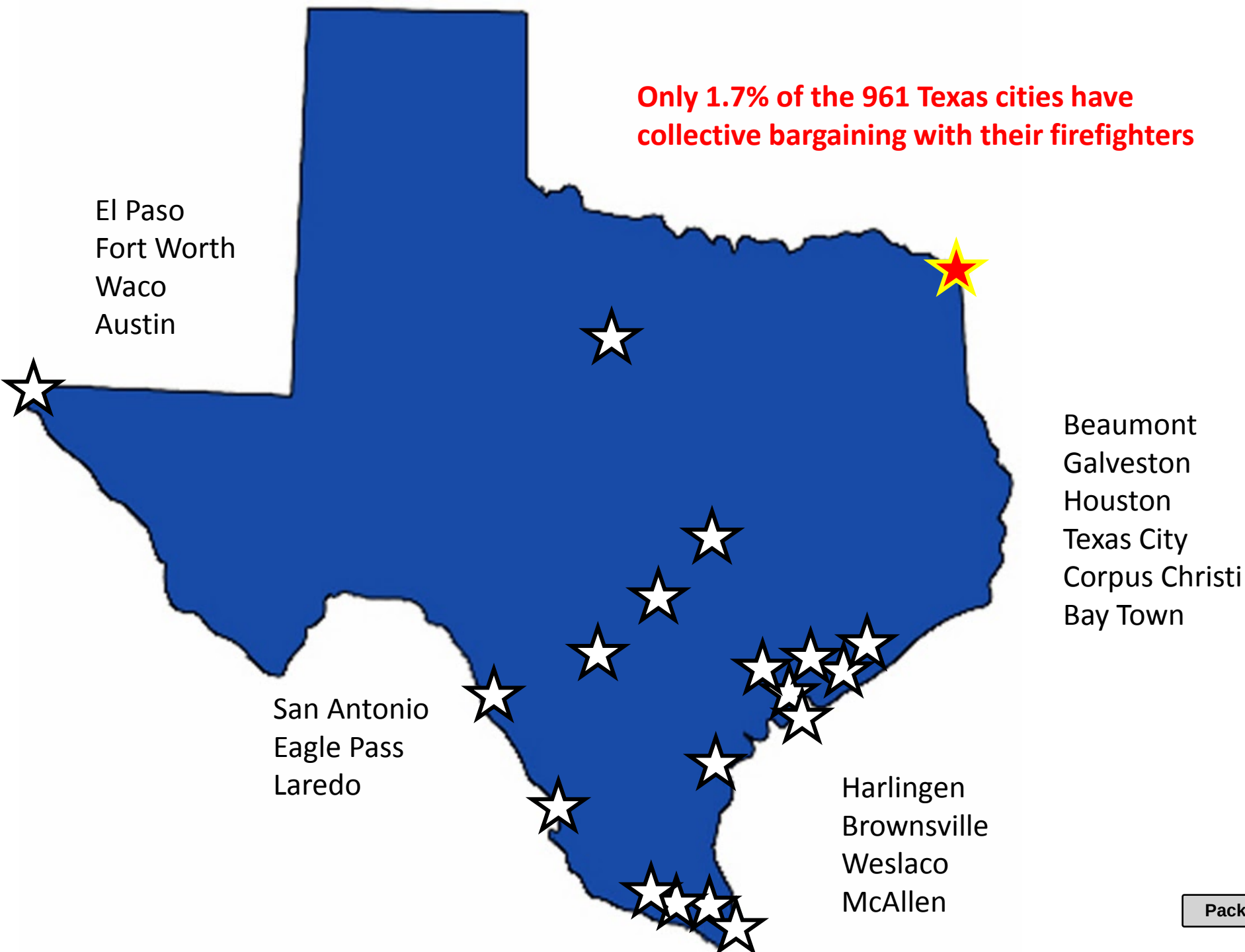
- Just over 4 minutes on average
- Three new stations in 2018
 - Closer to optimal locations for coverage zones
 - Improve response times
- Ms. Vernice Smith stated, “Earlier this year, my neighbor’s house caught fire. Flames were inches from my house when our heros arrived. I don’t get around as well as I used to. Had my home caught fire, I would have had little chance.”
 - This is the level of service the Texarkana, Texas Fire Department **Currently Delivers**

Fire Collective
Bargaining is
available in these
Texas cities





**Only 1.7% of the 961 Texas cities have
collective bargaining with their firefighters**



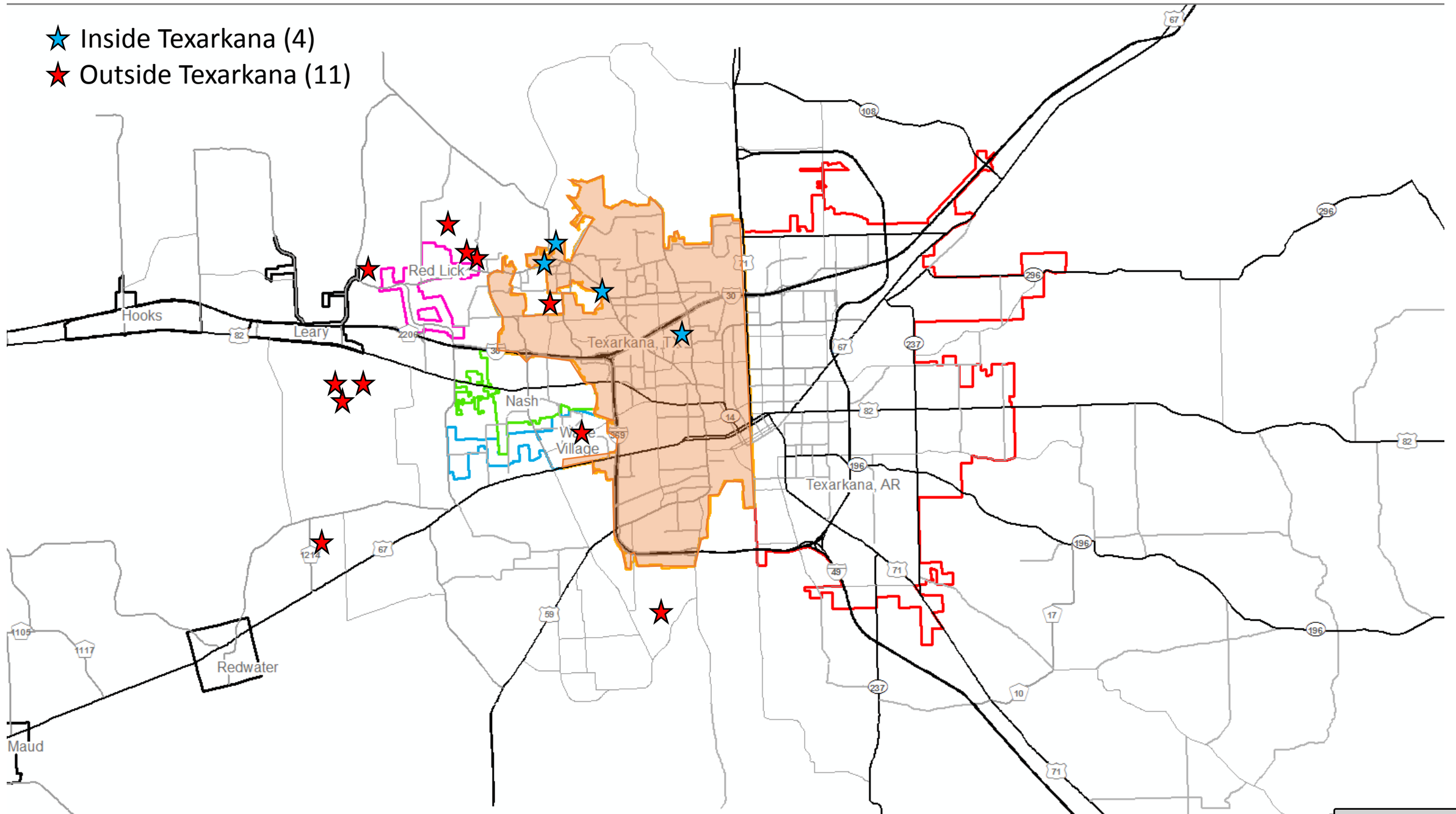
All Texas cities that have collective bargaining with their firefighters are larger than Texarkana except for Eagle Pass

Houston	2,296,224
San Antonio	1,469,845
Austin	931,820
Fort Worth	833,319
El Paso	681,124
Corpus Christi	324,074
Laredo	255,473
Brownsville	183,887
McAllen	140,269
Waco	132,356
Beaumont	118,129
Baytown	76,335
Harlingen	65,774
Galveston	50,180
Texas City	46,639
Weslaco	37,601
Texarkana	37,225
Eagle Pass	28,329

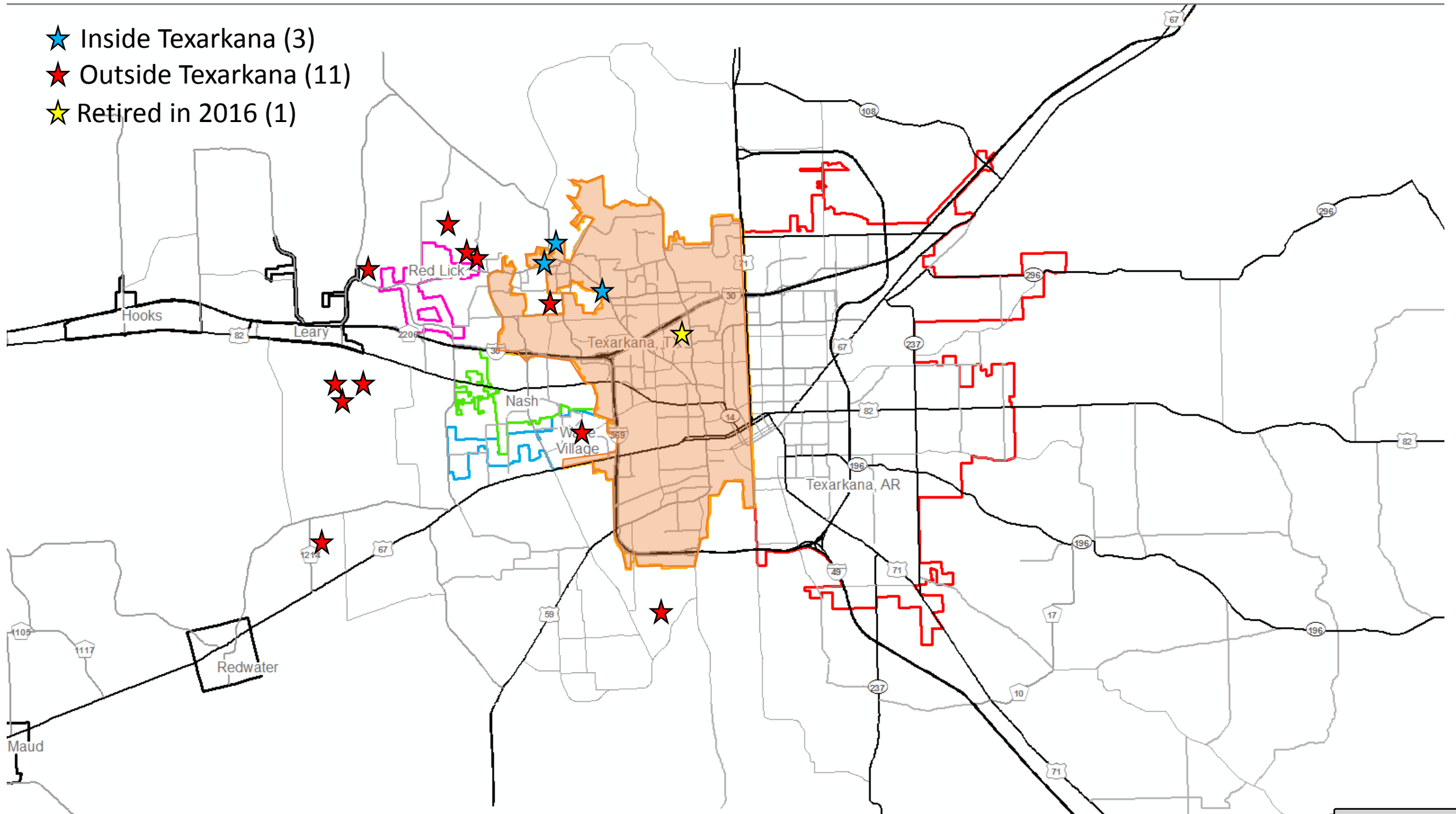
Texarkana Fire Department 2015 Demographics

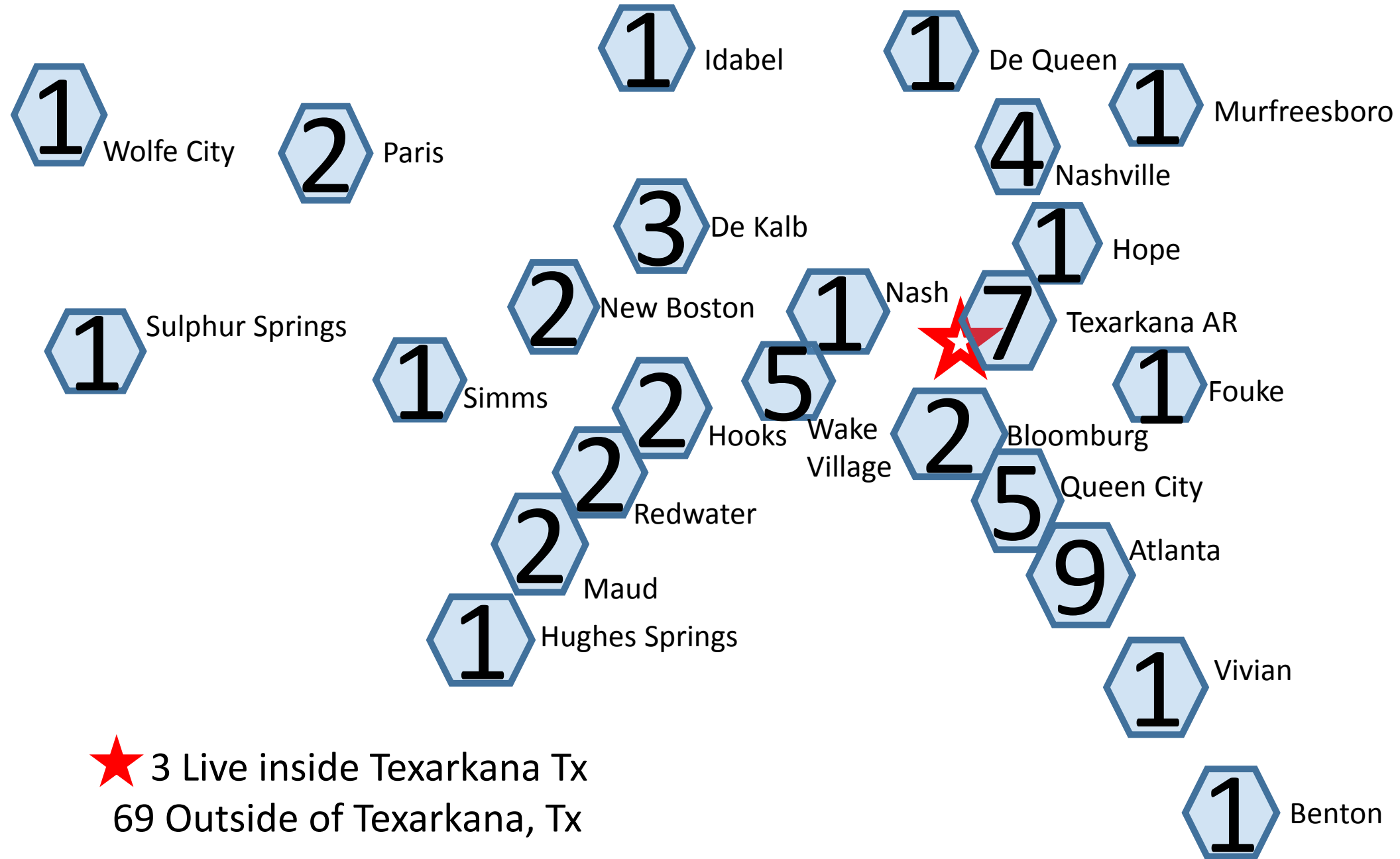
- Departmental Personnel
 - 75 Total
 - 3 Management and support
 - 72 Classified as Firefighter
- Residency of the 72 Firefighters
 - 15 Have Texarkana, Texas Mailing Addresses
 - 11 Live outside the city's boundary
 - 4 Reside inside Texarkana
 - 57 Live elsewhere

- ★ Inside Texarkana (4)
- ★ Outside Texarkana (11)



- ★ Inside Texarkana (3)
- ★ Outside Texarkana (11)
- ★ Retired in 2016 (1)





★ 3 Live inside Texarkana Tx
69 Outside of Texarkana, Tx

International Association of FireFighters (IAFF)

- Website:

“Perhaps no piece of information is as important as the local’s contract, memorandum of understanding or salary schedule.”

- IAFF Guide to Collective Bargaining:

“These negotiations result in written agreement covering wages, hours, fringe benefits, discipline, safety, and other working conditions.”

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- IAFF Guide to Collective Bargaining:

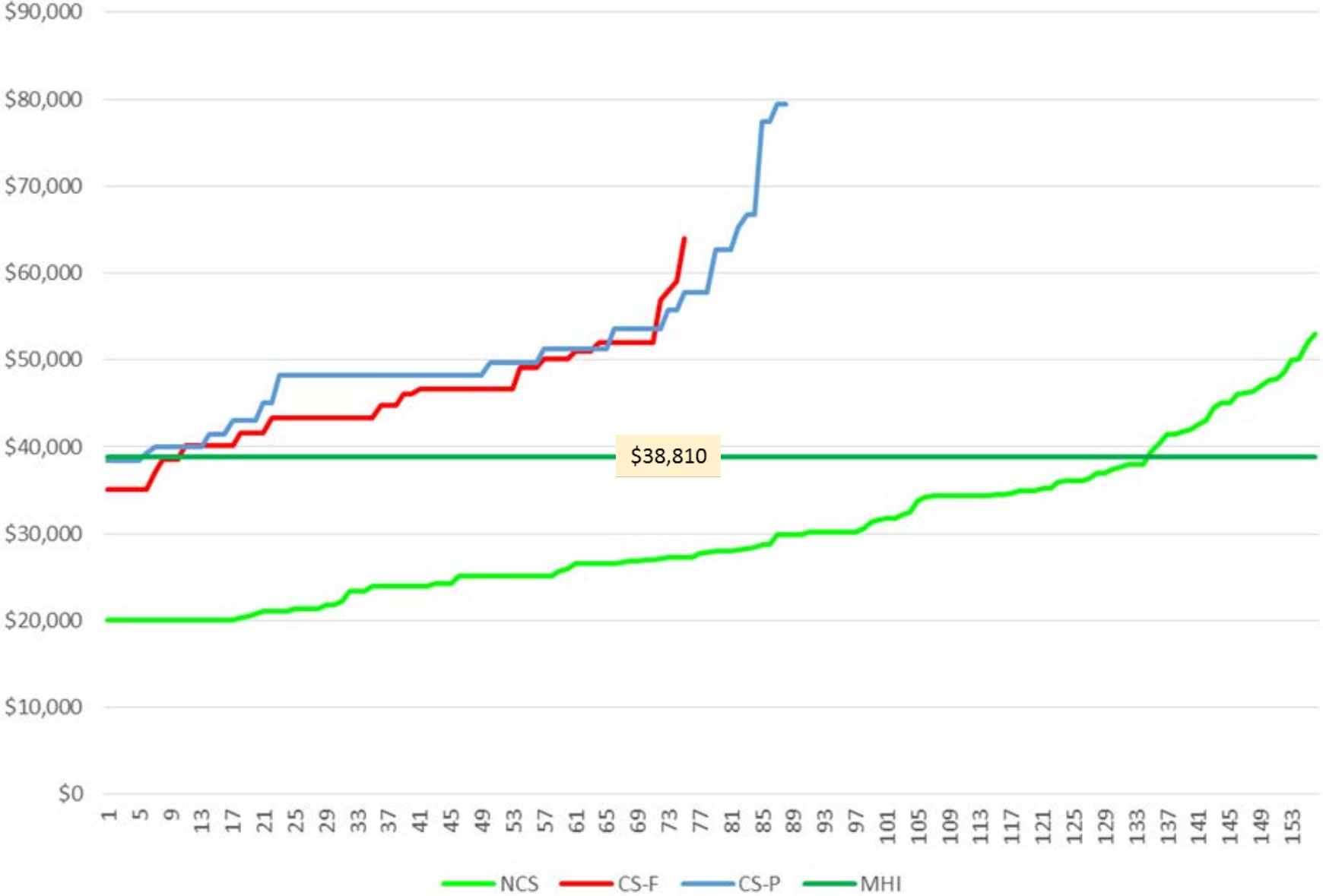
“These negotiations result in written agreement covering wages, hours, fringe benefits, discipline, safety, and other working conditions.”

- **“Safety” is not first on the list**

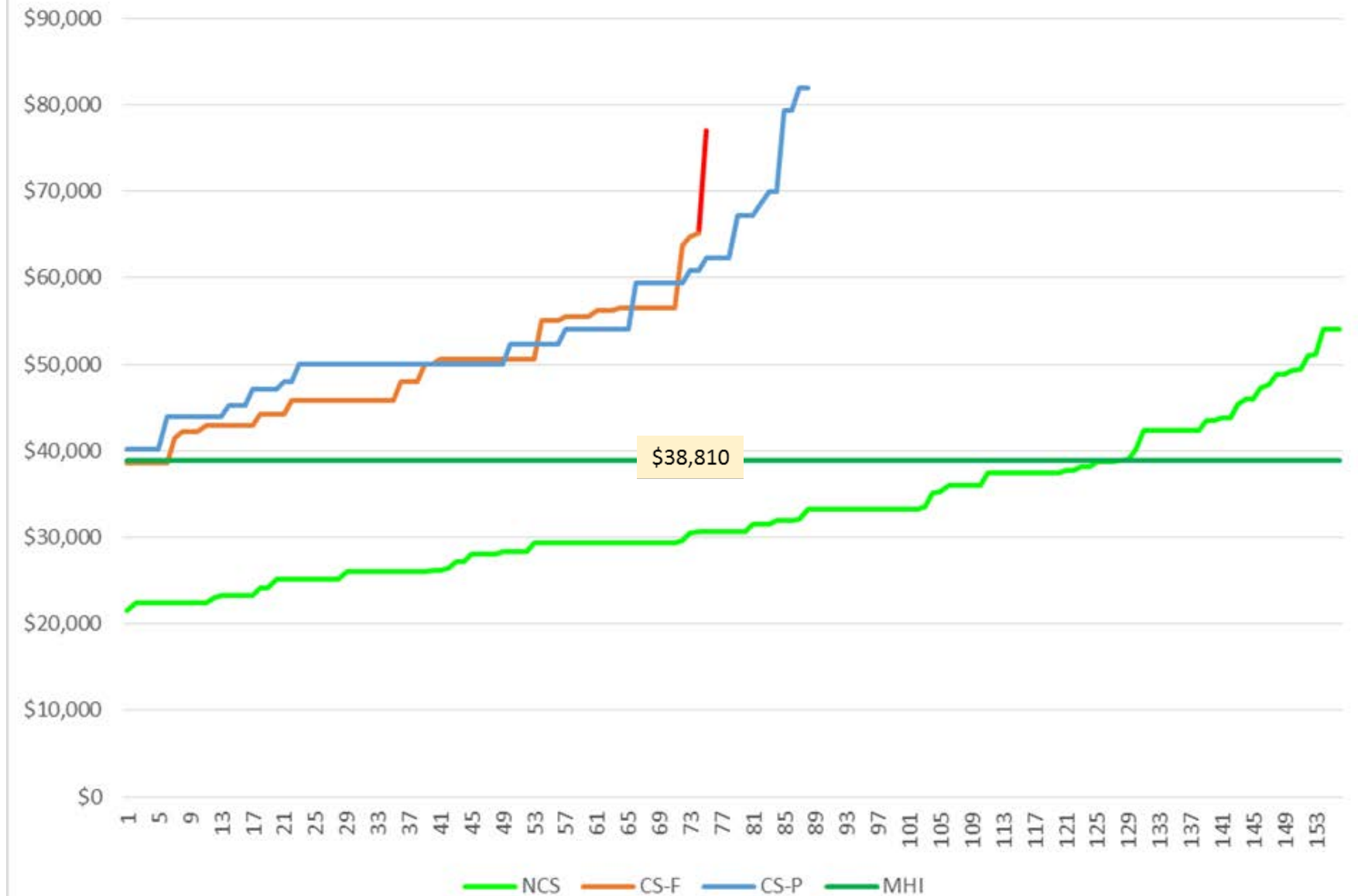
Local Government Code Section 174.002 states:

“The policy of this state is that a political subdivision shall provide its fire fighters and police officers with compensation and other conditions of employment that are substantially the same as compensation and conditions of employment prevailing in comparable private sector employment”

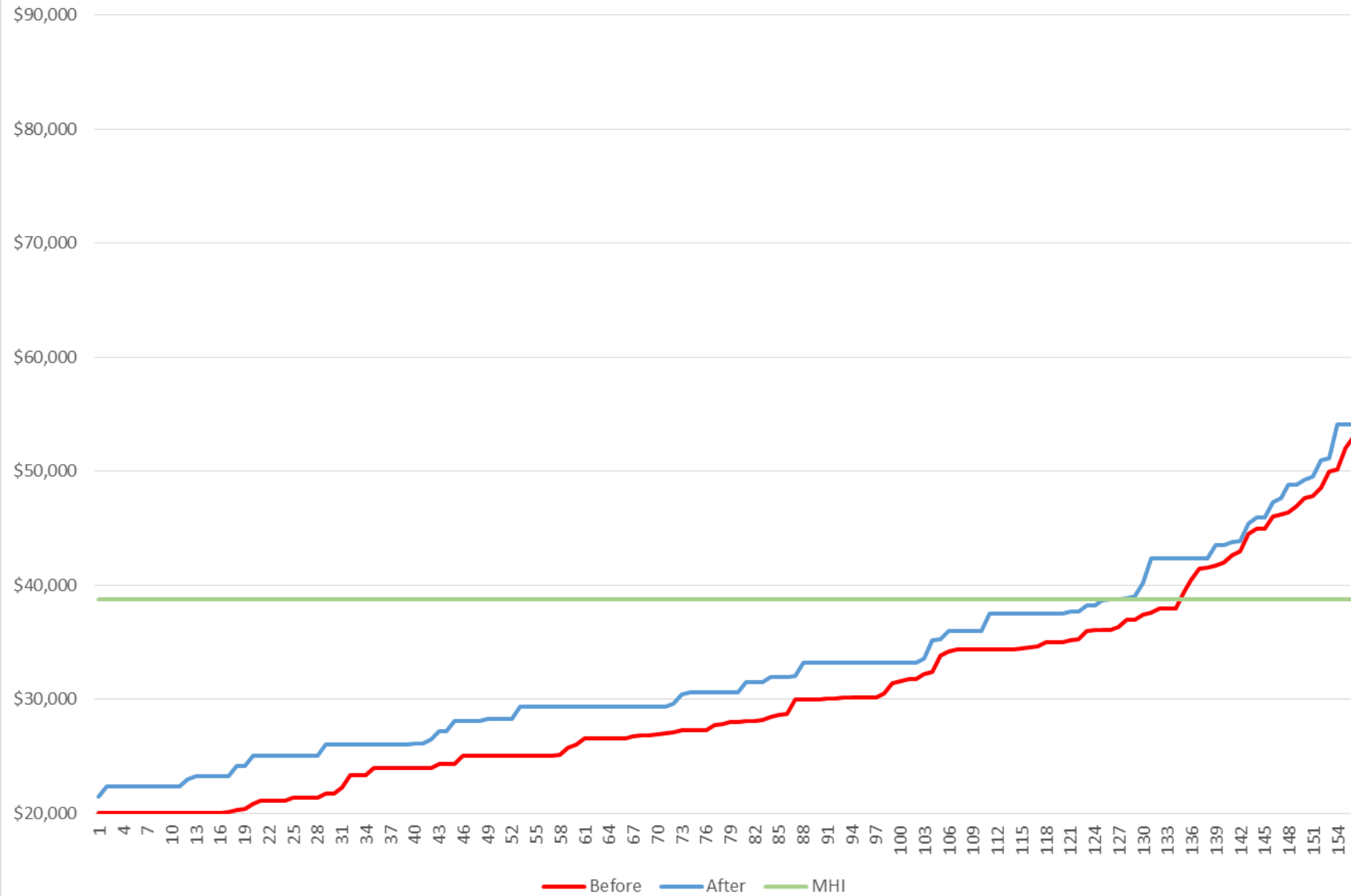
Employee Salaries to Texarkana Median Household Income
Before 2017 Pay Adjustment



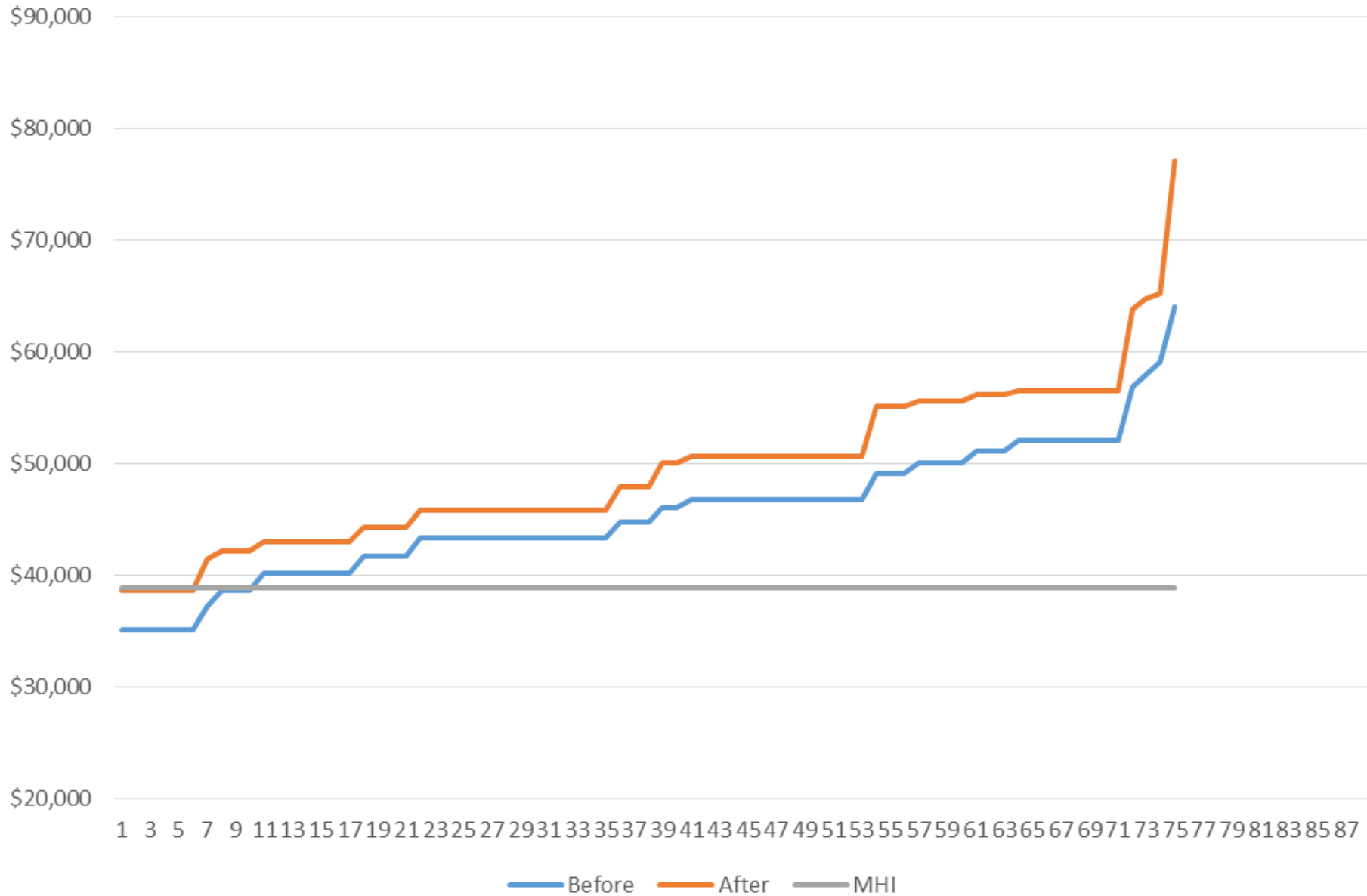
Employee Salaries to Texarkana Median Household Income After 2017 Pay Adjustment



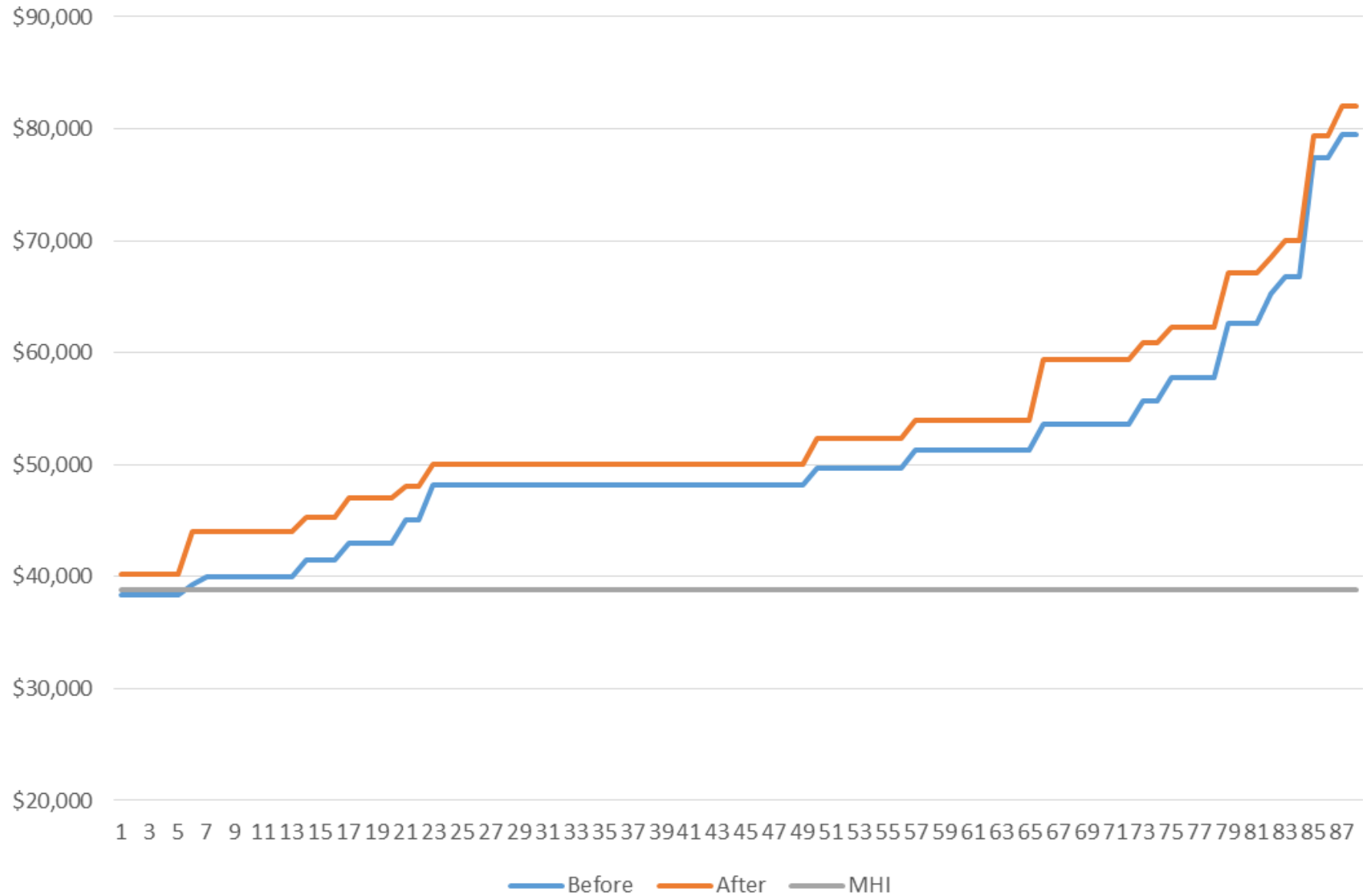
Non-Civil Service Employee Salaries to Texarkana Median Household Income Before and After 2017 Pay Adjustment



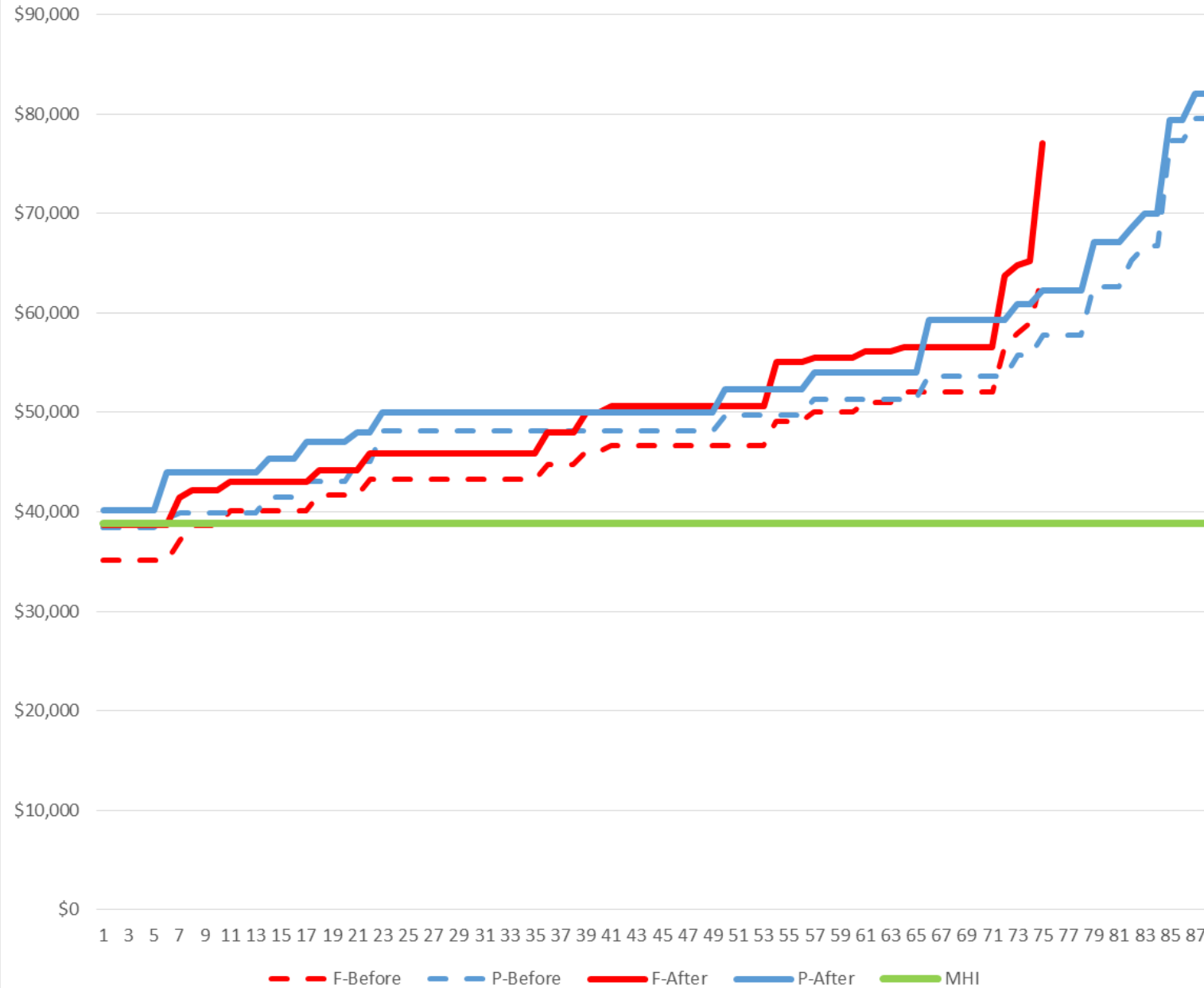
CS - Fire Employee Salaries to Texarkana Median Household Income Before and After 2017 Pay Adjustment

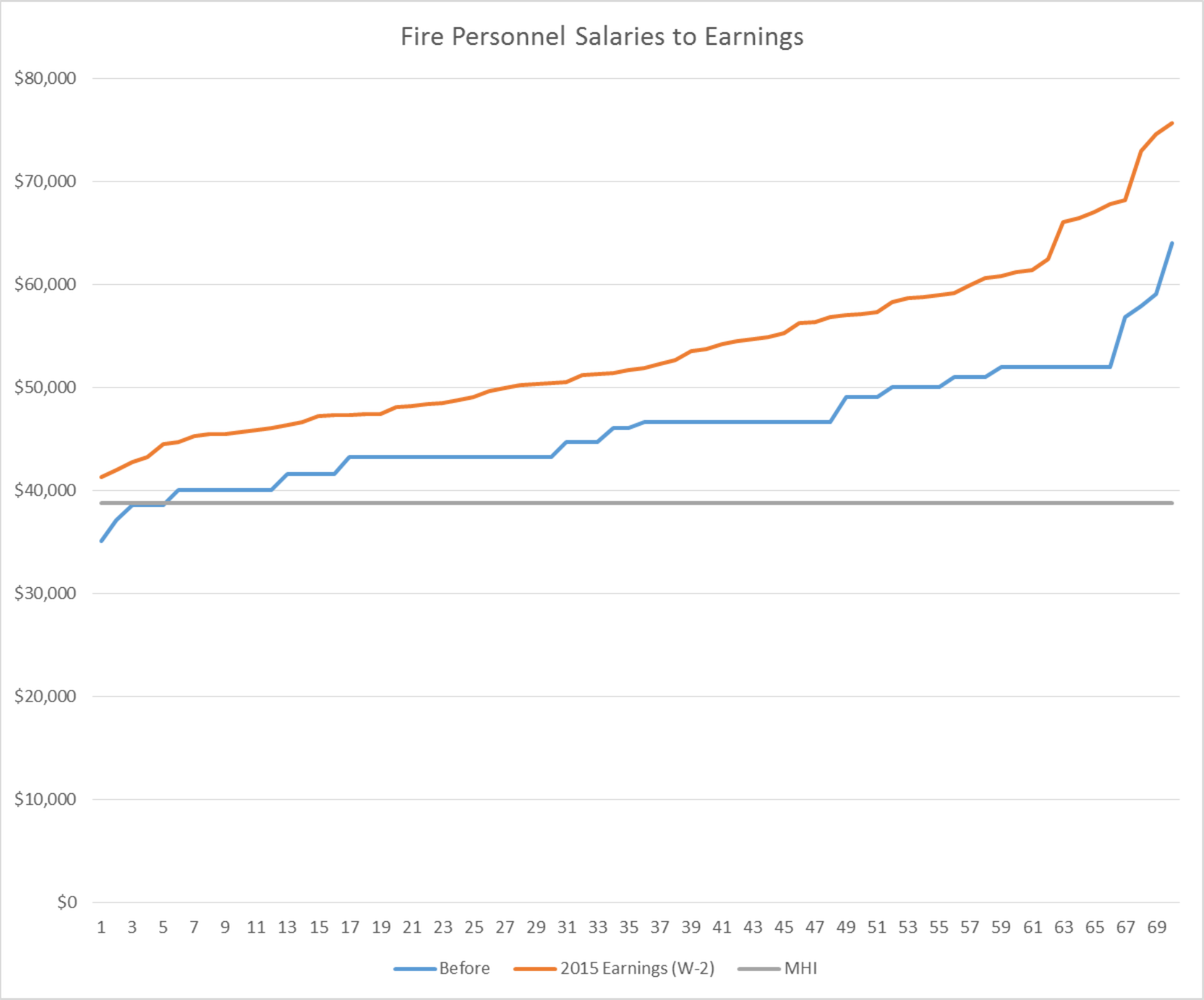


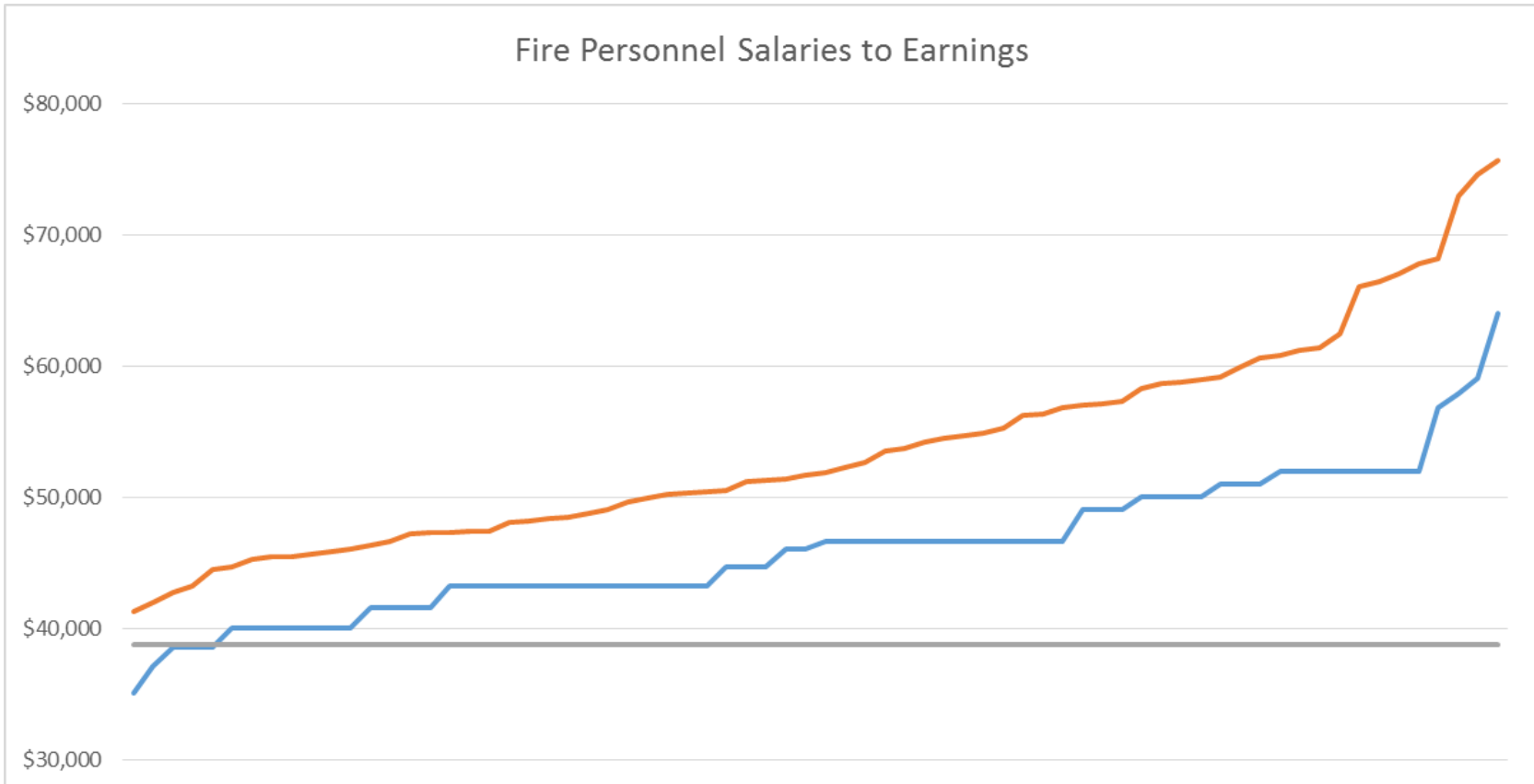
CS - Police Employee Salaries to Texarkana Median Household Income Before and After 2017 Pay Adjustment



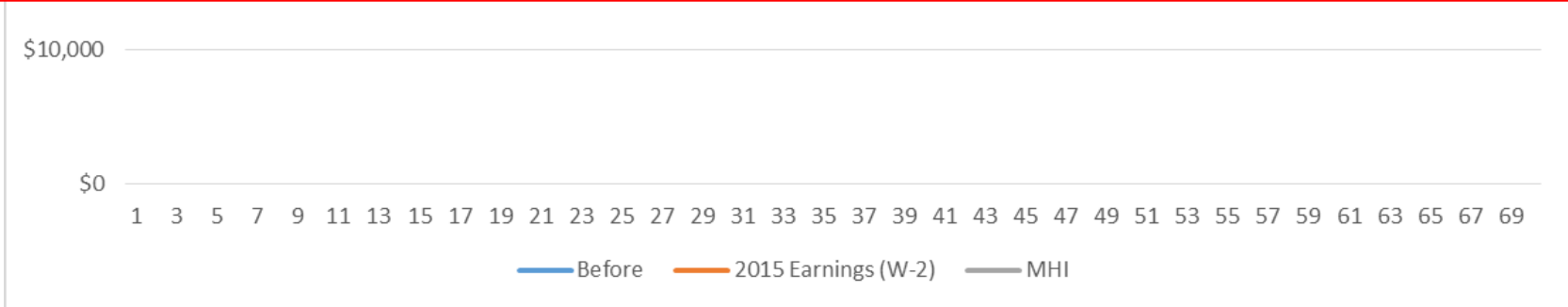
CS - Fire and Police Salaries to Texarkana Median Household Income
Before and After 2017 Pay Adjustment



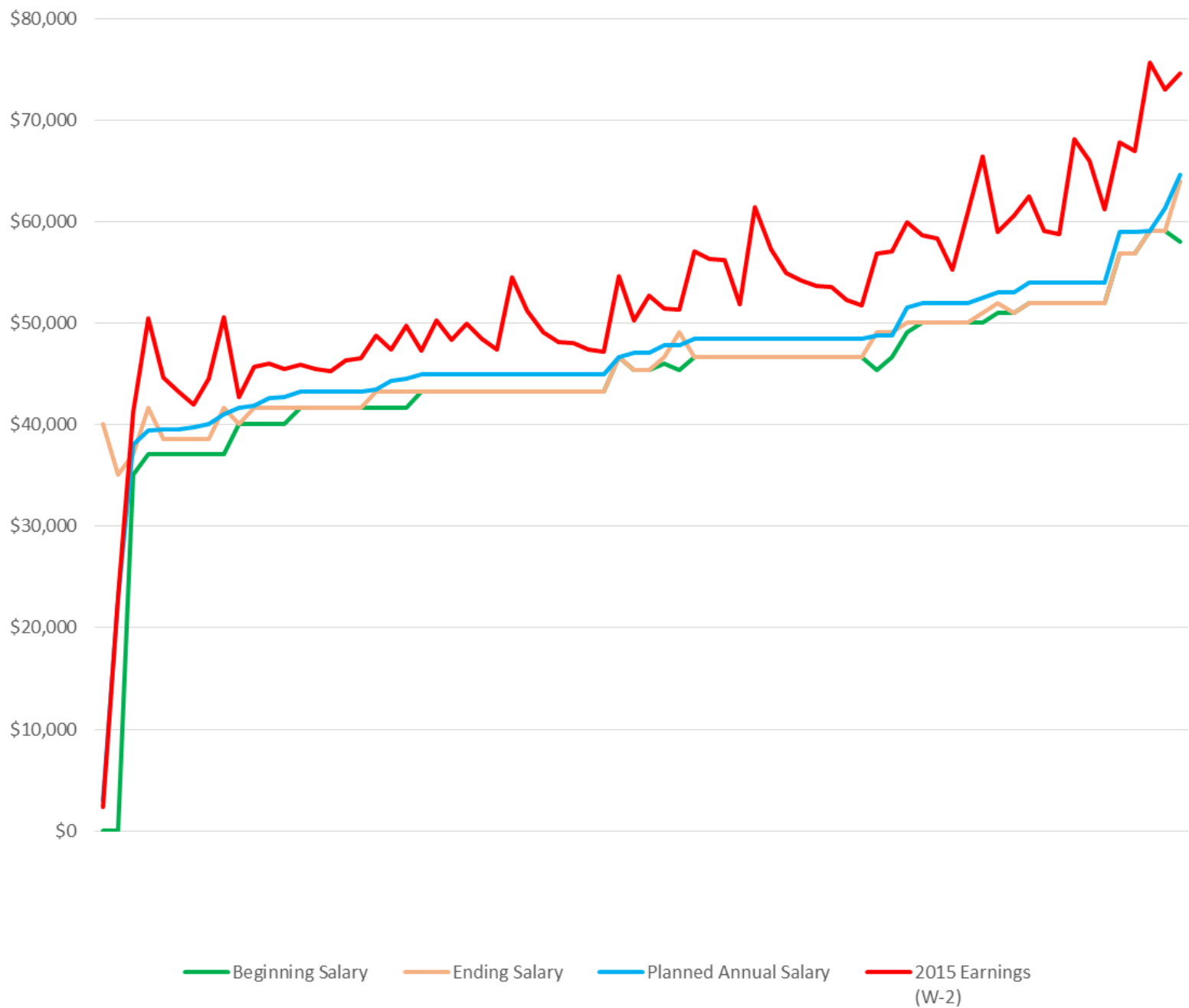




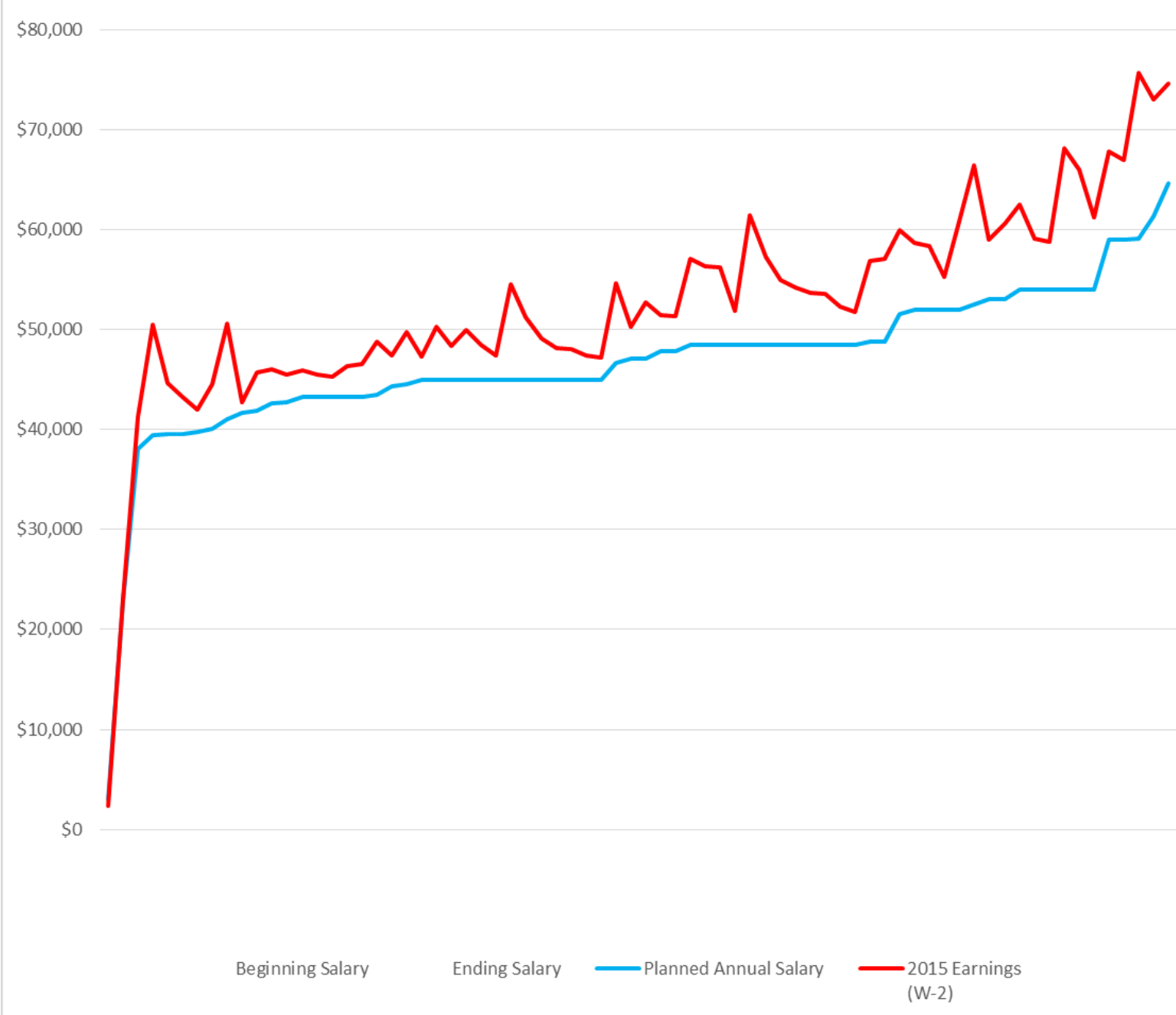
Fire personnel, on average, earn 16% more than their stated salary
 Fire personnel, on average, stated salary is 18% greater than the Median Household Income
 Fire personnel, on average, earn 38% more than the Median Household Income



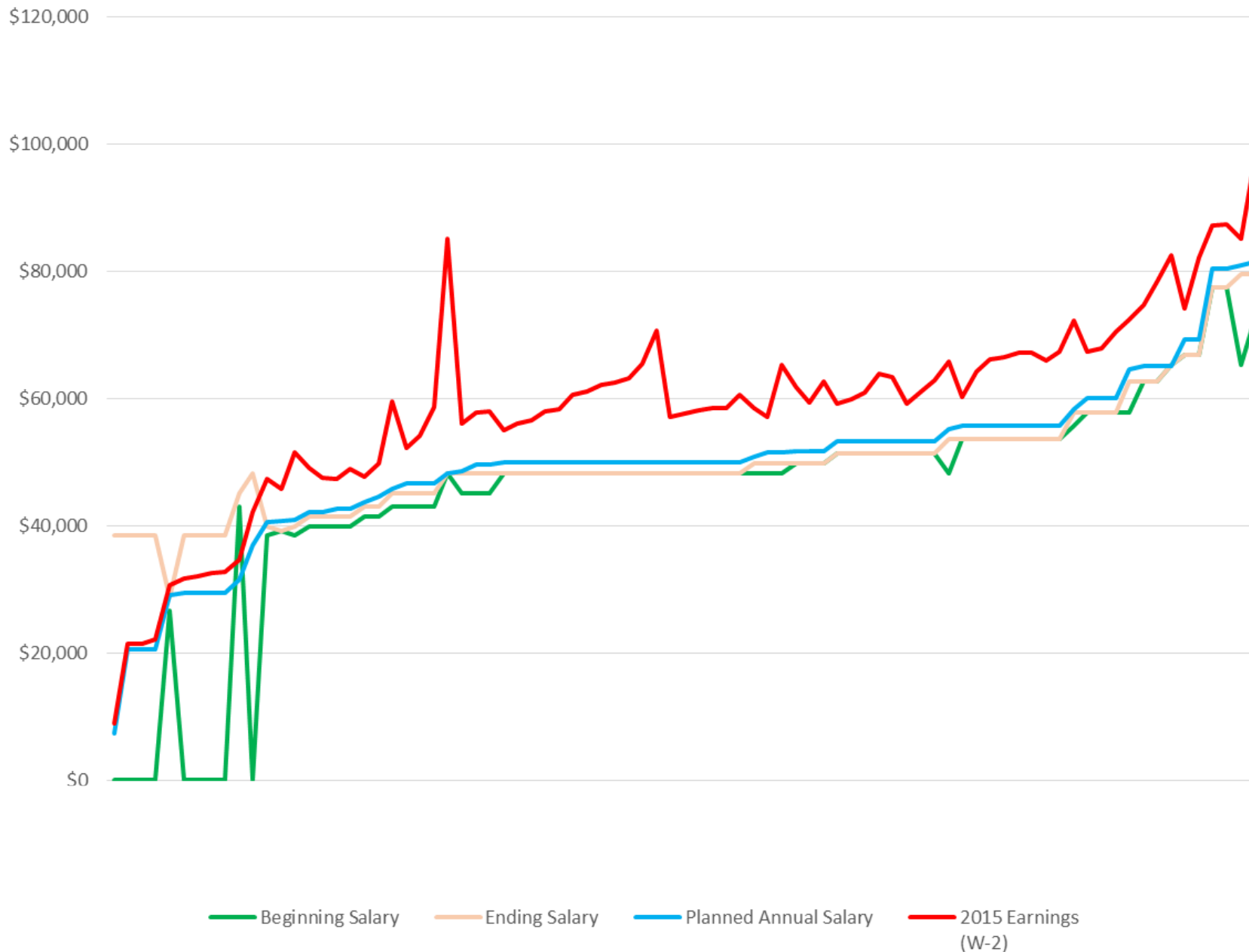
Firefighter 2015 Salaries and Earnings



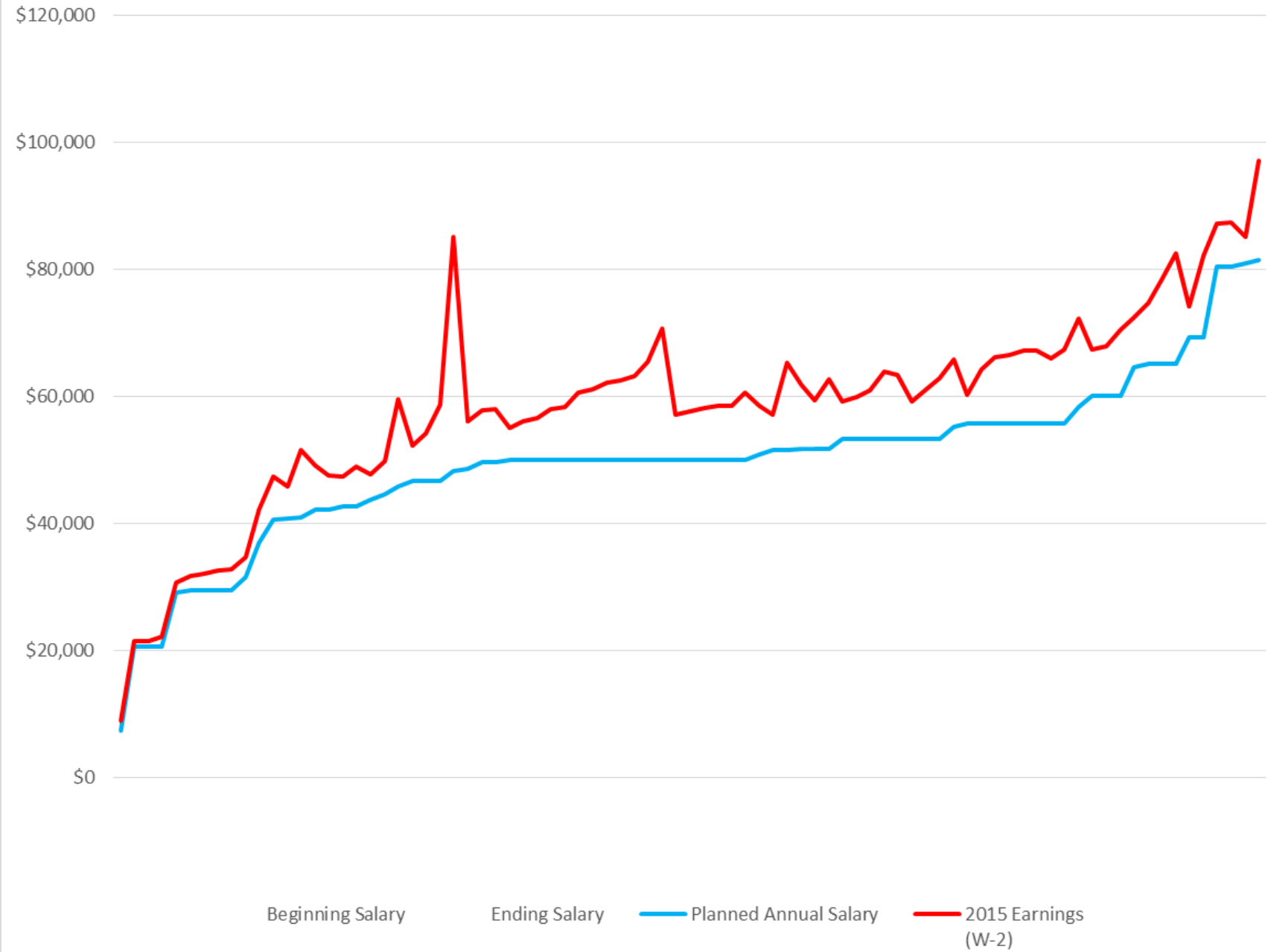
Firefighter 2015 Salaries and Earnings



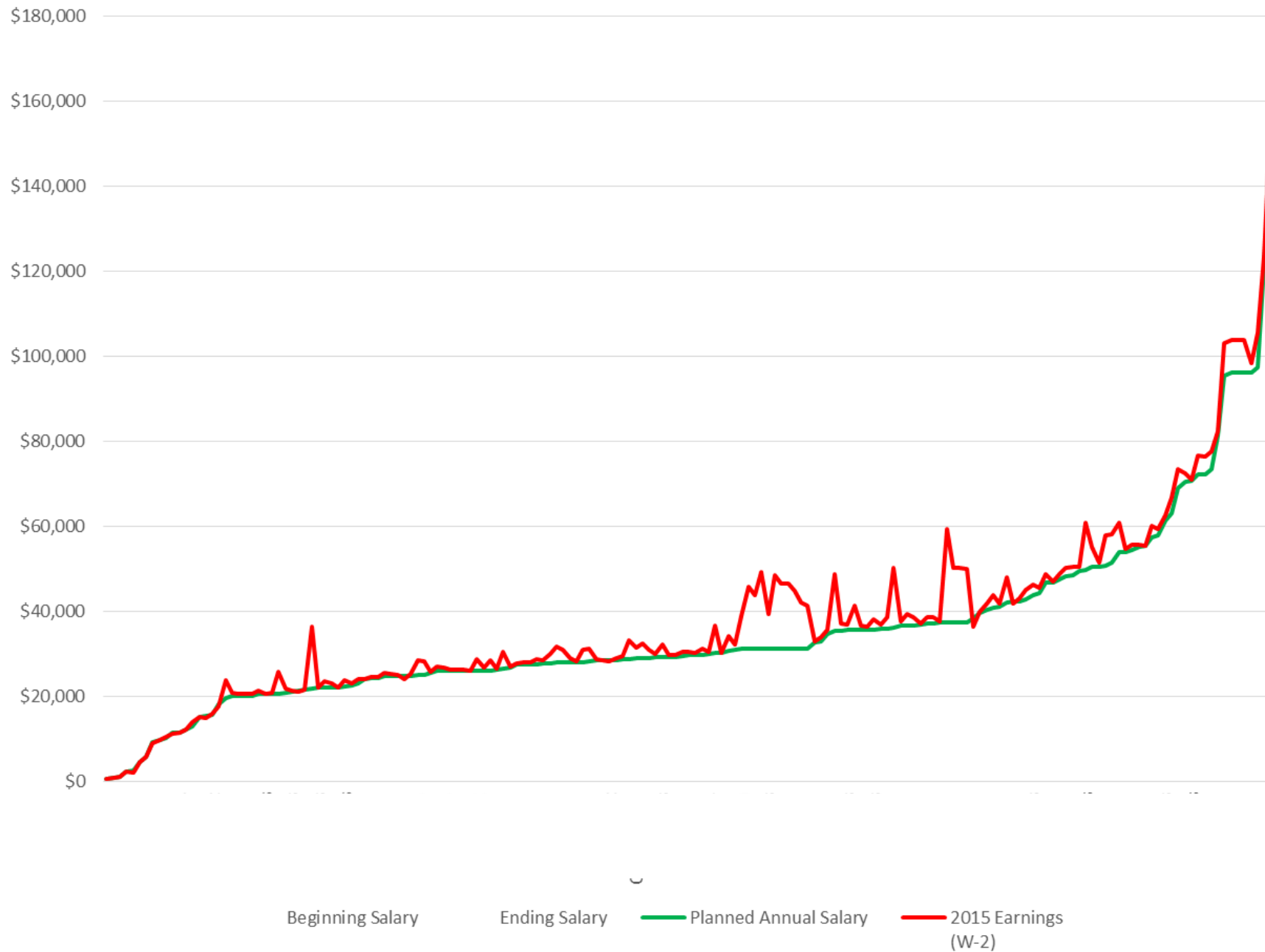
Police Officer Salaries and Earnings



Police Officer Salaries and Earnings



General Employees Salaries and Earnings



Beginning Salary

Ending Salary

Planned Annual Salary

2015 Earnings
(W-2)

	NCS	CS-Fire	CS-Police	Totals
Employees receiving pay adjustment	156	75	88	319
Total Salary Before Adjustment	\$4,681,627	\$3,404,680	\$4,425,790	\$12,512,097
Average Salary Before Adjustment	\$30,010	\$45,396	\$50,293	\$39,223
Total Salary After Adjustment	\$5,109,757	\$3,699,093	\$4,694,039	\$13,502,889
Average Salary After Adjustment	\$32,755	\$49,321	\$53,341	\$42,329
Average Increase in Pay	\$2,744	\$3,926	\$3,048	\$3,106
Average Percentage Increase	9.14%	8.65%	6.06%	7.92%
Total Increase in Salaries	\$428,130	\$294,413	\$268,249	\$990,792
Lowest Salary Before Adjustment	\$20,000	\$35,116	\$38,386	\$20,000
Lowest Salary After Adjustment	\$21,500	\$38,643	\$40,188	\$21,500
Amount of Change in Lowest Salary	\$1,500	\$3,527	\$1,802	\$1,500
Percent Change in Lowest Salary	7.50%	10.04%	4.69%	7.50%
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Before Adjustment		
	Average Salary	Compared
NCS	\$30,010	
Fire	\$45,396	\$15,386
Police	\$50,293	\$4,897

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Police	\$53,341	\$4,020

Average Increases		
	Average Increase	Compared
NCS	\$2,744	
Fire	\$3,926	\$1,182
Police	\$3,048	-\$878

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Lowest Salary Before Adjustment	\$20,000	\$35,116	\$38,386	\$20,000
Lowest Salary After Adjustment	\$21,500	\$38,643	\$40,188	\$21,500
Amount of Change in Lowest Salary	\$1,500	\$3,527	\$1,802	\$1,500
Percent Change in Lowest Salary	7.50%	10.04%	4.69%	7.50%
Texarkana Per Capita Income (2014)	\$23,973			
Texarkana Median Household Income (MHI) (2014)	\$38,810			
Employees Paid Above MHI before Adjustment	22	65	83	170
Employees Paid Below MHI before Adjustment	134	10	5	149
Employees Paid Below MHI after Adjustment	127	6	0	133
Employees Paid Above MHI after Adjustment	29	69	88	186

	NCS	CS-Fire	CS-Police	Totals
Employees receiving pay adjustment	156	75	88	319
Total Salary Before Adjustment	\$4,681,627	\$3,404,680	\$4,425,790	\$12,512,097
Average Salary Before Adjustment	\$30,010	\$45,396	\$50,293	\$39,223
Total Salary After Adjustment	\$5,109,757	\$3,699,093	\$4,694,039	\$13,502,889
Average Salary After Adjustment	\$32,755	\$49,321	\$53,341	\$42,329
Average Increase in Pay	\$2,744	\$3,926	\$3,048	\$3,106
Average Percentage Increase	9.14%	8.65%	6.06%	7.92%
Total Increase in Salaries	\$428,130	\$294,413	\$268,249	\$990,792
Lowest Salary Before Adjustment	\$20,000	\$35,116	\$38,386	\$20,000
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Employees Paid Below MHI after Adjustment	127	6	0	133
Employees Paid Above MHI after Adjustment	29	69	88	186

Change in Lowest Salary		
	Change	Compared
NCS	\$1,500	
Fire	\$3,527	\$2,027
Police	\$1,802	-\$1,725

Local Government Code Section 174.002 also states when collective bargaining is exercised:

“Because of the essential and emergency nature of the public service performed by fire fighters and police officers, a reasonable alternative to strikes is a system of arbitration conducted under adequate legislative standards. Another reasonable alternative, if the parties fail to agree to arbitrate, is judicial enforcement of the requirements of this chapter regarding compensation and conditions of employment applicable to fire fighters and police officers”

Local Government Code Section 174.002 also states when collective bargaining is exercised goes on to say:

“With the right to strike prohibited, to maintain the high morale of fire fighters and police officers and the efficient operation of the departments in which they serve, alternative procedures must be expeditious, effective, and binding.”

There is no City Council “VETO”

Questions and Comments

City of Texarkana, Texas

Version: B

Update Date: 9/30/2016 1:59 PM

Briefing Sheet

Lead Department: Building Code Administration **Action Officer:** Lynn Henry
Subject: Ordinance No. 2016-117 amending Chapter 11 Sec. 105-99 of the International Residential Code.
Briefing: 11/14/2016 **Public Hearing:** 10/24/2016 **Second Briefing:** November 14, 2016 **Council Vote:** 11/28/2016

Item Schedule

Updates/History of Briefing:

NOT APPLICABLE

Executive Summary and Background Information:

Beginning with all new homes permitted September 1, the statewide move to the 2015 energy code ushered in significant changes for single-family and low-rise (three stories and lower) multifamily construction. The catalyst for these changes was HB 1736, a Texas Association of Builders priority bill, passed by the legislature last session. The bill made Texas one of the first states to adopt the energy Chapter (Chapter 11) of the 2015 International Residential Code (IRC), while Texas remained in the 2009

Version. While the statute makes clear that the energy efficiency chapter of the IRC was adopted statewide on September 1, local amendments in these areas can be less stringent than the unamended 2015 Code. A jurisdiction like Texarkana that is outside of what is referred to as a non-attainment area or affected county can take action to amend the 2015 energy code, as prescribed by state law, back to the framework that was in place prior to September 1.

The 2015 energy code requirements will increase the cost of residential construction in Texarkana. Therefore, staff recommends taking action to amend the 2015 energy code back to the framework that was in place prior to September 1. This will require amending the Code of Ordinances to reflect that Chapter 11- Energy Conservation from the 2015 International Residential Code is deleted, and to reflect re-adoption of the corresponding chapter from the 2009 code.

Potential Options:

- Leave the 2015 Code intact.
-

Fiscal Implications:

City of Texarkana, Texas

None

Staff Recommendation:

Staff recommends adoption of this ordinance.

Advisory Board/Committee Review:

None

Board/Committee Recommendation:

NOT APPLICABLE

Advisory Board/Committee Meeting Date and Minutes:

NOT APPLICABLE

Attachments

- a. 2016-117 Goals & Perspectives (DOCX)
- b. 2016-117 ATTH 1 comparision (DOCX)
- c. 2016-117 ORD Amending Code Sec. 105-99 (DOC)

Staff Coordination

Building Code Administration	Lynn Henry	Department Head Review
Completed	09/29/2016 10:07 AM	
Municipal Prosecutor Deborah Jones	Asst. City Attorney Review	Completed
09/29/2016 11:18 AM		
Assistant City Manager	Shirley Jaster	Asst. City Manager Review
Completed	09/29/2016 11:23 AM	
City Attorney Jeffery C. Lewis	City Attorney Review	Completed 09/29/2016
12:48 PM		
Assistant City Manager	Shirley Jaster	Assistant City Manager
Review	Completed	09/29/2016 1:22 PM
Public Information Officer	Lisa Thompson	PIO Review
09/29/2016 1:39 PM		Completed
City Manager John Whitson	City Manager Review	Completed 10/06/2016
11:02 AM		
City Council	Jennifer Evans	Meeting
6:00 PM		Completed 10/10/2016

Meeting History

City of Texarkana, Texas

Developing Perspectives and Goals Pending Approval by the City Council:

Perspectives	Goals
Serve the Community	☐ Promote an Environmentally Sensitive & Livable Community ☒ Provide a Safe Community ☒ Deliver Quality Services ☐ Foster a Healthy Community
Run the Operations	☐ Enhance Community Preparedness & Responsiveness ☐ Maximize Partnership Opportunities ☒ Provide Courteous & Responsive Customer Service ☒ Model a Positive City Image ☐ Deliver Efficient Services ☐ Cultivate Community Involvement & Access
Manage the Resources	☐ Maintain Fiscal Strength ☐ Maximize Utilization & Resources ☐ Invest in Infrastructure & Transportation
Develop Personnel	☐ Develop a Skilled & Diverse Workforce ☐ Create a Positive & Rewarding Work Culture

Perspectives and Goals Additional Comments:

NONE

Resource Impact:

Staff time required if item is approved: No Additional

Other Potential Impacts:

NONE APPLICABLE

Public Information Plan:

☐ Newspaper Notice (Required by Statute)	☐ Public Hearing (Required by Statute)
☐ Public Forum/Input Session	☐ Press Release
☐ E-News Distribution	☐ Website Notice
☐ Social Media (Twitter, Facebook, etc.)	☐ Special Mailing
☐ Flyers Posted	☐ Banners Posted
☐ Survey	☐ Automated Phone Call
☒ None Required	☐

Other:

2009

Eliminate the requirement of dust blast
and blower door testing

A programmable thermostat **but** eliminate
programmable thermostat
set by the manufacturer.

Require the placement of an energy certificate
visual inspection of ductwork and insulation
by a third party

2015

Requirement of dust blast
and blower door testing.

Programmable thermostat
set by the manufacturer.
78 degrees max cool
70 degrees max heat

PUBLISH

ORDINANCE NO. 2016-117

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, AMENDING THE LAND DEVELOPMENT CODE, BUILDING AND CONSTRUCTION, SECTION 105-99, OF THE CODE OF ORDINANCES OF THE CITY OF TEXARKANA, TEXAS, AND PROVIDING FOR PUBLICATION; PROVIDING FOR A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, with all new homes permitted September 1, the statewide move to the 2015 energy code by HB 1736, adopted by the Texas Legislature last session, ushered in significant changes for single-family and low-rise multifamily construction; and

WHEREAS, the 2015 energy code requirements will increase the cost of residential construction in Texarkana; and

WHEREAS, Texarkana is a jurisdiction outside of what is referred to as a non-attainment area or an affected county as defined by law; and

WHEREAS, Texas law makes clear that a jurisdiction outside of what is referred to as a non-attainment area or an affected county can take action to amend the 2015 energy code with less stringent energy efficiencies, such as the framework under the 2009 code that existed prior to September 1; and

WHEREAS, to avoid an increase in the cost of residential construction in Texarkana, the City Council finds and determines that the Code of Ordinances should be amended to delete the 2015 energy code and adopt the 2009 energy code as allowed by state law.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS:

SECTION 1: That Section 105-99 of the Code of Ordinances of the City of Texarkana, Texas, is hereby amended with the following additions to this existing section, which read as follows:

Chapter 11, Energy conservation, of the said International Residential Code 2015 adopted by Section 105-98 herein, is hereby deleted in its entirety.

With respect to energy conservation, there is hereby adopted by the city, for the purpose of regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and providing for permits and penalties, that certain *Chapter 11, Energy Conservation*, of the building code known as the International Residential Code, 2009 edition ("IRC 2009"), said Chapter 11 of the IRC 2009 being incorporated herein as if fully set out herein; and with respect to the subject matter in said chapter, the

Attachment: 2016-117 ORD Amending Code Sec. 105-99 [Revision 2] (1546 : 2016-117 ORD Amend Sec. 105-99)

PUBLISH

provisions thereof shall be controlling in the condition and maintenance of all property, buildings and structures contained within the corporate limits of the city.

SECTION 2: That in case a section, clause, sentence or part of this Ordinance shall be deemed or adjudged by a Court of competent jurisdiction to be invalid, then such invalidity shall not affect, impair or invalidate the remainder of this Ordinance.

SECTION 3: That all ordinances or parts of ordinances in conflict herewith are specifically repealed.

SECTION 4: That the City Secretary shall give notice of the passage of this Ordinance as provided in Article XI, Section 3 of the Charter of the City of Texarkana, Texas.

SECTION 5: That this Ordinance shall be in full force and effect ten (10) days after its passage and approval.

PASSED AND APPROVED in Regular Council Session on this the **14th day of November, 2016.**

BOB BRUGGEMAN, MAYOR

ATTEST:

JENNIFER EVANS, CITY SECRETARY

City of Texarkana, Texas

Version: G

Update Date: 10/17/2016 3:49 PM

Briefing Sheet

Lead Department: Assistant City Manager **Action Officer:** Shirley Jaster, Assistant City Manager
Subject: Ordinance No. 2016-119 amending the Code of Ordinances Secs. 28-1(b), 130-5, 140-179 and 140-239 for sidewalk board type signs to be allowed for advertising in the Central Business zoning district.
Briefing: 11/14/2016 **Public Hearing:** 10/24/2016 **Second Briefing:** November 14, 2016 **Council Vote:** 11/28/2016

Item Schedule

Schedule 1: Brief twice - vote once (six weeks)

Updates/History of Briefing:

Creating a definition of this type sandwich or stand up temporary sign was presented to the planning and zoning commission for their review and recommendation in September.

Executive Summary and Background Information:

This is a request to amend the Code of Ordinances, Land Development Code,
 Following are the highlighted proposed changes:

- Amend 28-1 b
 Sec. 28-1. - Advertisements, handbills, etc.
 (b) All advertising of any form, whether temporary or permanent, is hereby prohibited on all streets, sidewalks, rights-of-way, easements, parks or any other public property within the corporate limits of the city; provided, however, that the city council may by ordinance identify zones or specific public rights-of-way for placement by license of private advertising on or within public rights-of-way when said advertising is done in connection with either promotion of a business adjoining the public rights-of-way or projects beneficial to the public interest. The city manager or designee may require the removal of said advertising at any time that it violates any provision of this Code or otherwise becomes destroyed, unsightly, or deteriorated.
- Amend Section 130-5 to regulate and add guidelines for public sidewalk and other ROWs that grant an encumbrance exemption for sidewalk board and stand up type temporary signs in the downtown, Central Business zoning district as shown in Exhibit A of the proposed ordinance. Other changes include language for benches, tables, planters and other items regulated as to ADA requirements for sidewalk clearances, dimensions etc. (See attachment 1 for a red line version and key highlighted changes and sidewalk board type sign information)
- Add a new definition to Section 140-179 "Special definitions and explanations noted in use regulations to read as follows:

Sign, sandwich or stand-up, means an advertising sign displaying predominately legible words and constructed with durable material that will withstand inclement weather.

City of Texarkana, Texas

- Add this new signage “sandwich or stand-up sign” to the chart in Section 140-239 “Temporary Type Signs” as follows. (This type signage will only be allowed in the downtown Central Business District and the maximum size will be 3 ½ feet in height and 2 feet in width.)

Temporary Type Signs:			
Real estate	12 square feet	All residential districts.	One for each platted lot or tract and for acreage-One for each 200 feet of street frontage.
	No restriction	In all districts, except residential.	None specified.
Construction sign	60 square feet	In all districts	None
Promotional/banner sign	64 square feet	In all districts	See section 140-79 (<i>Sign, temporary</i>)
Development sign	400 square feet	In all districts	**See below
“Sandwich” or stand-up sign	H: 3 1/2 feet W: 2 feet	CB, license only - see section 130-5(d)(1-a)	See sections 130-5(d)(1-a), 140-79

Potential Options:

Approve, amend or deny the ordinance

Fiscal Implications:

\$ 10 fee per sign (sandwich board or stand up) in downtown CB zoning district.

Staff Recommendation:

Approval

Advisory Board/Committee Review:

Planning and Zoning Commission on zoning code changes Sections 140-179 and 140-239.

Board/Committee Recommendation:

Planning and Zoning Commission recommended approval

Advisory Board/Committee Meeting Date and Minutes:

Meeting date September 6, 2016

Attachments

- a. ORD 2016-119 amending secs 28-1b, 130-5, 140-179 and 140-239 of the code of ordinances (DOCX)
- b. 2016-119 Goals & Perspectives (DOCX)
- c. 2016-119 ATTH 2 red line Sec 130-5 (DOCX)
- d. 2016-119 ATTH 1 red line Sec 28-1 (DOCX)

Staff Coordination

Assistant City Manager	Shirley Jaster	Department Head Review
Completed	09/29/2016 10:13 AM	
Municipal Prosecutor Shirley Jaster	Asst. City Attorney Review	Skipped
09/28/2016 5:15 PM		

City of Texarkana, Texas

Assistant City Manager	Shirley Jaster	Asst. City Manager Review	
Completed	09/29/2016 10:13 AM		
City Attorney	Jeffery C. Lewis	City Attorney Review	Completed 10/03/2016
4:57 PM			
Public Works Department	Kyle Dooley	Review	Completed
10/04/2016 11:37 AM			
Planning and Community Development	David Orr	Review	Completed
10/04/2016 2:30 PM			
Assistant City Manager	Shirley Jaster	Assistant City Manager	
Review	Completed	10/04/2016 2:47 PM	
Public Information Officer	Lisa Thompson	PIO Review	Completed
10/04/2016 2:50 PM			
City Manager	John Whitson	City Manager Review	Completed 10/06/2016
11:02 AM			
City Council	Jennifer Evans	Meeting	Completed 10/10/2016
6:00 PM			

Meeting History

ORDINANCE NO. 2016-119

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, REVISING LICENSING PROVISIONS TO ENCUMBER RIGHT-OF-WAY OR EASEMENTS AND ESTABLISHING NEW LICENSING PROVISIONS TO ENCUMBER SIDEWALKS IN THE CB CENTRAL BUSINESS DISTRICT BY AMENDING SECTIONS 28-1(b), 130-5, 140-179, AND 140-239 OF THE CODE OF ORDINANCES OF THE CITY OF TEXARKANA, TEXAS; CONTAINING A REPEALER CLAUSE; CONTAINING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the city has received several requests for sandwich or stand-up type advertising signs to be used in the downtown or CB, Central Business zoning district; and

WHEREAS, in the downtown area all sidewalks are public right of way(s), ROW, and not private property; and

WHEREAS, the use of public ROW is not allowed for private use unless an encumbrance is granted by the city.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS:

SECTION 1: Section 28-1(b), “Advertisements, handbills, etc.”, of Article I. - In General, of Chapter 28 of the Code of Ordinances of the City of Texarkana, Texas, shall be amended in its entirety as follows:

(b) All advertising of any form, whether temporary or permanent, is hereby prohibited on all streets, sidewalks, rights-of-way, easements, parks or any other public property within the corporate limits of the city; provided, however, that the city council may by ordinance identify zones or specific public rights-of-way for placement by license of private advertising on or within public rights-of-way when said advertising is done in connection with either promotion of a business adjoining the public rights-of-way or projects beneficial to the public interest. The city manager or designee may require the removal of said advertising at any time that it violates any provision of this Code or otherwise becomes destroyed, unsightly, or deteriorated.

SECTION 2: Section 130-5, “Encumbrances and obstructions on streets, sidewalks and other public rights-of-way”, of Article I. - In General, of the Land Development Code of the City of Texarkana, Texas, shall be amended in its entirety as set forth in **Exhibit A** to this Ordinance, incorporated herein by reference for all purposes.

SECTION 3: Section 140-179, “Special definitions and explanations noted in use regulations,” of Article VII, “Supplemental Regulations” of the Land Development Code of the City of Texarkana, Texas, is hereby amended to add the following definition:

Sign, sandwich or stand-up, means an advertising sign displaying predominantly legible words and constructed with durable material that will withstand inclement weather (see section 130-5).

SECTION 4: That the City Council approves the amendment to the Code of Ordinances, Land Development Code, Chapter 140, Zoning, Section 140-239, “Permanent type signs,” by changing the caption to “Permanent and temporary type signs” and by amending the chart of “Temporary Type Signs” to add the following:

“Sandwich” or stand-up sign	H: 3 1/2 feet W: 2 feet	CB, license only - see section 130-5(d)(1-a)	See sections 130-5(d)(1-a), 140-79
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SECTION 5: All ordinances or parts of ordinances in conflict herewith are specifically repealed to the extent of such conflict.

SECTION 6: In case a section, clause, sentence or part of this Ordinance shall be deemed or adjudged by a court of competent jurisdiction to be invalid, then such invalidity shall not affect, impair, or invalidate the remainder of this Ordinance.

SECTION 7: The City Secretary shall give notice of the passage of this Ordinance as provided in Article XI, Section 3 of the Charter of the City of Texarkana, Texas.

SECTION 8: This Ordinance shall be in full force and effect ten (10) days after its passage and approval.

PASSED AND APPROVED in Regular Council Session on this the **28th day of November, 2016.**

BOB BRUGGEMAN, MAYOR

ATTEST:

JENNIFER EVANS, CITY SECRETARY

EXHIBIT A

Sec. 130-5. - Encumbrances and obstructions on streets, sidewalks and other public rights-of-way.

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Alley means a minor way that is used primarily for installation of public utilities and for vehicular service access to the backside or the side of the property otherwise abutting the street.

Easement means a right held by the city to be used for access, drainage or the placement of utilities such as, but not limited to, water, sewer, gas, telephone, cable television and electrical lines.

Franchise means a grant of authority by the city to utilize the public right-of-way under certain specific terms and conditions given by ordinance.

Noncertificated telecommunications provider means an entity who has not been issued a certificate of convenience and necessity, certificate of operating authority or service provider certificate of operating authority to offer local exchange telephone service.

Right-of-way means any strip or area of land, including, surface, overhead or air space, or underground or subsurface space that is used, or intended to be used, or dedicated to be used wholly or in part as a public street, [sidewalk](#), alley or as the location of public walkways and utility or drainage facilities or installations.

Sidewalk means the concrete or asphalt surfaced portion of a street between either the curblin or roadway and the adjacent property line intended for pedestrian use.

Street means the entire width between the boundary lines of every right-of-way, other than an alley, publicly maintained when any part of it is opened to the public for vehicular use.

- (b) *Other definitions.* Definitions not expressly described herein are to be determined in accordance with customary usage in municipal planning and engineering practices.
- (c) *Unlawful activities.* The following activities, uses, conditions or occurrences on the public right-of-way shall be deemed unlawful:
- (1) Operating any machinery having tracks, feet or pulling lugs over or along any paved streets or alleys.
 - (2) Hauling of gravel, brick, sand, concrete, ready mix concrete or mortar in such a manner to scatter or waste these substances onto any streets, alleys or sidewalks.
 - (3) Dropping, spilling or leaking out of any tank or vessel, whether connected with a motor vehicle or otherwise, any gasoline or other oil or petroleum-based substance on to any street, alley or sidewalk.
 - (4) Discharging any odorous water, sewage, wastewater, waste oils, kitchen grease, kitchen slop water, mop water or other offensive or hazardous substance onto any public right-of-way.
 - (5) Placing, storing, constructing, installing or maintaining any structure, building, object, vehicle, device, fence, wall or other material on or within any public right-of-way. Trees and other living, domesticated vegetation located within the parkway area of a paved street and mailboxes are exempt from this prohibition. Provided, however, the city, or its authorized agents, shall not be required to replace any obstruction on or within any public way that must be removed during the course of maintenance, construction and/or reconstruction on or within the public way.
 - (6) Casting, placing or storing any animal, offal, garbage, trash, refuse or debris into or upon any street, alley, sidewalk, street gutter or other public right-of-way.

- (7) Constructing or placing any temporary or permanent structure within, on or over any public utility or drainage easement, except for franchised utilities, other public facilities associated with drainage, or as provided herein. The property owner may place removable section type fencing, asphalt or concrete paving, or landscaping within any dedicated public utility easement. Provided, however, that the city or any franchised utility of the city shall not be required to replace anything that must be removed during the course of maintenance, construction or reconstruction within any public utility or drainage easement.
- (d) *License to encumber right-of-way or easements.* The following shall control the consideration of requests for encumbrances on, over, under or through public rights-of-way or easements.
- (1) The right to encumber the public right-of-way may be granted only by license and every grantee of a license shall agree to indemnify and hold the city harmless from any and all damages to persons or property or both, arising in any manner out of the use of licensed premises. Each applicant for a license shall complete an application form obtained from the Public Works Department and submit a nonrefundable deposit to cover the expenses of the processing costs associated therewith. The total deposit shall be credited toward the issuance of the first year license fee, should the applicant be approved for a license. The applicant shall provide a certificate of insurance naming the City as a co-insured with liability insurance coverage in a minimum amount of \$1,000,000 for each person for bodily injury and \$500,000 for each single occurrence for injury to or destruction of property. The application must be accompanied by plans or drawings showing the area to be used and a statement of the purpose for which the right-of-way is to be used. ~~The applicant is responsible for the establishment of the fair market value in the areas of consideration for license. Fair market value may be established by use of the county appraisal district records for adjacent properties. The nonrefundable deposit shall be in an amount as established by the city council from time to time and is on file in the city secretary's office or city website.~~
- (1-a) The right to encumber a public sidewalk shall be restricted to the CB Central Business District and shall be subject to these additional criteria:
- a. A license authorized by this subsection shall be held only by the applicant and shall not be transferable.
- b. Any encumbrances authorized by this subsection shall be
- (i) restricted to the front of the applicant's licensed business and used solely for purposes directly related to the applicant's licensed business;
- (ii) placed in such a manner as to leave a minimum unobstructed sidewalk width of four feet (4'), a minimum of one foot (1') away from the curb line or edge of vehicular traveled way, and allow ease of movement by many persons in and around the encumbrances; and
- (iii) limited to chairs, benches, tables, window boxes, and one "sandwich board" or stand-up sign per license, with display of advertising restricted solely to "sandwich boards" or stand-up signs (see secs. 140-179, 140-239).
- c. The following placement of encumbrances shall be prohibited:
- (i) placement in front of any door or other means of ingress or egress;
- (ii) placement which blocks or hinders access to the adjoining property;
- (iii) placement which blocks or hinders visibility of drivers or pedestrians;
- (iv) placement on a corner lot within twenty feet (20') of the points of intersection of the joining street rights-of-way;
- (v) placement on the sidewalk of any hazardous material; and
- (vi) for "sandwich boards" or stand-up signs, placement on the sidewalk at such times as the applicant's business is closed to the public.

- d. The license may be revoked with or without notice if, in the discretion of the Director of Public Works or Code Enforcement Officer, the use or utilization of the encumbrance or public sidewalk violates any provision of the Code, or the encumbrance becomes destroyed, unsightly, or deteriorated. This provision is cumulative of any other remedies or enforcement provisions contained in the Code.
- (2) No individual, person, firm or corporation shall be granted a license for an encumbrance of the public right-of-way that would adversely affect the public health, safety or welfare of the citizens of the city.
 - (3) Subject to the exemptions set forth~~Unless otherwise specified in this subsection (e) of this section,~~ no license shall be issued or granted for an encumbrance of the public right-of-way for less than a three-foot width.
 - (4) Subject to the exemptions set forth~~Unless otherwise specified in this subsection (e) of this section,~~ a licensee shall pay a license fee depending upon the amount of right-of-way encumbered as set out below. In no event shall a license fee be less than \$200.00 for a period of one year.
 - a. For a private license authorizing a surface encroachment at the ground level, the annual license fee shall be 100 percent of the fair market value times the square footage of encumbrance.
 - b. For a private license authorizing an air space encroachment above the ground level, the annual license fee shall be ten percent of the fair market value times the square footage of encumbrance.
 - c. For a private license to encumber subsurface area, the annual license fee shall be ten percent of the fair market value times the square footage of encumbrance.
 - ~~(5) Said. The applicant is responsible for the establishment of the fair market value in the areas of consideration for license fee for each licensee. Fair market value may be subject to established by use of the county appraisal district records for adjacent properties.~~
 - (5) Unless otherwise specified in this subsection, any deposits, license fees or annual review fees required by this section shall be in an amount as established by the city council from time to time and is subject to change on file in the city secretary's office or city website.
 - (6) The total deposit shall be credited toward the license fee for the issuance of the first year if a license should be granted. Any individual, person, firm or corporation wishing to encumber the public right-of-way in any manner shall submit a license application and required deposit to the director of public works. Upon receipt and normal review by various city departments and public utility companies of such application, the director of public works shall forward the request to the city manager for approval.
 - (7) Any license granted hereunder shall specify the area licensed for use and shall be drafted~~issued~~ by the ~~city attorney's office~~Public Works Department.
 - (8) ~~In the event any individual, firm, person or corporation is~~Any applicant denied a license, ~~they~~ shall have the right to appeal such denial to the city council by filing a written notice of appeal with the city secretary no later than five days from ~~their~~ receipt of notice of the denial of the request.
 - (9) The city council shall hear the applicant's request within 30 days of notice of appeal and shall determine whether or not to uphold the denial, to grant the request as presented or to modify it.
- (e) *Exemptions.*
- (1) Any applicant who wishes to encumber public rights-of-way for installation of a private water line, with a diameter of one inch or less, and for a distance of not more than 300 feet; a private sewer line with a diameter of four inches or less, and for a distance of not more than 300 feet; and an overhead line for a distance of not more than 300 feet; or for an encroachment by a building, is hereby exempt from the annual license fee and shall be subject to a one-time

license fee. An applicant who wishes to encumber the public right-of-way adjacent to the applicants' private property for the purpose of installation of a private lawn sprinkler or irrigation system is hereby exempt from the license fee requirements of this chapter. However, neither the city nor any franchised utility shall be responsible or liable for damages or expenses resulting from the maintenance or operations of utilities in said right-of-way. ~~The license fee shall be in an amount as established by the city council from time to time and is on file in the city secretary's office or city website.~~

- (2) Noncertificated telecommunications providers shall be subject to an annual fee, per lineal foot, of an amount as established by the city from time to time and is on file in the city secretary's office or city website.
- (3) Any applicant who is approved for a license to encumber public right-of-way for the placement of an ornamental device, is hereby exempt from the annual license fee and subject to a one-time license fee. The license fee shall be in an amount as established by the city council from time to time and is on file in the city secretary's office or city website.

(4) In the CB Central Business District, any applicant who is approved for a license to encumber a specified area of a public sidewalk is hereby exempt from the annual license fee and subject to a one-time license fee.

- (f) *No obstruction of public property.* The applicant shall not, unnecessarily or for an unreasonable period of time, obstruct or interfere with the public use of any streets, roads, highways, alleys or public ways owned or controlled by the city.
- (g) *Repair of damages.* Applicant shall repair any and all damages caused by the applicant to any real property owned or controlled by the city and shall restore such real property to substantially its condition immediately before the incident causing such damage. The applicant shall commence such repairs immediately upon completion of the work or activity in which the applicant was involved at the time the damage occurred and shall complete such repairs to the satisfaction of the city for one-year from the date of surface of said street, road, highway, alley or public way is broken for such construction or maintenance work, after which time, responsibility for the maintenance shall become the duty of the city. The city may, from time to time, adopt reasonable ordinances regulating such work.
- (h) *Conduct of work ~~and/or~~ activities.* The applicant shall use reasonable care in conducting its work ~~and/or~~ activities in order to prevent injury to any person and unnecessary damage to any real or personal property.
- (i) *Use of alleys.* The applicant shall attempt to utilize the alleys of the city insofar as is reasonably practical in conducting its work and activities hereunder. Notwithstanding the foregoing, however, the applicant may, when approved by city, utilize the streets and any other public ways owned or controlled by the city to perform such work and activities.
- (j) *Changes in encroachments.* Applicant shall (at the applicant's expense), upon written request from the city, change the location, position, route, depth or height of any encroachment or other components of the encroachment if and when such change becomes reasonably necessary because of a change in the grade of any street, road, highway, alley, public way or other real property owned or controlled by the city or because of any change in the location of, or in the manner of maintaining, constructing, laying, repairing, removing, replacing, installing or operating, any pavement, curbs, gutters or underground or aboveground wires, cables or water or sewer pipes owned or controlled by the city. The city's written request for such change must set forth, in detail, all of the essential elements and specifications of the requested change.
- (k) *Maps of encumbrances.* The applicant shall, at all times, keep on file with the city engineer a map showing the current location of all encumbrances and other components of the applicant's facilities located in the city.

~~(l) *Jurisdiction.* Any agreement shall be construed under and in accordance with the laws of the state, and all obligations of the parties hereunder are performable in the county.~~

Publish

~~(m)~~(l) *Conflicts*. In the event of any conflict between the provisions of this section and any other provision of this Code or other ordinances, this section shall control. Provided, however, that nothing in this section shall effect the right of a holder of a lawfully granted franchise.

~~(n) *Penalty*. That any person found guilty of violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and, upon conviction, shall be subject to the fine as prescribed by law for Class C misdemeanors and that each day of any such violation shall be a separate offense.~~

~~(Code 1961, § 24-5; Ord. of 11-8-1920, § 1; Ord. No. 359-91, § 1, 12-9-1991; Ord. No. 254-2000, § 1, 8-28-2000; Ord. No. 293-06, § 1, 10-9-2006)~~

Attachment: ORD 2016-119 amending secs 28-1b, 130-5, 140-179 and 140-239 of the code of ordinances [Revision 2] (1550 : 2016-119 ORD

City of Texarkana, Texas

Developing Perspectives and Goals Pending Approval by the City Council:

Perspectives	Goals
Serve the Community	☐ Promote an Environmentally Sensitive & Livable Community ☒ Provide a Safe Community ☒ Deliver Quality Services ☐ Foster a Healthy Community
Run the Operations	☐ Enhance Community Preparedness & Responsiveness ☐ Maximize Partnership Opportunities ☐ Provide Courteous & Responsive Customer Service ☒ Model a Positive City Image ☐ Deliver Efficient Services ☒ Cultivate Community Involvement & Access
Manage the Resources	☐ Maintain Fiscal Strength ☐ Maximize Utilization & Resources ☐ Invest in Infrastructure & Transportation
Develop Personnel	☐ Develop a Skilled & Diverse Workforce ☐ Create a Positive & Rewarding Work Culture

Perspectives and Goals Additional Comments:

NONE

Resource Impact:

NA

No Additional

Other Potential Impacts:

NA

Public Information Plan:

☒	Newspaper Notice (Required by Statute)	☒	Public Hearing (Required by Statute)
☐	Public Forum/Input Session	☐	Press Release
☐	E-News Distribution	☒	Website Notice
☐	Social Media (Twitter, Facebook, etc.)	☐	Special Mailing
☐	Flyers Posted	☐	Banners Posted
☐	Survey	☐	Automated Phone Call
☐	None Required	☐	Sign Posted

Other:

EXHIBIT A

Sec. 130-5. - Encumbrances and obstructions on streets, sidewalks and other public rights-of-way.

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Alley means a minor way that is used primarily for installation of public utilities and for vehicular service access to the backside or the side of the property otherwise abutting the street.

Easement means a right held by the city to be used for access, drainage or the placement of utilities such as, but not limited to, water, sewer, gas, telephone, cable television and electrical lines.

Franchise means a grant of authority by the city to utilize the public right-of-way under certain specific terms and conditions given by ordinance.

Noncertificated telecommunications provider means an entity who has not been issued a certificate of convenience and necessity, certificate of operating authority or service provider certificate of operating authority to offer local exchange telephone service.

Right-of-way means any strip or area of land, including, surface, overhead or air space, or underground or subsurface space that is used, or intended to be used, or dedicated to be used wholly or in part as a public street, sidewalk, alley or as the location of public walkways and utility or drainage facilities or installations.

Sidewalk means the concrete or asphalt surfaced portion of a street between either the curblane or roadway and the adjacent property line intended for pedestrian use.

Street means the entire width between the boundary lines of every right-of-way, other than an alley, publicly maintained when any part of it is opened to the public for vehicular use.

- (b) *Other definitions.* Definitions not expressly described herein are to be determined in accordance with customary usage in municipal planning and engineering practices.
- (c) *Unlawful activities.* The following activities, uses, conditions or occurrences on the public right-of-way shall be deemed unlawful:
- (1) Operating any machinery having tracks, feet or pulling lugs over or along any paved streets or alleys.
 - (2) Hauling of gravel, brick, sand, concrete, ready mix concrete or mortar in such a manner to scatter or waste these substances onto any streets, alleys or sidewalks.
 - (3) Dropping, spilling or leaking out of any tank or vessel, whether connected with a motor vehicle or otherwise, any gasoline or other oil or petroleum-based substance on to any street, alley or sidewalk.
 - (4) Discharging any odorous water, sewage, wastewater, waste oils, kitchen grease, kitchen slop water, mop water or other offensive or hazardous substance onto any public right-of-way.
 - (5) Placing, storing, constructing, installing or maintaining any structure, building, object, vehicle, device, fence, wall or other material on or within any public right-of-way. Trees and other living, domesticated vegetation located within the parkway area of a paved street and mailboxes are exempt from this prohibition. Provided, however, the city, or its authorized agents, shall not be required to replace any obstruction on or within any public way that must be removed during the course of maintenance, construction and/or reconstruction on or within the public way.
 - (6) Casting, placing or storing any animal, offal, garbage, trash, refuse or debris into or upon any street, alley, sidewalk, street gutter or other public right-of-way.

- (7) Constructing or placing any temporary or permanent structure within, on or over any public utility or drainage easement, except for franchised utilities, other public facilities associated with drainage, or as provided herein. The property owner may place removable section type fencing, asphalt or concrete paving, or landscaping within any dedicated public utility easement. Provided, however, that the city or any franchised utility of the city shall not be required to replace anything that must be removed during the course of maintenance, construction or reconstruction within any public utility or drainage easement.
- (d) *License to encumber right-of-way or easements.* The following shall control the consideration of requests for encumbrances on, over, under or through public rights-of-way or easements.
- (1) The right to encumber the public right-of-way may be granted only by license and every grantee of a license shall agree to indemnify and hold the city harmless from any and all damages to persons or property or both, arising in any manner out of the use of licensed premises. Each applicant for a license shall complete an application form obtained from the Public Works Department and submit a nonrefundable deposit to cover the expenses of the processing costs associated therewith. The total deposit shall be credited toward the issuance of the first year license fee, should the applicant be approved for a license. The applicant shall provide a certificate of insurance naming the City as a co-insured with liability insurance coverage in a minimum amount of \$1,000,000 for each person for bodily injury and \$500,000 for each single occurrence for injury to or destruction of property. The application must be accompanied by plans or drawings showing the area to be used and a statement of the purpose for which the right-of-way is to be used. The applicant is responsible for the establishment of the fair market value in the areas of consideration for license. Fair market value may be established by use of the county appraisal district records for adjacent properties. The nonrefundable deposit shall be in an amount as established by the city council from time to time and is on file in the city secretary's office or city website.
- (1-a) The right to encumber a public sidewalk shall be restricted to the CB Central Business District and shall be subject to these additional criteria:
- a. A license authorized by this subsection shall be held only by the applicant and shall not be transferable.
 - b. Any encumbrances authorized by this subsection shall be
 - (i) restricted to the front of the applicant's licensed business and used solely for purposes directly related to the applicant's licensed business;
 - (ii) placed in such a manner as to leave a minimum unobstructed sidewalk width of four feet (4'), a minimum of one foot (1') away from the curb line or edge of vehicular traveled way, and allow ease of movement by many persons in and around the encumbrances; and
 - (iii) limited to chairs, benches, tables, window boxes, and one "sandwich board" or stand-up sign per license, with display of advertising restricted solely to "sandwich boards" or stand-up signs (see secs. 140-179, 140-239).
 - c. The following placement of encumbrances shall be prohibited:
 - (i) placement in front of any door or other means of ingress or egress;
 - (ii) placement which blocks or hinders access to the adjoining property;
 - (iii) placement which blocks or hinders visibility of drivers or pedestrians;
 - (iv) placement on a corner lot within twenty feet (20') of the points of intersection of the joining street rights-of-way;
 - (v) placement on the sidewalk of any hazardous material; and
 - (vi) for "sandwich boards" or stand-up signs, placement on the sidewalk at such times as the applicant's business is closed to the public.

d. The license may be revoked with or without notice if, in the discretion of the Director of Public Works or Code Enforcement Officer, the use or utilization of the encumbrance or public sidewalk violates any provision of the Code, or the encumbrance becomes destroyed, unsightly, or deteriorated. This provision is cumulative of any other remedies or enforcement provisions contained in the Code.

- (2) No individual, person, firm or corporation shall be granted a license for an encumbrance of the public right-of-way that would adversely affect the public health, safety or welfare of the citizens of the city.
 - (3) ~~Subject to the exemptions set forth~~Unless otherwise specified in this subsection ~~(e) of this section~~, no license shall be issued or granted for an encumbrance of the public right-of-way for less than a three-foot width.
 - (4) ~~Subject to the exemptions set forth~~Unless otherwise specified in this subsection ~~(e) of this section~~, a licensee shall pay a license fee depending upon the amount of right-of-way encumbered as set out below. In no event shall a license fee be less than \$200.00 for a period of one year.
 - a. For a private license authorizing a surface encroachment at the ground level, the annual license fee shall be 100 percent of the fair market value times the square footage of encumbrance.
 - b. For a private license authorizing an air space encroachment above the ground level, the annual license fee shall be ten percent of the fair market value times the square footage of encumbrance.
 - c. For a private license to encumber subsurface area, the annual license fee shall be ten percent of the fair market value times the square footage of encumbrance.
 - ~~(5) Said. The applicant is responsible for the establishment of the fair market value in the areas of consideration for license fee for each licensee. Fair market value may be subject to established by use of the county appraisal district records for adjacent properties.~~
 - ~~(5) Unless otherwise specified in this subsection, any deposits, license fees or annual review fees required by this section shall be in an amount as established by the city council from time to time and is subject to change on file in the city secretary's office or city website.~~
 - (6) The total deposit shall be credited toward the license fee for the issuance of the first year if a license should be granted. Any individual, person, firm or corporation wishing to encumber the public right-of-way in any manner shall submit a license application and required deposit to the director of public works. Upon receipt and normal review by various city departments and public utility companies of such application, the director of public works shall forward the request to the city manager for approval.
 - (7) Any license granted hereunder shall specify the area licensed for use and shall be draftedissued by the city attorney's officePublic Works Department.
 - (8) ~~In the event any individual, firm, person or corporation is~~Any applicant denied a license, ~~they~~ shall have the right to appeal such denial to the city council by filing a written notice of appeal with the city secretary no later than five days from ~~their~~ receipt of notice of the denial of the request.
 - (9) The city council shall hear the applicant's request within 30 days of notice of appeal and shall determine whether or not to uphold the denial, to grant the request as presented or to modify it.
- (e) *Exemptions.*
- (1) Any applicant who wishes to encumber public rights-of-way for installation of a private water line, with a diameter of one inch or less, and for a distance of not more than 300 feet; a private sewer line with a diameter of four inches or less, and for a distance of not more than 300 feet; and an overhead line for a distance of not more than 300 feet; or for an encroachment by a

building, is hereby exempt from the annual license fee and shall be subject to a one-time license fee. An applicant who wishes to encumber the public right-of-way adjacent to the applicants' private property for the purpose of installation of a private lawn sprinkler or irrigation system is hereby exempt from the license fee requirements of this chapter. However, neither the city nor any franchised utility shall be responsible or liable for damages or expenses resulting from the maintenance or operations of utilities in said right-of-way. ~~The license fee shall be in an amount as established by the city council from time to time and is on file in the city secretary's office or city website.~~

- (2) Noncertificated telecommunications providers shall be subject to an annual fee, per lineal foot, of an amount as established by the city from time to time and is on file in the city secretary's office or city website.
- (3) Any applicant who is approved for a license to encumber public right-of-way for the placement of an ornamental device, is hereby exempt from the annual license fee and subject to a one-time license fee. The license fee shall be in an amount as established by the city council from time to time and is on file in the city secretary's office or city website.

(4) In the CB Central Business District, any applicant who is approved for a license to encumber a specified area of a public sidewalk is hereby exempt from the annual license fee and subject to a one-time license fee.

- (f) *No obstruction of public property.* The applicant shall not, unnecessarily or for an unreasonable period of time, obstruct or interfere with the public use of any streets, roads, highways, alleys or public ways owned or controlled by the city.
- (g) *Repair of damages.* Applicant shall repair any and all damages caused by the applicant to any real property owned or controlled by the city and shall restore such real property to substantially its condition immediately before the incident causing such damage. The applicant shall commence such repairs immediately upon completion of the work or activity in which the applicant was involved at the time the damage occurred and shall complete such repairs to the satisfaction of the city for one-year from the date of surface of said street, road, highway, alley or public way is broken for such construction or maintenance work, after which time, responsibility for the maintenance shall become the duty of the city. The city may, from time to time, adopt reasonable ordinances regulating such work.
- (h) *Conduct of work ~~and/or~~ activities.* The applicant shall use reasonable care in conducting its work ~~and/or~~ activities in order to prevent injury to any person and unnecessary damage to any real or personal property.
- (i) *Use of alleys.* The applicant shall attempt to utilize the alleys of the city insofar as is reasonably practical in conducting its work and activities hereunder. Notwithstanding the foregoing, however, the applicant may, when approved by city, utilize the streets and any other public ways owned or controlled by the city to perform such work and activities.
- (j) *Changes in encroachments.* Applicant shall (at the applicant's expense), upon written request from the city, change the location, position, route, depth or height of any encroachment or other components of the encroachment if and when such change becomes reasonably necessary because of a change in the grade of any street, road, highway, alley, public way or other real property owned or controlled by the city or because of any change in the location of, or in the manner of maintaining, constructing, laying, repairing, removing, replacing, installing or operating, any pavement, curbs, gutters or underground or aboveground wires, cables or water or sewer pipes owned or controlled by the city. The city's written request for such change must set forth, in detail, all of the essential elements and specifications of the requested change.
- (k) *Maps of encumbrances.* The applicant shall, at all times, keep on file with the city engineer a map showing the current location of all encumbrances and other components of the applicant's facilities located in the city.

~~(l) *Jurisdiction.* Any agreement shall be construed under and in accordance with the laws of the state, and all obligations of the parties hereunder are performable in the county.~~

~~(m)~~(l) *Conflicts.* In the event of any conflict between the provisions of this section and any other provision of this Code or other ordinances, this section shall control. Provided, however, that nothing in this section shall effect the right of a holder of a lawfully granted franchise.

~~(n) *Penalty.* That any person found guilty of violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and, upon conviction, shall be subject to the fine as prescribed by law for Class C misdemeanors and that each day of any such violation shall be a separate offense.~~

~~(Code 1961, § 24-5; Ord. of 11-8-1920, § 1; Ord. No. 359-91, § 1, 12-9-1991; Ord. No. 254-2000, § 1, 8-28-2000; Ord. No. 293-06, § 1, 10-9-2006)~~

Sec. 28-1. - Advertisements, handbills, etc.

- (a) The printing, pasting, stitching or placing of any advertisement, handbill or placard or any printed, pictured or written matter upon any house, wall, building, fence or other private property without the permission of the owner or person in charge thereof is hereby prohibited.
- (b) All advertising of any form, whether temporary or permanent, is hereby prohibited on all streets, sidewalks, rights-of-way, easements, parks or any other public property within the corporate limits of the city; provided, however, that the city council may, ~~after hearing, grant to civic organizations the privilege by ordinance identify zones or specific public rights-of-placing-way for placement by license of~~ private advertising on ~~or within~~ public ~~property~~rights-of-way when said advertising is done in connection with ~~either promotion of a business adjoining the public rights-of-way or~~ projects beneficial to the public interest. The city ~~council~~manager or designee may require the removal of said advertising at any time that it ~~violates any provision of this Code or otherwise~~ becomes destroyed, unsightly, ~~or deteriorated or in bad taste.~~
- (c) Any such advertisement not in compliance with this section which is not removed by the owner or person in charge thereof shall be removed by the proper city officials and disposed of.

~~(Code 1961, § 15-2; Ord. of 6-23-1953, § 7; Ord. No. 39-70, § 1, 3-9-1970; Ord. No. 121-71, § 1, 6-28-1971; Ord. No. 49-98, § 1, 3-9-1998)~~

City of Texarkana, Texas

Briefing Sheet

Version:

Update Date: 9/16/2016 1:18 PM

Lead Department: Planning and Community Development **Action Officer:** Debbie Burk,
Ordinance No. 2016-110 granting a Specific Use Permit to allow the one
additional use of a tattoo studio for the application of permanent cosmetics on a
.34 acre tract (Tract 49) in the MEP & P HRS, A-421, located in a tenant space
Subject: at 4066 Summerhill Square. Alan Schimming, owner. Jordan Chandler, agent.

Briefing: 10/10/2016 **Public Hearing:** 10/10/2016 **Second Briefing:** October 24, 2016 **Council Vote:** 11/14/2016

Item Schedule

Schedule 1: Brief twice - vote once (six weeks)

Updates/History of Briefing:

NOT APPLICABLE

Executive Summary and Background Information:

S-672: This is a request by Alan Schimming, owner, and Jordan Chandler, agent, for a Specific Use Permit, SUP, to allow the one additional use of a tattoo studio for the application of permanent cosmetics in a tenant space at 4066 Summerhill Square (Tract 49, MEP & P HRS, A-421). Permanent cosmetics are considered "tattooing" per the City's Zoning Ordinance.

The adjacent zoning is General Retail to the north, south and west and Single Family-2 to the east. Other tenant spaces in the Summerhill Square Shopping Center are located to the north, south and west and a single family residential neighborhood is located to the east.

This property is zoned General Retail. A Specific Use Permit is required in this zoning district to allow the one additional use of a tattoo studio for the application of permanent cosmetics business which is considered a "tattoo" per the City's Zoning Ordinance. Several medical facilities and hair salons are now offering this type service for clients.

The agent, Ms. Chandler, is proposing to start a new technique called "microblading". Because this new procedure requires a tattoo license, staff determined that a Specific Use Permit would be required to practice this technique.

All notification and application requirements have been met to consider this request.

Potential Options:

NONE

Fiscal Implications:

NONE

Staff Recommendation:

City of Texarkana, Texas

Staff recommends for approval of the Specific Use Permit to allow a permanent cosmetics business with the following stipulations:

1. That the owner/or any employee performing the application of permanent cosmetics be currently licensed by the state and meet all federal, state and city licensing laws and health regulations. A copy of the current license must be provided to the City prior to the opening of the business.
2. That the Specific Use Permit be intended for the application of permanent cosmetics only.
3. That if this use ever ceases to exist at this location, the City may revoke the Specific Use Permit.

This request meets all city requirements to allow the one additional use on this property. There is adequate parking for this business.

Advisory Board/Committee Review:

Planning and Zoning Commission

Board/Committee Recommendation:

The Planning and Zoning Commission unanimously recommended for approval of the request with staff stipulations.

Advisory Board/Committee Meeting Date and Minutes:

September 6, 2016

Attachments

- a. 2016-110 ORD for SUP in tenant space at 4066 Summerhill Square (DOCX)
- b. 2016-110 ATTH 01 Maps (PDF)
- c. 2016-110 ATTH 02 Technique of “microblading” (PDF)
- d. Goals & Perspectives (DOCX)

Staff Coordination

Planning and Community Development	David Orr	Department Head Review
Completed	09/14/2016 4:57 PM	
Assistant City Manager	Shirley Jaster	Assistant City Manager
Review	Completed	09/15/2016 9:14 AM
Public Information Officer	Lisa Thompson	PIO Review
	09/15/2016 9:32 AM	Completed
City Manager	John Whitson	City Manager Review
9:11 AM		Completed
City Council	Jennifer Evans	Meeting
6:00 PM		Completed
		09/21/2016
		09/26/2016

Meeting History

09/26/16 City Council MOVED FORWARD Next: 10/10/16

S-672

ORDINANCE NO. 2016-110

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, AMENDING THE ZONING MAP SHOWING THE LOCATION, BOUNDARY AND USE OF CERTAIN PROPERTY BY THE GRANTING OF SPECIFIC USE PERMIT NO. S-672 TO ALLOW ONE ADDITIONAL USE OF A TATTOO STUDIO FOR THE APPLICATION OF PERMANENT COSMETICS ON A .34 ACRE TRACT (TRACT 49) IN THE MEP & P HRS, A-421, LOCATED IN A TENANT SPACE AT 4066 SUMMERHILL SQUARE, IN THE CITY OF TEXARKANA, BOWIE COUNTY, TEXAS; CONTAINING A REPEALER CLAUSE; CONTAINING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, an application has been filed with the City of Texarkana, Texas, requesting an Amendment to the Zoning Ordinance so as to grant a **Specific Use Permit** to allow the **one additional use of tattoo studio for the application of permanent cosmetics** on a .34 acre tract (Tract 49) in the MEP & P HRS, A-421, located in a tenant space at 4066 Summerhill Square, in the City of Texarkana, Bowie County, Texas; and

WHEREAS, the Planning and Zoning Commission of the City of Texarkana, Texas, and the City Council of the City of Texarkana, Texas, in compliance with the laws of the State of Texas with reference to the granting of zoning classifications and changes, have given the requisite notices by publication and otherwise, and after holding hearings and affording a full and fair hearing to all property owners generally and to all persons interested and situated in the affected area and in the vicinity thereof; and

WHEREAS, after consideration of said application, the Planning and Zoning Commission of the City of Texarkana, Texas, voted **unanimously five (5) to Zero (0) to recommend** to the City Council of Texarkana, Texas, that a **Specific Use Permit be granted to allow the one additional use of a tattoo studio for the application of permanent cosmetics** on said property; and

WHEREAS, after consideration of said application and the recommendation of the Planning and Zoning Commission, the City Council of the City of Texarkana, Texas, does hereby find that granting the **Specific Use Permit** is in the best interest of the public health, safety, morals and general welfare of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS:

SECTION 1: That the Zoning Ordinance of the City of Texarkana, Texas, Ordinance No. 127-70, passed and approved on September 14, 1970, be further amended so as to grant **Specific Use Permit numbered S-672 for the purpose of allowing the one additional use of a tattoo studio for the application of permanent cosmetics** on the following described property, to-wit: **a .34 acre tract (Tract 49) in the MEP & P HRS, A-421, located in a tenant space at 4066 Summerhill Square, in the City of Texarkana, Bowie County, Texas.**

SECTION 2: That the following stipulations are hereby imposed and made a part of this Ordinance:

1. That the owner/or any employee performing the application of permanent cosmetics be currently licensed by the state and meet all federal, state and city licensing laws and health regulations. A copy of the current license must be provided to the City prior to the opening of the business.
2. That the Specific Use Permit be intended for the application of permanent cosmetics only.
3. That if this use ever ceases to exist at this location, the City may revoke the Specific Use Permit.

SECTION 3: All ordinances or parts of ordinances in conflict herewith are specifically repealed to the extent of such conflict.

SECTION 4: It is further provided that in case a section, clause, sentence or part of this Ordinance shall be deemed or adjudged by a court of competent jurisdiction to be invalid, then such invalidity shall not affect, impair, or invalidate the remainder of this Ordinance.

SECTION 5: That this Ordinance shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED in regular Council Session on this the **14th day of November, 2016.**

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR



Attachment: 2016-110 ATTH 01 Maps (1539 : 2016-110 ORD to allow SUP for permanent cosmetics (tattoo studio) at 4066 Summerhill Square)





FASHION CELEBRITY HAIR BEAUTY LIFE & HOME WEDDINGS HOW-TO VIDEO SUBSCRIBE Q

Everything You Need to Know About Microblading Your Eyebrows



COURTESY

FEBRUARY 14, 2016 @ 3:45 PM

BY: ALEXIS BENNETT ([HTTP://WWW.INSTYLE.COM/AUTHOR/ALEXIS-BENNETT](http://www.instyle.com/author/alexis-bennett))

It doesn't matter if you like them arched and feathered or straight and bold, eyebrows are arguably the most important facial feature. If you're not satisfied with the ones you have, there are so many ways to update them, including brow gel, pencils, and even tattooing. But now there's a very natural option that delivers semi-permanent results. Ladies, we'd like

THE LATEST IN VIDEO



Get That Look: Emily Blunt's Feathered Brows

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MORE EYES



AUG 4, 2016 @ 3:00 PM

[You Can Now Tint Your Eyebrows With Henna](http://www.instyle.com/news/you-can-now-tint-your-eyebrows-with-henna)

(<http://www.instyle.com/news/you-can-now-tint-your-eyebrows-with-henna>)



AUG 4, 2016 @ 12:30 PM

[The Best Makeup Tips for Every Eye Shape](http://www.instyle.com/beauty/the-best-makeup-tips-for-every-eye-shape)

(<http://www.instyle.com/beauty/the-best-makeup-tips-for-every-eye-shape>)



JUL 29, 2016 @ 3:45 PM

[So, That's How Kylie Gets THOSE Lashes](http://www.instyle.com/beauty/so-that-s-how-kylie-gets-those-lashes)

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 (HTTP://WWW.INSTYLE.COM/BEAUTY/EYES/HISTORY-EYEBROWS)
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to introduce you to microblading. Unlike the sometimes Sharpie-esque effects of permanent makeup, microblading is more of an embroidery of trompe l'œil strokes that look just like real hairs.

Nadia Afanaseva (<http://nadia-afanaseva.com/>), microblading expert and trainer at Eye Design New York gave us the 411 on the unique service, and after our talk there's no surprise why so many women love it. "Microblading is perfect for those who want to fully reconstruct, define, cover gaps, or fill-in over plucked brows," she explained. The professional lash and eyebrow expert also revealed that those who just want to add a slight arch are also great candidates, and the results are a natural, undetectable fringe.

RELATED: See the Most Popular Brow Shapes Through the Decades

(<http://www.instyle.com/beauty/eyes/history-eyebrows>)

If you're still not sure how the technique differs from tattooing, Afanaseva explained that "during the microblading process we use a special microblading pen to draw on individual strokes one by one." It's an extremely meticulous process that takes around two hours to complete. Since the results will last for up to three years before beginning to fade it's good to know that the technicians pay so much attention to detail. "The first hour we're drawing the shape in with removable pencil. That's the longest part and the most important step. During this time, the best customized shape for every client is chosen." The pro advises clients to be cautious of places that claim to complete the process in one hour. "It's not a rushed procedure, it cannot be done in an hour."

Before the microblading begins, a topical numbing cream is applied to the area to minimize discomfort, followed by a liquid anesthetic. If you're worried that the process is painful, Afanaseva assures, "some clients may feel a slight discomfort, but it's relatively painless."

RELATED: 3 Steps to Perfect Brows

(<http://www.instyle.com/beauty/3-steps-perfect-brows>)

The best part about the technique is that there is no down time. Your new set of brows will be ready for a selfie immediately after the process. The pro, however, does recommend a follow-up one month after your appointment. "The healing process is different for everyone, and it takes between 25 and 30 days. After a month we recommend a 40-minute touch-up to most customers."

"Unlike eyebrow extensions, which you have to be careful about maintaining, microblading is low maintenance. After healing, you can rub them and enjoy swimming. No special care is required, except for a brief touch-up once a year." The smudge-proof solution will cost you anywhere between \$700 and \$800. But waking up every morning with perfect brows may totally be worth it.

(<http://www.instyle.com/beauty/eyes/eyebrow-mascara>)

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 (HTTP://WWW.INSTYLE.COM/NEWS)

AROUND THE WEB



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(http://lookdamngood.com/10-shocking-celebrity-weight-loss-transformations/?utm_source=ob-00f5b5d7ba84796262d6ee28f84a130670_5419757&utm_medium=outbrain&utm_campaign=na&utm_term=na)



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[Attention! 10 lower back pain indications to check before visiting the doctor](#)

(http://www.mysimon.com/c?q=lower+back+pain+treatments&ad_image=749b81fd-cc1d-469e-ab55-179e60edd967&src=jo&qsrc=0&gch=mysimon-search-181-overlay&sid=8095474&an=ou&utm_source=outbrain&utm_medium=5419757&utm_campaign=USA_EN_01_P_LowerBackPain_8095474&utm_term=lower+back+pain+treatments+-+Find+Products+-+Comp&ad_title=lower+back+pain+treatments+-+Find+Products+-+Comp&clickid=d321f0fa0bd19c8c91aa511d95c01f3f)

Recommended by

(<http://www.outbrain.com/what-is/default/en>)

in the deeper layers of the skin. Later skin cells push it back to the upper layers. Once the healing is completed, you will enjoy a pair of beautiful, new, natural looking eyebrows.

Here are a few Microblading before and after photos of past clients:



●●○○○ Verizon LTE

1:58 PM

microblading t



www.lovbeauty.net

Manual tattoo pen for 3D
eyebrow embroidery - MIC

Images may be subject to copyright.

Attachment: 2016-110 ATTH 02 Technique of "microblading" (1539 : 2016-110 ORD to allow SUP for permanent cosmetics (tattoo studio) at

City of Texarkana, Texas

Developing Perspectives and Goals Pending Approval by the City Council:

Perspectives	Goals
Serve the Community	☐ Promote an Environmentally Sensitive & Livable Community ☐ Provide a Safe Community ☐ Deliver Quality Services ☐ Foster a Healthy Community
Run the Operations	☐ Enhance Community Preparedness & Responsiveness ☐ Maximize Partnership Opportunities ☐ Provide Courteous & Responsive Customer Service ☒ Model a Positive City Image ☐ Deliver Efficient Services ☒ Cultivate Community Involvement & Access
Manage the Resources	☐ Maintain Fiscal Strength ☐ Maximize Utilization & Resources ☒ Invest in Infrastructure & Transportation
Develop Personnel	☐ Develop a Skilled & Diverse Workforce ☐ Create a Positive & Rewarding Work Culture

Perspectives and Goals Additional Comments:

NONE

Resource Impact:

NA

No Additional

Other Potential Impacts:

NA

Public Information Plan:

☒	Newspaper Notice (Required by Statute)	☒	Public Hearing (Required by Statute)
☐	Public Forum/Input Session	☐	Press Release
☐	E-News Distribution	☒	Website Notice
☐	Social Media (Twitter, Facebook, etc.)	☒	Special Mailing
☐	Flyers Posted	☐	Banners Posted
☐	Survey	☐	Automated Phone Call
☒	None Required	☒	Sign Posted

Other:

City of Texarkana, Texas

Version:

Update Date: 9/16/2016 1:15 PM

Briefing Sheet

Lead Department: Planning and Community Development **Action Officer:** Debbie Burk
Subject: Ordinance No. 2016-111 rezoning a 1.574 acre tract of land in the MEP & P HRS, A-18, located at 6872 Hampton Road. General Retail to Commercial.
Mike Berry, Texarkana Hampton Road LLC, owner. Jason Vanderhoof, agent.
Briefing: 10/10/2016 **Public Hearing:** 10/10/2016 **Second Briefing:** October 24, 2016 **Council Vote:** 11/14/2016

Item Schedule

Schedule 1: Brief twice - vote once (six weeks)

Updates/History of Briefing:

NOT APPLICABLE

Executive Summary and Background Information:

Z-16-16: This is a request by Mike Berry, Texarkana Hampton Road, LLC, owner, and Jason Vanderhoof, agent, to rezone a 1.574 acre tract of land in the George Brinlee HRS, A-18, located at 6872 Hampton Road from General Retail to Commercial to allow outdoor display.

The adjacent zoning is General Retail to the north, east and west. The adjacent land usage is vacant land to the north, east and west and Interstate-30 to the south.

The Comprehensive Plan has designated this as a retail area.

This property is currently zoned General Retail. Mr. Jason Vanderhoof, owner of Vanderhoof Landscaping and Blue Canyon Pools recently relocated to this site on Hampton Road that is currently a two tenant space retail building. A paint store is located in the other tenant space.

Office use and inside retail sales are allowed in the General Retail zoning district. However, Mr. Vanderhoof is proposing to provide outdoor displays such as a pool, landscaping materials, outdoor kitchens, etc. According to the City's Zoning Ordinance, outdoor storage or display requires Commercial zoning.

All notification and application requirements have been met to consider this request.

Potential Options:

NONE

Fiscal Implications:

NONE

Staff Recommendation:

City of Texarkana, Texas

Staff recommends for approval of this request for rezoning to the Commercial zoning district to allow outdoor display.

Advisory Board/Committee Review:

Planning and Zoning Commission

Board/Committee Recommendation:

The Planning and Zoning Commission unanimously recommended for approval of the request.

Advisory Board/Committee Meeting Date and Minutes:

September 6, 2016

Attachments

- a. 2016-111 ORD rezoning 6872 Hampton Road (DOCX)
- b. 2016-111 ATTH 01 Maps (PDF)
- c. Goals & Perspectives (DOCX)

Staff Coordination

Planning and Community Development	David Orr	Department Head Review
Completed	09/14/2016 4:58 PM	
Assistant City Manager	Shirley Jaster	Assistant City Manager
Review Completed	09/15/2016 9:18 AM	
Public Information Officer	Lisa Thompson	PIO Review Completed
09/15/2016 9:32 AM		
City Manager	John Whitson	City Manager Review Completed 09/21/2016
9:13 AM		
City Council	Jennifer Evans	Meeting Completed 09/26/2016
6:00 PM		

Meeting History

09/26/16 City Council MOVED FORWARD Next: 10/10/16

Z-16-16

ORDINANCE NO. 2016-111

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, AMENDING THE ZONING ORDINANCE OF THE CITY OF TEXARKANA, TEXAS, BY REZONING A 1.574 ACRE TRACT OF LAND IN THE GEORGE BRINLEE HRS, A-18, LOCATED AT 6872 HAMPTON ROAD IN THE CITY OF TEXARKANA, BOWIE COUNTY, TEXAS FROM GENERAL RETAIL TO COMMERCIAL; CONTAINING A REPEALER CLAUSE; CONTAINING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, an application has been filed requesting an amendment to the Zoning Ordinance of the City of Texarkana, Texas, to rezone a 1.574 acre tract of land in the George Brinlee HRS, A-18 (**Exhibit A**), located at 6872 Hampton Road in the City of Texarkana, Bowie County, Texas, from **General Retail to Commercial**; and

WHEREAS, the Planning and Zoning Commission of the City of Texarkana, Texas, and the City Council of the City of Texarkana, Texas, in compliance with the laws of the State of Texas with reference to the granting of zoning classifications and changes, have given the requisite notices by publication and otherwise, and after holding hearings and affording a full and fair hearing to all property owners generally and to all persons interested and situated in the affected area and in the vicinity thereof; and

WHEREAS, after consideration of said application, the Planning and Zoning Commission of the City of Texarkana, Texas **voted five (5) to zero (0) to recommend approval of the application for rezoning from General Retail to Commercial** to the City Council of the City of Texarkana, Texas; and

WHEREAS, after consideration of said application and the recommendation of the Planning and Zoning Commission, the City Council of the City of Texarkana, Texas, does hereby find that rezoning the property from **General Retail to Commercial** is in the best interest of the public health, safety, morals and general welfare of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS:

SECTION 1: That the Zoning Ordinance of the City of Texarkana, Texas, Ordinance No. 127-70, passed and approved on September 14, 1970, be and is hereby further amended to rezone a 1.574 acre tract of land in the George Brinlee HRS, A-18 (**Exhibit A**), located at 6872 Hampton Road in the City of Texarkana, Bowie County, Texas, from **General Retail to Commercial**.

SECTION 2: It is further provided that in case a section, clause, sentence or part of this Ordinance shall be deemed or adjudged by a court of competent jurisdiction to be invalid, then such invalidity shall not affect, impair, or invalidate the remainder of this Ordinance.

Attachment: 2016-111 ORD rezoning 6872 Hampton Road (1540 : 2016-111 ORD rezoning 6872 Hampton Road)

SECTION 3: All Ordinances or parts of Ordinances in conflict herewith are specifically repealed to the extent of such conflict.

SECTION 4: That this Ordinance shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED in Regular Council Session on this the **14th day of November, 2016.**

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

SF-1

7.4.b

SF-1

ARRINGTON RD

308

210

100

305

213

SF-1

SF-1

SF-1

401

309

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4115

4115

GR

7102

6872

6870

6701

4101

HAMPTON RD

I-30 E

I-30 W

109

LONE STAR CROSSING

Attachment: 2016-111 ATTH 01 Maps (1540 : 2016-111 ORD rezoning 6872 Hampton Road)



7.4.b

Attachment: 2016-111 ATTH 01 Maps (1540 : 2016-111 ORD rezoning 6872 Hampton Road)

City of Texarkana, Texas

Developing Perspectives and Goals Pending Approval by the City Council:

Perspectives	Goals
Serve the Community	☐ Promote an Environmentally Sensitive & Livable Community ☐ Provide a Safe Community ☐ Deliver Quality Services ☐ Foster a Healthy Community
Run the Operations	☐ Enhance Community Preparedness & Responsiveness ☐ Maximize Partnership Opportunities ☐ Provide Courteous & Responsive Customer Service ☒ Model a Positive City Image ☐ Deliver Efficient Services ☒ Cultivate Community Involvement & Access
Manage the Resources	☐ Maintain Fiscal Strength ☐ Maximize Utilization & Resources ☒ Invest in Infrastructure & Transportation
Develop Personnel	☐ Develop a Skilled & Diverse Workforce ☐ Create a Positive & Rewarding Work Culture

Perspectives and Goals Additional Comments:

NONE

Resource Impact:

NA

No Additional

Other Potential Impacts:

NA

Public Information Plan:

☒	Newspaper Notice (Required by Statute)	☒	Public Hearing (Required by Statute)
☐	Public Forum/Input Session	☐	Press Release
☐	E-News Distribution	☒	Website Notice
☐	Social Media (Twitter, Facebook, etc.)	☒	Special Mailing
☐	Flyers Posted	☐	Banners Posted
☐	Survey	☐	Automated Phone Call
☒	None Required	☒	Sign Posted

Other:

Attachment: Goals & Perspectives (1540 : 2016-111 ORD rezoning 6872 Hampton Road)

City of Texarkana, Texas

Version: B

Update Date: 9/23/2016 9:03 AM

Briefing Sheet

Lead Department: City Manager **Action Officer:** John Whitson, City Manager
Subject: Resolution No. 2016-113 establishing a Community Relations Expenditures Policy.
Briefing: 11/14/2016 **Public Hearing:** 10/10/2016 **Second Briefing:** October 24, 2016 **Council Vote:** 11/14/2016

Item Schedule

Updates/History of Briefing:

NOT APPLICABLE

Executive Summary and Background Information:

Throughout the fiscal year the city often pays to participate in certain community relations activities sponsored by non-governmental organizations. Staff charges these city expenses to various accounts within the city council's budget such as "Training and Travel" or "Supplies" since no account had been established with a clear designation for these types of charges.

During FY16 the staff created a new account number 101-xxxx-54514 wherein these types are charges can be recorded as properly classified. During the development of the FY17 budget the staff recommended that \$50,000 be appropriated in the account 101-1000-54514 permitting the city council to have some flexibility throughout the year to fund certain activities classified as community relations activities.

After the city council adopted the recommended FY17 budget the city council, by motion, second, and vote, directed the staff to prepare and present the city council with a policy of how these funds may be expended. Since prior year expenditures had been charged to various other accounts the \$50,000 does not represent all new funding. Other accounts were reduced accordingly to help provide for the \$50,000 grand total. Therefore, some expenditures are expected to be consistent with prior years' expenditures. Generally, these expenditures include activities such as:

Dine-on-the-Line
 USMC Birthday Ball
 Freedom Fund Awards Banquet
 MLK Gala
 Economic Outlook Dinner
 Firefighters' Ball
 RRAD Hail and Farewell
 and others

Staff has prepared a simple policy permitting the city manager's office to continue to approve expenditures similar to expenditures in past fiscal years in amounts of up to \$2,000 per single

City of Texarkana, Texas

expenditure. All other expenditures must be approved by resolution of the city council. The policy also includes a general policy statement that these funds are not available for contribution or distribution to non-governmental organizations but rather for the city to participate with non-governmental organization by providing a service to the organization or event.

Potential Options:

- Adopt the recommended resolution
- Amend and Adopt the resolution
- Deny the recommended resolution

Fiscal Implications:

Expect to expend approximately \$6,000 for routine charges but subject to expending the full \$50,000 should appropriate opportunities be presented by qualifying organizations.

Staff Recommendation:

Recommend adoption of the resolution as presented

Advisory Board/Committee Review:

NONE

Board/Committee Recommendation:

NOT APPLICABLE

Advisory Board/Committee Meeting Date and Minutes:

NOT APPLICABLE

Attachments

- a. 2016-113 RES Establishing Policy Related to the Expenditures of Community Relations Funds (DOC)
- b. 2016-113 Goals & Perspectives (DOCX)

Staff Coordination

City Manager	John Whitson	Department Head Review	Completed
	09/16/2016 8:18 AM		
Assistant City Manager	Shirley Jaster	Assistant City Manager	
Review	Completed	09/16/2016 11:17 AM	
Public Information Officer	Lisa Thompson	PIO Review	Completed
	09/16/2016 11:49 AM		
City Manager	John Whitson	City Manager Review	Completed 09/21/2016
9:16 AM			
City Council	Jennifer Evans	Meeting	Completed 09/26/2016
6:00 PM			

City of Texarkana, Texas**Meeting History**

09/26/16 City Council MOVED FORWARD Next: 10/10/16

RESOLUTION NO. 2016 - 113**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
TEXARKANA, TEXAS, ESTABLISHING POLICY RELATED TO
THE EXPENDITURES OF COMMUNITY RELATIONS FUNDS;
AND ESTABLISHING AN EFFECTIVE DATE.**

WHEREAS, city staff recommended and programmed \$50,000 to be appropriated in the FY17 Budget for the purpose of promoting community relations; and

WHEREAS, upon adoption of the FY17 budget, the city council directed that a policy be presented for their consideration concerning the approval of Community Relations expenditures; and

WHEREAS, throughout any given fiscal year a number of opportunities are generally presented wherein the city is asked to financially participate in certain activities that are intended to promote community spirit in support of a specific non-governmental activity; and

WHEREAS, in previous fiscal years and budgets the staff has programmed some undesignated funds within an unrelated account or has reviewed expenditures and determined undesignated funds were available to accommodate a small level of city support of activities that might be classified as community relations activities; and

WHEREAS, some of the previous requests include; Railroad Company Holiday Train Visit; Dragon Boat Race; Mayoral and/or City Council Parade Floats; and other similar activities; and

WHEREAS, other activities such as tickets and/or table sponsorships for Dine-On-The-Line; USMC Birthday Ball; Freedom Fund Awards Banquet; MLK Gala; Economic Outlook Dinner; Roast and Toast of Prissy Hickerson; Firefighters' Ball; RRAD Hail and Farewell; Annual Chamber of Commerce Celebration Dinner; and other similar invitations and events; and

WHEREAS, the \$50,000 appropriation for Community Relations does not represent all new funding but rather a combination of some new funding and reprogrammed funds that in previous years these activity charges had been assigned to other accounts within the city council budget.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS:

SECTION 1: The general policy statement related to Community Relations Funding is that the funds are not intended to be funds to be contributed or distributed to non-governmental organizations but rather for the city to provide a service to or to participate with other community service or social organizations that generally serve the community.

SECTION 2: Expenditure of Community Relations Funds requires city council approval by resolution for single expenditures exceeding \$2,000. All other expenditures such as admission tickets, table sponsorships, celebratory meals, and other similar charges are hereby authorized as approved by the city manager's office.

SECTION 3: That this Resolution shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED in Regular Council Session on this the **14th day of November, 2016.**

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

City of Texarkana, Texas

Developing Perspectives and Goals Pending Approval by the City Council:

Perspectives	Goals
Serve the Community	☐ Promote an Environmentally Sensitive & Livable Community ☐ Provide a Safe Community ☐ Deliver Quality Services ☐ Foster a Healthy Community
Run the Operations	☐ Enhance Community Preparedness & Responsiveness ☒ Maximize Partnership Opportunities ☐ Provide Courteous & Responsive Customer Service ☒ Model a Positive City Image ☐ Deliver Efficient Services ☐ Cultivate Community Involvement & Access
Manage the Resources	☐ Maintain Fiscal Strength ☐ Maximize Utilization & Resources ☐ Invest in Infrastructure & Transportation
Develop Personnel	☐ Develop a Skilled & Diverse Workforce ☐ Create a Positive & Rewarding Work Culture

Perspectives and Goals Additional Comments:

NONE

Resource Impact:

Staff time required if item is approved: No Additional

Other Potential Impacts:

NONE APPLICABLE

Public Information Plan:

☐ Newspaper Notice (Required by Statute)	☐ Public Hearing (Required by Statute)
☐ Public Forum/Input Session	☐ Press Release
☐ E-News Distribution	☐ Website Notice
☐ Social Media (Twitter, Facebook, etc.)	☐ Special Mailing
☐ Flyers Posted	☐ Banners Posted
☐ Survey	☐ Automated Phone Call
☒ None Required	☐

Other:

City of Texarkana, Texas

Version: C

Update Date: 9/23/2016 9:25 AM

Briefing Sheet

Lead Department: City Manager **Action Officer:** John Whitson, City Manager
Subject: Resolution No. 2016-114 authorizing the expenditure of Community Relations funds in support of the KCS Holiday Express Train event.
Briefing: 11/14/2016 **Public Hearing:** 10/10/2016 **Second Briefing:** October 24, 2016 **Council Vote:** 11/14/2016

Item ScheduleSchedule 1: Brief twice - vote once (six weeks)**Updates/History of Briefing:**

NOT APPLICABLE

Executive Summary and Background Information:

Frequently the Kansas City Southern Railroad Company will stop their Holiday Express Train in Texarkana for the community to access and enjoy the train. The event is generally an evening event and thousands of area families participate in the event. Often the city staff is not aware of Texarkana being selected as a stop during the development of the city budget, therefore funds to support this event are not always budgeted.

This event meets the definition of being a Community Relations Event as it provides a holiday celebration for the community but requires local support to make the event happen. The city will be coordinating manpower and equipment and also providing city staff support throughout the event.

It is anticipated that the city will contract with TISD for buses with drivers in amount of approximately \$2,000. Rentals of other equipment such as portable toilets and light unites are estimated to be about \$1,000. Overtime for city staff supporting the event will be about \$700. The police department will be providing eight to ten officers for traffic control and security.

Potential Options:

- Adopt the resolution as recommended
- Revise and adopt the resolution
- Deny the resolution

Fiscal Implications:

Not to exceed \$4,000 in total expenditures

Staff Recommendation:

Approve the resolution as presented

Advisory Board/Committee Review:

NONE

City of Texarkana, Texas

Board/Committee Recommendation:

NOT APPLICABLE

Advisory Board/Committee Meeting Date and Minutes:

NOT APPLICABLE

Attachments

- a. 2016-114 RES Approving Community Relations Expenditures for the KCS Holiday Express Train (DOC)
- b. 2016-114 Goals & Perspectives (DOCX)

Staff Coordination

City Manager	John Whitson	Department Head Review	Completed	
	09/16/2016 10:01 AM			
Parks, Recreation & Health		Robby Robertson	Review	Completed
	09/16/2016 10:14 AM			
Public Works Department		Kyle Dooley	Review	Completed
	09/16/2016 10:26 AM			
Police	Dan Shiner	Review	Completed	09/16/2016
10:50 AM				
Fire Department	Eric Schlotter	Review	Completed	09/16/2016
12:45 PM				
Finance Department	Kristin Peeples	Finance Review	Completed	09/20/2016
9:22 AM				
Assistant City Manager		Shirley Jaster	Assistant City Manager	
Review	Completed	09/20/2016 9:58 AM		
Public Information Officer		Lisa Thompson	PIO Review	Completed
	09/20/2016 10:20 AM			
City Manager	John Whitson	City Manager Review	Completed	09/21/2016
9:20 AM				
City Council	Jennifer Evans	Meeting	Completed	09/26/2016
6:00 PM				

Meeting History

09/26/16	City Council	MOVED FORWARD	Next: 10/10/16
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RESOLUTION NO. 2016 - 114

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
TEXARKANA, TEXAS, AUTHORIZING THE CITY MANAGER
TO EXPEND UP TO \$4,000 OF COMMUNITY RELATIONS
FUNDING IN SUPPORT OF THE 2016 KCS HOLIDAY TRAIN
STOP IN TEXARKANA; AND ESTABLISHING AN EFFECTIVE
DATE.**

WHEREAS, the Kansas City Southern Railroad Company has announced that their 2016 Holiday Express Train will stop in Texarkana on December 10, 2016; and

WHEREAS, the Kansas City Southern Railroad Company has requested that the city provide local support for families to visit and enjoy the train while it is in Texarkana; and

WHEREAS, city staff is coordinating with the Texas Independent School District to use the football stadium area as a staging area and to provide school buses with drivers to shuttle visitors between the staging point and the train and return; and

WHEREAS, city staff and community volunteers will provide the necessary support to get people onto and off of the buses and the train.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS:

SECTION 1: The City Manager is hereby authorized to expend up to \$4,000 of Community Relations funds in support of the KCS Holiday Express Train Stop in Texarkana.

SECTION 2: That this Resolution shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED in Regular Council Session on this the **14th day of November, 2016.**

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

City of Texarkana, Texas

Developing Perspectives and Goals Pending Approval by the City Council:

Perspectives	Goals
Serve the Community	☐ Promote an Environmentally Sensitive & Livable Community ☒ Provide a Safe Community ☒ Deliver Quality Services ☐ Foster a Healthy Community
Run the Operations	☐ Enhance Community Preparedness & Responsiveness ☒ Maximize Partnership Opportunities ☐ Provide Courteous & Responsive Customer Service ☒ Model a Positive City Image ☐ Deliver Efficient Services ☒ Cultivate Community Involvement & Access
Manage the Resources	☐ Maintain Fiscal Strength ☐ Maximize Utilization & Resources ☐ Invest in Infrastructure & Transportation
Develop Personnel	☐ Develop a Skilled & Diverse Workforce ☐ Create a Positive & Rewarding Work Culture

Perspectives and Goals Additional Comments:

NONE

Resource Impact:

Staff time required if item is approved: Medium

Other Potential Impacts:

NONE APPLICABLE

Public Information Plan:

☐ Newspaper Notice (Required by Statute)	☐ Public Hearing (Required by Statute)
☐ Public Forum/Input Session	☐ Press Release
☐ E-News Distribution	☐ Website Notice
☐ Social Media (Twitter, Facebook, etc.)	☐ Special Mailing
☐ Flyers Posted	☐ Banners Posted
☐ Survey	☐ Automated Phone Call
☒ None Required	☐

Other:

City of Texarkana, Texas

Version: C

Update Date: 9/21/2016 9:36 AM

Briefing Sheet

Lead Department: City Manager **Action Officer:** John Whitson, City Manager
Subject: Resolution No. 2016-115 authorizing the expenditure of Community Relations funds in support of the Live United Bowl Team's Banquet.
Briefing: 10/10/2016 **Public Hearing:** 10/10/2016 **Second Briefing:** October 24, 2016 **Council Vote:** 11/14/2016

Item Schedule

Schedule 1: Brief twice - vote once (six weeks)

Updates/History of Briefing:

NOT APPLICABLE

Executive Summary and Background Information:

The "Agent Barry Live United Bowl" committee has requested the City of Texarkana, Texas financially support the 2016 Agent Barry Live United Bowl. The committee desires to have both Texarkana, Texas and Texarkana, Arkansas involved in this growing annual event. In discussions with the planning committee it was agreed that if the city was to financially support the event the city would like to see more activity take place on the Texas side of the city. Businesses and charitable organizations on both sides of the state line will benefit from the bowl event.

The Texarkana Convention Center has been reserved for the Team's Banquet. Both teams, both bands, pep squads, and parents/family members will be attending the banquet. Entertainment is planned for the evening as well. This first class activity will help make the Live United Bowl a memorable event for the participants. The committee reports that many of the players and students who attend the colleges of the conferences considered for game invitation are from the Texarkana area.

The bowl game itself continues to grow in ticket sales which means more locals and visitors attend each year. The banquet is an integral part of the bowl experience for the teams and schools participating in the game. The committee and the convention center staff expects that the banquet can be provided at a maximum cost of \$27,000.

The \$27,000 contemplates a participant charge of \$28 (food) for 800 participants and a 20% surcharge for labor related to food setup and staffing of the buffet lines and cleanup. Since this is a city sponsored event the convention center is not charging the standard venue charge (\$5,000) and not charging for labor, audio visual equipment, sound equipment, and other rentals related to setting up the room for the event.

Potential Options:

- Adopt the resolution as presented
- Amend and adopt the amended resolution
- Deny the resolution

City of Texarkana, Texas

Fiscal Implications:

\$27,000 of Community Relations Funds

Staff Recommendation:

Approval

Advisory Board/Committee Review:

NONE

Board/Committee Recommendation:

NOT APPLICABLE

Advisory Board/Committee Meeting Date and Minutes:

NOT APPLICABLE

Attachments

- a. 2016-115 RES Approving Community Relations Expenditures for the Live United Bowl Banquet (DOC)
- b. 2016-115 Goals & Perspectives (DOCX)

Staff Coordination

City Manager	John Whitson	Department Head Review	Completed	
	09/16/2016 10:56 AM			
Finance Department	Kristin Peebles	Finance Review	Completed	09/20/2016
	8:57 AM			
Assistant City Manager		Shirley Jaster	Assistant City Manager	
Review	Completed	09/20/2016 9:59 AM		
Public Information Officer		Lisa Thompson	PIO Review	Completed
	09/20/2016 10:20 AM			
City Manager	John Whitson	City Manager Review	Completed	09/21/2016
	9:36 AM			
City Council	Jennifer Evans	Meeting	Completed	09/26/2016
	6:00 PM			

Meeting History

09/26/16	City Council	MOVED FORWARD	Next: 10/10/16
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RESOLUTION NO. 2016 - 115**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, AUTHORIZING THE CITY MANAGER TO EXPEND UP TO \$27,000 OF COMMUNITY RELATIONS FUNDING IN SUPPORT OF THE 2016 AGENT BARRY LIVE UNITED BOWL; AND ESTABLISHING AN EFFECTIVE DATE.**

WHEREAS, the Agent Barry Live United Bowl game will occur on Saturday, December 3, 2016; and

WHEREAS, the bowl committee requested that the City of Texarkana, Texas, financially support the 2016 Agent Barry United Bowl event; and

WHEREAS, the committee and city staff decided that it would be more appropriate for Texarkana, Texas to host an activity related to the bowl game which would also provide for a related major event to take place on the Texas side of the city; and

WHEREAS, the committee and Convention Center staff estimate that the banquet will cost \$27,000.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS:

SECTION 1: The City Manager is hereby authorized to expend up to \$27,000 of Community Relations funds in support of the Agent Barry Live United Bowl banquet to be held at the Texarkana Convention Center.

SECTION 2: That this Resolution shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED in Regular Council Session on this the **14th day of November, 2016.**

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

City of Texarkana, Texas

Developing Perspectives and Goals Pending Approval by the City Council:

Perspectives	Goals
Serve the Community	☐ Promote an Environmentally Sensitive & Livable Community ☐ Provide a Safe Community ☐ Deliver Quality Services ☐ Foster a Healthy Community
Run the Operations	☐ Enhance Community Preparedness & Responsiveness ☒ Maximize Partnership Opportunities ☐ Provide Courteous & Responsive Customer Service ☒ Model a Positive City Image ☐ Deliver Efficient Services ☐ Cultivate Community Involvement & Access
Manage the Resources	☐ Maintain Fiscal Strength ☐ Maximize Utilization & Resources ☐ Invest in Infrastructure & Transportation
Develop Personnel	☐ Develop a Skilled & Diverse Workforce ☐ Create a Positive & Rewarding Work Culture

Perspectives and Goals Additional Comments:

NONE

Resource Impact:

Staff time required if item is approved: Medium

Other Potential Impacts:

NONE APPLICABLE

Public Information Plan:

☐ Newspaper Notice (Required by Statute)	☐ Public Hearing (Required by Statute)
☐ Public Forum/Input Session	☐ Press Release
☐ E-News Distribution	☐ Website Notice
☐ Social Media (Twitter, Facebook, etc.)	☐ Special Mailing
☐ Flyers Posted	☐ Banners Posted
☐ Survey	☐ Automated Phone Call
☒ None Required	☐

Other:

City of Texarkana, Texas

Briefing Sheet

Version:

Update Date: 9/21/2016 2:40 PM

Lead Department: Fire DepartmentAction Officer: Eric Schlotter, Fire ChiefSubject: Resolution No. 2016-116 revising the Fire Department's swap time policy.

Public **Second** **Council**
Briefing: 11/14/2016 **Hearing:** 10/10/2016 **Briefing:** October 24, 2016 **Vote:** 11/14/2016

Item Schedule

Schedule 1: Brief twice - vote once (six weeks)

Updates/History of Briefing:

"NOT APPLICABLE"

Executive Summary and Background Information:

The Fire Department currently has a practice of allowing firefighters to "swap time" with one another. Swapping time is when one firefighter works for another. When this occurs the firefighter who was supposed to be on duty is paid as though he is at work while another firefighter is actually in his position. The person who is working for another firefighter is on duty for all practical purposes other than for pay. Currently, there is a policy that governs swap time; however, this policy is in need of revision as some of the current practices are not in-line with the law and do not have proper control of the practice which allows for abuse.

The practice of swapping or trading time is authorized under the Fair Labor Standards Act in section 7(p)(3). While the practice is legal there are certain current practices that may not be in accordance with the law. Currently, firefighters use two options to payback another firefighter who has swapped with them, they either work for the person who worked for them or they provide them with remuneration the second of which may not be in accordance with the law. While conducting research for the policy revision I have not been able to find another department that allows remuneration. In fact, many strictly prohibit the practice.

In addition to addressing the issue of remuneration, the revised policy sets limits on the number of swap occurrences a firefighter can have in a given period. The current policy does not set a limit, other than to prohibit the practice of swapping multiple consecutive shifts, and this has led to abuse of the privilege. In the past three years there have been employees who have swapped as many as 35 shifts in a year. Thirty five shifts is the equivalent of three and a half months of working time.

The proposed policy would prohibit remuneration, and create a maximum number of swaps per year.

Potential Options:

- Make only the changes necessary to comply with applicable laws.
- Propose alternate provisions for the policy.

City of Texarkana, Texas

Fiscal Implications:

There are no fiscal implications for the City.

Staff Recommendation:

Staff recommends approval of the resolution as presented.

Advisory Board/Committee Review:

"NONE"

Board/Committee Recommendation:

"NOT APPLICABLE"

Advisory Board/Committee Meeting Date and Minutes:

"NOT APPLICABLE"

Attachments

- a. 2016-116 RES Revising the Fire Department Policy and Procedure Manual (DOC)
- b. 2016-116 RES Goals & Perspectives (DOCX)
- c. 2016-116 ATTH 01 City of Texarkana FD Policy 20161114 (PDF)
- d. 2016-116 ATTH 02 City of Texarkana FD Policy 20091102 (DOC)
- e. 2016-116 ATTH 03 Trade Time Log (PDF)
- f. 2016-116 ATTH 04 29 CFR 553 Substitution (PDF)
- g. 2016-116 ATTH 05 email from Labor Counsel Cranford (PDF)
- h. 2016-116 ATTH 06 Council Minutes 28 DEC 54 - FF Double (PDF)
- i. 2016-116 ATTH 07 City of McKinney FD Policy (PDF)
- j. 2016-116 ATTH 08 City of Nacogdoches FD Policy (DOC)
- k. 2016-116 ATTH 09 City of Longview FD Policy (PDF)
- l. 2016-116 ATTH 10 City of Burleson FD Policy (PDF)
- m. 2016-116 ATTH 11 City of Lufkin FD Policy (PDF)
- n. 2016-116 ATTH 12 City of Paris FD Policy (DOC)
- o. 2016-116 ATTH 13 City of Sherman FD Policy (PDF)
- p. 2016-116 ATTH 14 City of Tyler FD Policy (PDF)
- q. 2016-116 ATTH 15 City of Duncanville FD Policy (PDF)
- r. 2016-116 ATTH 16 City of Irving FD Policy (PDF)

Staff Coordination

Fire Department	Eric Schlotter	Department Head Review	Completed
	09/20/2016 7:25 AM		
Assistant City Manager		Shirley Jaster	Assistant City Manager
Review	Completed	09/20/2016 8:55 AM	
Public Information Officer		Lisa Thompson	PIO Review
	09/20/2016 2:19 PM		Completed
City Manager	John Whitson	City Manager Review	Completed
8:18 AM			09/23/2016

City of Texarkana, Texas

City Council
6:00 PM

Jennifer Evans

Meeting

Completed

09/26/2016

Meeting History

09/26/16

City Council

MOVED FORWARD

Next: 10/10/16

RESOLUTION NO. 2016 - 116

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, REVISING THE TEXARKANA, TEXAS FIRE DEPARTMENT POLICY AND PROCEDURE MANUAL, GENERAL PERSONNEL POLICIES, SECTION 8 - SUBSTITUTES; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Fire Department allows for the use of substitutes; and

WHEREAS, the Fire Department strives to maintain compliance with applicable laws; and

WHEREAS, the proper operation of the Fire Department requires well-developed policies and procedures.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS:

SECTION 1: That Section 8 - Substitutes of the General Personnel Policies, contained in the Texarkana, Texas Fire Department Policy and Procedure Manual is revised as written in **Attachment #1**.

SECTION 2: That this Resolution shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED in Regular Council Session on this the **14th day of November, 2016**.

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

City of Texarkana, Texas

Developing Perspectives and Goals Pending Approval by the City Council:

Perspectives	Goals
Serve the Community	☐ Promote an Environmentally Sensitive & Livable Community ☐ Provide a Safe Community ☒ Deliver Quality Services ☐ Foster a Healthy Community
Run the Operations	☐ Enhance Community Preparedness & Responsiveness ☐ Maximize Partnership Opportunities ☐ Provide Courteous & Responsive Customer Service ☒ Model a Positive City Image ☐ Deliver Efficient Services ☐ Cultivate Community Involvement & Access
Manage the Resources	☐ Maintain Fiscal Strength ☐ Maximize Utilization & Resources ☐ Invest in Infrastructure & Transportation
Develop Personnel	☐ Develop a Skilled & Diverse Workforce ☒ Create a Positive & Rewarding Work Culture

Perspectives and Goals Additional Comments:

NONE

Resource Impact:

Staff time required if item is approved: No Additional

Other Potential Impacts:

NONE APPLICABLE

Public Information Plan:

☐ Newspaper Notice (Required by Statute)	☐ Public Hearing (Required by Statute)
☐ Public Forum/Input Session	☐ Press Release
☐ E-News Distribution	☐ Website Notice
☐ Social Media (Twitter, Facebook, etc.)	☐ Special Mailing
☐ Flyers Posted	☐ Banners Posted
☐ Survey	☐ Automated Phone Call
☒ None Required	☐

Other:

	Texarkana Fire Department		
	Policy and Procedures Manual		
	Title: General Personnel Policies		
	Applies to: All Personnel		
	Approved by:	Effective Date: 11-14-2016	
 Eric Schlotter, Fire Chief	Revision Date: 11-14-2016		
	Pages: <u>1 of 13</u>	Tab: 19	

This Policy/Procedure is for the Texarkana Texas Fire Department's internal use only and does not enhance an employee's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this Policy/Procedure, if proven, may only form the basis for a complaint by the Texarkana Texas Fire Department in a non-judicial, administrative setting.

Section 1 Administration

- 1-1 Purpose: The purpose of this section is to provide information on various personnel related issues within the department. This policy should be used in conjunction with Chapter 143, Texas Local Government Code; City of Texarkana, Texas Personnel Policies; and various Federal and State of Texas laws related to personnel issues.
- 1-2 Scope: This policy applies to all personnel. When conflicts arise between various laws and policies governing personnel issues, they are to be resolved by the following priority order:
- a) Federal Statutes and Rules
 - b) Chapter 143, Texas Local Government Code (Civil Service)
 - c) Other State of Texas statutes and rules
 - d) City of Texarkana, Texas Local Civil Service Rules
 - e) City of Texarkana, Texas Personnel Policies
 - i) Exception: In circumstances where department policies are more stringent than city policies, the more stringent policy will apply.
 - f) Texarkana Fire Department Policies and Procedures

Section 2 Definitions

- 2-1 Civil Service Law – Chapter 143 of the Texas Local Government Code.
- 2-2 Local Civil Service Rules – Rules governing local Civil Service as approved by the Civil Service Commission and published by the Civil Service Director
- 2-3 Personnel Policies – Policies of the City of Texarkana, Texas as approved by the City manager and City Council and made available to employees by the Human Resources Director.
- 2-4 USSERA – *Uniformed Services Employment and Reemployment Rights Act*. This Federal law specifies rights regarding employment and re-employment for veterans returning from active duty.

Section 3 Pay and Benefits

- 3-1 Base Pay – All members shall receive base pay as approved by the City Council in the current budget. All members holding the same rank and having the same tenure in their rank shall receive the same base pay.

- 3-2 Longevity Pay – All members shall receive longevity pay at the rate of \$4.00 per month per year of service. The maximum longevity pay is \$100.00 per month.
- 3-3 Certification Incentive Pay – Members who hold advanced levels of certification from the Texas Commission on Fire Protection are eligible for certification incentive pay. Members with Intermediate certification shall receive \$50.00 per month. Members with advanced certification shall receive \$100.00 per month. Members with master certification shall receive \$150.00 per month. Members may receive both certification incentive pay and education incentive pay.
- 3-4 Education incentive pay – Eligible members may receive education incentive pay. Qualifications and pay amounts are listed in the City Personnel Policy Handbook. Members may receive both certification incentive pay and education incentive pay.
- 3-5 Overtime pay – Overtime pay shall be calculated and paid in accordance with the Fair Labor Standards Act and City Personnel Guidelines. In Operations Division, overtime pay shall be calculated based on a 15 day FLSA cycle. Overtime shall be paid on the payday following the pay period in which the FLSA cycle ends. In calculating overtime, leave time shall be credited in accordance with City personnel guidelines.
- 3-6 Step-up Pay – Members temporarily working in a higher classification shall be paid step-up pay. Step-up pay shall be the difference between the member's base pay and the lowest base pay of the next higher classification.
- 3-7 Assignment Pay – Members assigned to Fire Prevention or Training Divisions will receive assignment pay in the amount specified in the City budget. Other members may receive assignment pay if assigned to special functions and assignment pay is approved in the City budget.
- 3-8 Vacation – Members shall accumulate 15 days of vacation per year. Rate of accumulation shall be as indicated in the city personnel guidelines.
- 3-9 Holidays – Members shall receive holiday leave as indicated in the city personnel guidelines.
- 3-10 For members in Operations Division, two (2) days of leave time shall be equivalent to one (1) 24 hour shift.
- 3-11 Members in Operations Division shall take holidays with their vacation. Vacations and holidays shall be scheduled as directed by the Fire Chief.
- 3-12 Members in all divisions except Operations shall take holidays on the scheduled day as listed in the city personnel guidelines. These members shall request vacation time by submitting a written request to their immediate supervisor for approval.

- 3-13 Sick Leave – Members shall accumulate 15 days of sick leave per year as indicated in the city personnel guidelines. Members may take sick leave as allowed by the City personnel guidelines and by the section in this chapter entitled "Sick Leave".

Section 4 Working in a higher classification

- 4-1 Members working temporarily in a higher classification shall receive step-up pay in accordance with paragraph 3-6 above.
- 4-2 The Battalion Chief of Operations is authorized to approve step-up in accordance with these guidelines. Any exceptions to these guidelines shall be approved by the Fire Chief.
- 4-3 Each individual selected to step-up shall be qualified and capable of filling the position in the next higher rank that is open. Not every individual of a particular rank meets these requirements. Determination of the fitness to step-up is based solely on the judgment of the Operations Chief and/or Fire Chief.
- 4-4 Members shall not step-up more than one rank.
- 4-5 Newly promoted members shall not step-up until after successful completion of a six-month training period in their new rank. This six-month training period also applies to personnel transferred from other divisions who do not have prior experience at their current rank in Operations Division.
- 4-6 Newly hired members shall not step-up until after completion of their probationary period
- 4-7 Members shall not step-up to fill positions if there are members of the appropriate rank available to fill the position.

Section 5 Sick Leave

- 5-1 All members are eligible for sick leave benefits. Members shall accumulate sick leave in accordance with Texas Civil Service Law and City personnel guidelines.
- 5-2 Members retiring or resigning from the Fire Department shall receive pay for unused sick leave in accordance with Texas Civil Service Law and City personnel guidelines.
- 5-3 All Members are eligible for incentive days for non-use of sick leave as described in City personnel guidelines.
- 5-4 Sick leave shall be granted for the following reasons only:
- a) When a member is unable to perform his duties due to illness or an off-duty injury.
 - b) When a medical, dental, or optical examination or treatment is necessary. Members shall attempt to schedule such appointments on off-duty time when possible. All such appointments shall be approved in advance by the Fire Chief or the member's Battalion Chief.

- c) When a member has been exposed to a contagious disease (as would normally be subject to quarantine as prescribed by Health Department Standards) and presence on the job would jeopardize the health of others.
 - d) When a medical situation arises involving illness of a member's immediate family. The relationship must meet the requirements defined in the City Personnel Guidelines.
 - e) When leave is needed for the purpose of attending a funeral, making arrangements, or otherwise attending to the affairs of a deceased family member.
 - f) When leave is authorized by the Family and Medical Leave Act.
- 5-5 Members shall provide a physician's release in certain circumstances. The release shall state that the member has been under the physician's care and that the member is released to perform full or regular duties. The member shall provide the release prior to or at the time of returning to work. Supervisors shall not allow a member to return to work without this release. A release is required in all the following circumstances:
- a) Any sick leave taken for personal illness or injury which exceeds 48 hours (2 shifts).
 - b) Any sick leave taken due to exposure to contagious disease.
 - c) Following any surgery, whether sick leave was taken or not.
 - d) Any off-duty injury requiring a physician's examination or treatment.
 - e) When requested by the Fire Chief.
- 5-6 Frequent claiming of sick leave may constitute grounds for the assumption by the Fire Chief that the physical condition of a member is below the standard required for the proper performance of duties and this may lead to a request for a physical examination to determine fitness for the job. Any such examination shall be conducted in accordance with requirements of Texas Civil Service law.
- 5-7 Members who abuse sick leave are subject to disciplinary action, up to and including indefinite suspension.
- 5-8 In Operations Division, members claiming sick leave shall notify the Operations Chief on duty of their inability to report to work and the reason they cannot report. Members shall make this notification at least 30 minutes prior to their scheduled duty shift. The Operations Chief receiving this notification shall notify the station captain where the member was scheduled to work and both the Battalion Chief and the captain shall notify their relief at shift change. In other divisions, members shall notify someone in the office of their absence. This notification shall be made within 30 minutes of the start of their scheduled shift.
- 5-9 While on sick leave, members shall not work at another job. The Fire Chief may make exceptions to this rule with appropriate medical clearance.

- 5-10 Members who use sick leave shall sign a personnel action form and shall indicate on the form the reason for their absence.
- 5-11 Members who are members of the “Doubling List” and whose sick leave is exhausted are allowed to have other members work for them in accordance with the guidelines on substitutes and rules of the “Doubling List” as established by the members.

Section 6 Military Leave

- 6-1 Fifteen (15) days of military leave per Federal fiscal year are available to members of the reserves or National Guard. This military leave may be taken for weekend drills, annual duty, specialized training, or any other active military duty.
- 6-2 Members must notify their chain of command as far in advance as possible of the need to take military leave.

Section 7 Return from Active Military Duty

- 7-1 Return from active military duty will be handled in accordance with USERRA and applicable sections of Civil Service law.
- 7-2 In order to be eligible to be returned to duty after a period of military service, a member must meet each of the following requirements:
 - a) Member must have received an honorable discharge or other honorable separation from service
 - b) Member must remain physically and mentally fit to discharge the duties of their position
 - c) Member must make application for reinstatement within the time limits established in USERRA
 - d) Member must maintain current required certifications, including TCFP structure firefighter and DSHS Emergency Medical Technician
- 7-3 To determine physical fitness for duty, members may be required to complete an entry physical and the incumbent physical ability test
 - a) Members whose absence for military duty is greater than or equal to one year shall be required to take the physical and PAT
 - b) Members whose absence for military service is less than one year may be required to take the physical and PAT at the discretion of the Fire Chief
- 7-4 Mental fitness for duty will be assumed unless evidence indicates otherwise. If a question as to mental fitness arises, the Fire Chief will institute proceedings under Section 143.081 of Civil Service law.
- 7-5 At the discretion of the Fire Chief, an orientation and retraining period may be required prior to a returning member being assigned to fire suppression duties.

Section 8 Substitutes

- 8-1 Members in operations division may employ substitutes (commonly called swap time) to work in their place.
- 8-2 Members may have no more than 12 substitutions during the fiscal year (Oct. 1st – Sept. 30th), exceptions may be requested in writing to the Fire Chief.
- 8-3 When a member employs a substitute, the member is on duty for payroll purposes only. The substitute is on duty for all other purposes.
- 8-4 Members shall request approval for substitutes at least one shift in advance on the form provided for this purpose. The Company Officer shall recommend approval or disapproval of the substitution and forward the form to the Operations Chief. The Operations Chief shall make the final decision of approval or disapproval of the substitution. Operations Chief substitutes shall be approved or disapproved by the Fire Chief. Requests for substitutes received less than one shift in advanced may be considered at the discretion of the officers involved.
- 8-5 Members shall make a reasonable effort to employ a substitute of equal rank. In every case, substitutes shall be qualified to perform the duties of the position filled. Members shall not employ substitutes more than one rank below their own.
- 8-6 Substitutions are time for time only, no other form of remuneration is allowed regardless of the circumstance.
- 8-7 Members working overtime are not permitted to employ a substitute.
- 8-8 Station officers shall record substitutes in the company log book. Operations Chiefs shall record substitutes in the Operations Chief's log book and on the status report.
- 8-9 Members shall not work another job while off with a substitute with the exception of required military reserve drills.
- 8-10 Any substitute arrangements that will result in a member being off multiple shifts shall not be approved.
- 8-11 Receiving time off by employing a substitute is a privilege, not a right. Members who abuse this privilege are subject to disciplinary action and/or having this privilege revoked on an individual basis at the discretion of the Fire Chief.

Section 9 Disciplinary Action

- 9-1 All disciplinary action taken shall be taken in accordance with State and local Civil Service rules and regulations and in accordance with any applicable federal, state, and local statutes.
- 9-2 The degree of disciplinary action that may be taken by the Fire Department is as follows:

- a) Oral reprimand (including documented oral reprimand)
 - b) Written reprimand
 - c) Demotion
 - d) Temporary suspension without pay.
 - e) Indefinite suspension without pay.
- 9-3 Action taken will depend on the degree of the offense, the record of the offender, and the seriousness of the consequences of the violation.
- 9-4 Company officers and Battalion Chiefs may give oral reprimands. If desired, these officers may document these oral reprimands to the Fire Chief on the form provided.
- 9-5 All levels of disciplinary action other than oral reprimand shall be given by the Fire Chief. Officers who believe disciplinary action is needed shall initiate such action by letter through channels to the Fire Chief. Officers shall include in this letter a description of the problem, any supporting evidence or documentation, and a recommendation for action.
- 9-6 Any member subject to disciplinary action shall be given an opportunity to present any information he/she has or any mitigating circumstances prior to disciplinary action being taken.
- 9-7 The Fire Chief shall have the final decision in all disciplinary matters, subject to appeal procedures in civil service statutes.

Section 10 Promotional Procedures

- 10-1 The Fire Chief shall make all promotions in accordance with Texas civil service law and City of Texarkana, Texas Civil Service Rules and Regulations.
- 10-2 At least two copies of all books on promotional reading lists will be available at the Texarkana Public Library. One copy of each book will be kept in the library and will be available to study there. One or more copies of each book will be available to members to check out. Books shall be checked out for seven (7) days only. Books shall not be checked out consecutively by the same person
- 10-3 Books on promotional reading lists may be available from the Fire Department library. When a promotional exam is not posted, members may check out these books in accordance with normal procedures. From the time an exam notice is posted until an exam is given, members may check out these books for no longer than seven (7) consecutive days. Books shall not be checked out consecutively by the same person.
- 10-4 From the time an exam notice is posted until an exam is given, only those members eligible to take that promotional exam may check out study material for that exam. This applies both at the public library and at the department library.

- 10-5 Members shall return any books that are on the reading list for a currently posted promotional exam in a prompt manner and no later than the due date. Failure to return books on time will result in disciplinary action.
- 10-6 Members shall not take promotional exams while on duty; however, members may employ a substitute while taking a promotional exam.
- 10-7 Members must make arrangements to be present when an exam is given regardless of vacation or other leave time.
- 10-8 The Civil Service Director shall schedule the date, time, and location of exams. Member's dates of eligibility for the exam will not be consulted when scheduling the exam.

Section 11 Overtime Hiring and Emergency Recall

11-1 Routine Overtime Hiring

- a) Routine overtime hiring must be done in a consistent manner to insure fairness to all members. Circumstances in hiring vary. Generally, someone must be hired immediately. Sometimes time is not a concern within reasonable limits. Be sure that all members are afforded the same opportunity to work if they so desire, within the guidelines imposed by these rules.
- b) Overtime hiring worksheets will be provided for each crew. Each crew's worksheet will have the names of members on the other two crews listed in order of seniority. Care must be exercised to be certain that the appropriate worksheet for the crew on duty is used.
- c) The last member hired will be listed in the Operations Chief log book and on the list kept in the Operations Chief's office for that purpose. Each shift will have a separate column on the "last hired" sheet.
- d) When hiring, the member calling (normally the Operations Chief) will start with the first name on the overtime hiring worksheet under the person last hired.
- e) Members will be called in the order that their name appears on the worksheet. No member will be skipped except for reasons listed in this procedure. If a member is hired, write the time hired for and the station on the left side of their name. If a member is not hired, indicate the reason on the right side of their name.
- f) Overtime hiring will be for ½ shift at a time under normal circumstances. All daytime slots will be filled prior to hiring evening slots.
- g) Members will be utilized at their rank whenever possible. If not possible, they will be utilized at the highest available position below their rank.

- h) Members must be capable of filling the position needed. Members who cannot drive fire department vehicles, including those on probation, may be hired if sufficient personnel are available to fill required driver and officer positions. (Except see policy on probationary firefighters for exception during first few months of employment.) Otherwise, no member should be excluded from working overtime if arrangements can reasonably be made to fill all required positions.
- i) Members on sick leave will not be hired overtime. For purposes of overtime, sick leave begins when a member calls in sick and does not end until the member reports back to work. For example, a member is off on sick leave 24 hours on Monday. His next scheduled shift is Thursday. He is not eligible for overtime on Tuesday or Wednesday.
- j) Members on vacation are not eligible for overtime. For purposes of overtime, vacation leave begins at the time a member is actually off work and ends when he reports back. For example, a member's vacation starts at 7:00 AM on April 15 and he reports back to work at 7:00 AM on April 30. He is eligible for overtime on April 13 and 14, but he is not on April 28 or 29. This rule is written for purposes of consistency. This is being approached in different ways by different people.
- k) Members off on holiday, vacation, or incentive leave of one shift or less are ineligible for overtime only on their shift while they are actually on leave. For example, a member takes a holiday on Monday night. He is eligible for overtime on Tuesday.
- l) Operations Chiefs may consider response time in the hiring process. For example, it is 06:45 and the next person on the list for hiring lives approximately 90 minutes away. The position needs to be filled at 07:00 or someone will be forced to stay overtime. It is appropriate to skip the out of town person and go down the list to someone who lives closer. It would not be appropriate to skip someone if the hiring is being done for the PM shift and there is sufficient time for travel. The Operations Chief needs to use judgment in this process. He must balance giving equal rights to overtime work to all members against the immediate need to fill an open position. If a member is skipped when hiring for daytime because of travel time, the skipped member(s) shall be considered for the PM shift if needed.
- m) When calling for overtime, always identify yourself and the purpose of your call to the person answering the phone even if the member is not home. If you reach an answering machine, leave this information on the machine. This is the proper and courteous thing to do and helps prevent complaints that the member was not called.

- n) Phone rings are only 5 seconds apart. Always let the phone ring at least 6 times before hanging up and writing “no answer” on the call sheet.
- o) Both primary and secondary contact numbers are shown on the overtime sheet. Primary numbers will always be called. Secondary numbers are shown for convenience sake and are not required to be called. Be consistent. If you call the secondary number for one person, call them for all.
- p) Show equal consideration to all members when hiring overtime. Each member deserves an equal chance to work. If you have time to let one member’s spouse call him to call you back, treat all the same. Favoritism has no place in the hiring process.
- q) Only members assigned to Operations Division are eligible for regular overtime in Operations Division. New members who have not completed training and members assigned to other divisions are not eligible. Members are not eligible for regular overtime on their own shift.

11-2 Emergency Recall

- a) Emergency recall hiring will be handled differently. If an entire shift is needed to be recalled, or all off duty personnel, the Incident Commander should request the dispatcher to initiate a recall of a particular shift or shifts through the “Code Red” system. When the Incident Commander needs a certain number of personnel (less than a full shift), he should contact the investigator on call and request that the investigator initiate a recall of personnel until he has contacted the required number. Members living in the immediate Texarkana area will be called before those who travel any significant distance. No particular order of calling is required in an emergency recall. Any members who can be reached will be hired.

Section 12 Miscellaneous Provisions

12-1 Moonlighting

- a) City personnel guidelines require that all full-time city employees who hold other positions of paid employment or accept pay for services obtain written approval of their department head prior to accepting such employment. The Department Head may cancel such approval at any time it is determined that such outside employment conflicts or interferes with a member's duties and responsibilities as an employee of the City of Texarkana, Texas.
- b) Members wishing to request such approval shall do so on a form available from the Fire Chief's office. Members must fill out forms completely, providing all requested information.

- c) Members shall give priority to their duties and responsibilities as Fire Department employees over any responsibility to other employers. Such responsibility to another employer shall not be a valid reason for not responding to an emergency recall, mandatory overtime, required meeting, required training, or any other obligation to this department.
- d) Members shall not engage in business activities related to other employment while on duty and shall not use city property or facilities for such activities.
- e) Members shall use care in selecting outside employment to ensure that the employment does not create a conflict of interest with regard to their Fire Department employment.
- f) Members shall not use their status as Fire Department members in any way to generate additional business or solicit favors in regard to outside employment.
- g) Members shall inform the Fire Chief on the appropriate form when the member leaves employment at a part-time job previously approved.

12-2 Flower Fund

- a) A flower fund has been established in the Fire Department. This fund shall be maintained to provide flowers in accordance with these guidelines.
- b) When the balance in the fund is depleted, the Battalion Chiefs in charge of each crew and division will collect a contribution from each participating member. The particular amount of the contribution will be determined by the Fire Chief. Participation by members is voluntary.
- c) The flower fund will be administered by the Fire Department Administrative Coordinator. The Administrative Coordinator will receive and deposit all contributions, make payments, and place orders. In the absence of the Administrative Coordinator, the Fire Chief or a member designated by the Fire Chief will administer the fund.
- d) Flowers will be sent to the funeral of a current member, the immediate family of a current member, or a retired member. For purposes of this section, immediate family is defined as husband, wife, son, daughter, father, mother, brother, sister, father-in-law, or mother-in-law.
- e) If requested by the family of the deceased, a contribution may be made to a chosen charity in lieu of sending flowers.
- f) Members who become aware of a death in one of these categories shall notify the Battalion Chief on duty. The Battalion Chief shall notify the Fire Chief so that necessary arrangements can be made.

12-3 Nepotism

- a) City personnel guidelines regulate nepotism within the City government. Refer to the personnel guidelines for exact wording.

- b) Within the Fire Department, the nepotism rules will be applied as follows:
 - i) Two related members will not be allowed to work at the same station.
 - ii) Two related Captains will not be allowed to work on the same crew.
 - iii) No member shall supervise, directly or indirectly, a related member.
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- d) Related members will not normally be permanently assigned to the same crew. While legal, it would present scheduling problems if the restrictions had to be dealt with on a regular basis.

12-4 Education and Training Procedures

- a) In order to maintain consistency between City personnel guidelines and Fire Department policies while maintaining an awareness of differences in Fire Department schedules, the following policy will be followed in regard to attending training or college & university classes on duty days.
 - i) Members may employ a substitute (swap time) to attend classes, but not from 7:00 AM to 5:00 PM weekdays.
 - ii) Regular college classes may not be attended on duty regardless of job relationship except for classes that are required by the department.
 - iii) Shorter seminars (one or two day) that are job related will be considered on an individual basis by the Fire Chief.
- b) Exceptions to the above policy may be made if the Fire Chief considers a particular class beneficial to the department as a whole and the exception is reasonable.

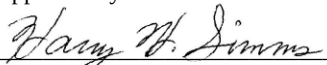
12-5 Public Service Leave

- a) A member called to jury duty or subpoenaed to testify as a witness will receive public service leave during the time of the court appearance.
- b) If a member is not selected for a jury, the member will return to work immediately after being dismissed by the judge.
- c) If a member is selected to serve on a jury, the member will return to work after the completion of the trial and dismissal by the judge.
- d) A member called as a witness will return to work as soon as released by the judge.

- e) The above guidelines are general. Obviously, if a member is selected for a jury but does not have to report for an extended period of time, he should work when scheduled in the interim. Common sense must be used in applying these guidelines.
- f) All members shall document court appearance requirements by providing a copy of the juror summons or the subpoena.

12-6 Member Telephone Numbers

- a) All members are required to provide their home telephone number for contact during off duty hours.
- b) Normally, member phone numbers will be posted at all fire stations and in the Operations Chief's office.
- c) If a member requests in writing, his phone number will be omitted from the lists posted at the fire stations. It will still be included on the list posted at the Operations Chief's office.
- d) Member's phone numbers are not to be released to callers. If a request is received for a member phone number, advise the caller that the number cannot be released. Offer to take the caller's name and phone number and relay the information to the member as soon as possible. Always maintain a professional and courteous attitude when dealing with this situation.

	Texarkana Fire Department	
	Policy and Procedures Manual	
	Title: General Personnel Policies	
	Applies to: All Personnel	
	Approved by:  Harry H. Simms, Fire Chief	Effective Date: 11-02-2009
	Revision Date: 11-02-2009	
	Pages: 1 of 14	Tab: 19

This Policy/Procedure is for the Texarkana Texas Fire Department's internal use only and does not enhance an employee's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this Policy/Procedure, if proven, may only form the basis for a complaint by the Texarkana Texas Fire Department in a non-judicial, administrative setting.

Section 1 Administration

- 1-1 Purpose: The purpose of this section is to provide information on various personnel related issues within the department. This policy should be used in conjunction with Chapter 143, Texas Local Government Code; City of Texarkana, Texas Personnel Policies; and various Federal and State of Texas laws related to personnel issues.
- 1-2 Scope: This policy applies to all personnel. When conflicts arise between various laws and policies governing personnel issues, they are to be resolved by the following priority order:
- a) Federal Statutes and Rules
 - b) Chapter 143, Texas Local Government Code (Civil Service)
 - c) Other State of Texas statutes and rules
 - d) City of Texarkana, Texas Local Civil Service Rules
 - e) City of Texarkana, Texas Personnel Policies
 - i) Exception: In circumstances where department policies are more stringent than city policies, the more stringent policy will apply.
 - f) Texarkana Fire Department Policies and Procedures

Section 2 Definitions

- 2-1 Civil Service Law – Chapter 143 of the Texas Local Government Code.
- 2-2 Local Civil Service Rules – Rules governing local Civil Service as approved by the Civil Service Commission and published by the Civil Service Director
- 2-3 Personnel Policies – Policies of the City of Texarkana, Texas as approved by the City manager and City Council and made available to employees by the Human Resources Director.
- 2-4 USSERA – *Uniformed Services Employment and Reemployment Rights Act*. This Federal law specifies rights regarding employment and re-employment for veterans returning from active duty.

Section 3 Pay and Benefits

- 3-1 Base Pay – All members shall receive base pay as approved by the City Council in the current budget. All members holding the same rank and having the same tenure in their rank shall receive the same base pay.

- 3-2 Longevity Pay – All members shall receive longevity pay at the rate of \$4.00 per month per year of service. The maximum longevity pay is \$100.00 per month.
- 3-3 Certification Incentive Pay – Members who hold advanced levels of certification from the Texas Commission on Fire Protection are eligible for certification incentive pay. Members with Intermediate certification shall receive \$50.00 per month. Members with advanced certification shall receive \$100.00 per month. Members with master certification shall receive \$150.00 per month. Members may receive both certification incentive pay and education incentive pay.
- 3-4 Education incentive pay – Eligible members may receive education incentive pay. Qualifications and pay amounts are listed in the City Personnel Policy Handbook. Members may receive both certification incentive pay and education incentive pay.
- 3-5 Overtime pay – Overtime pay shall be calculated and paid in accordance with the Fair Labor Standards Act and City Personnel Guidelines. In Operations Division, overtime pay shall be calculated based on a 15 day FLSA cycle. Overtime shall be paid on the payday following the pay period in which the FLSA cycle ends. In calculating overtime, leave time shall be credited in accordance with City personnel guidelines.
- 3-6 Step-up Pay – Members temporarily working in a higher classification shall be paid step-up pay. Step-up pay shall be the difference between the member's base pay and the lowest base pay of the next higher classification.
- 3-7 Assignment Pay – Members assigned to Fire Prevention or Training Divisions will receive assignment pay in the amount specified in the City budget. Other members may receive assignment pay if assigned to special functions and assignment pay is approved in the City budget.
- 3-8 Vacation – Members shall accumulate 15 days of vacation per year. Rate of accumulation shall be as indicated in the city personnel guidelines.
- 3-9 Holidays – Members shall receive holiday leave as indicated in the city personnel guidelines.
- 3-10 For members in Operations Division, two (2) days of leave time shall be equivalent to one (1) 24 hour shift.
- 3-11 Members in Operations Division shall take holidays with their vacation. Vacations and holidays shall be scheduled as directed by the Fire Chief.
- 3-12 Members in all divisions except Operations shall take holidays on the scheduled day as listed in the city personnel guidelines. These members shall request vacation time by submitting a written request to their immediate supervisor for approval.

- 3-13 Sick Leave – Members shall accumulate 15 days of sick leave per year as indicated in the city personnel guidelines. Members may take sick leave as allowed by the City personnel guidelines and by the section in this chapter entitled "Sick Leave".

Section 4 Working in a higher classification

- 4-1 Members working temporarily in a higher classification shall receive step-up pay in accordance with paragraph 3-6 above.
- 4-2 The Battalion Chief of Operations is authorized to approve step-up in accordance with these guidelines. Any exceptions to these guidelines shall be approved by the Fire Chief.
- 4-3 Each individual selected to step-up shall be qualified and capable of filling the position in the next higher rank that is open. Not every individual of a particular rank meets these requirements. Determination of the fitness to step-up is based solely on the judgment of the Operations Chief and/or Fire Chief.
- 4-4 Members shall not step-up more than one rank.
- 4-5 Newly promoted members shall not step-up until after successful completion of a six-month training period in their new rank. This six-month training period also applies to personnel transferred from other divisions who do not have prior experience at their current rank in Operations Division.
- 4-6 Newly hired members shall not step-up until after completion of their probationary period
- 4-7 Members shall not step-up to fill positions if there are members of the appropriate rank available to fill the position.

Section 5 Sick Leave

- 5-1 All members are eligible for sick leave benefits. Members shall accumulate sick leave in accordance with Texas Civil Service Law and City personnel guidelines.
- 5-2 Members retiring or resigning from the Fire Department shall receive pay for unused sick leave in accordance with Texas Civil Service Law and City personnel guidelines.
- 5-3 All Members are eligible for incentive days for non-use of sick leave as described in City personnel guidelines.
- 5-4 Sick leave shall be granted for the following reasons only:
 - a) When a member is unable to perform his duties due to illness or an off-duty injury.
 - b) When a medical, dental, or optical examination or treatment is necessary. Members shall attempt to schedule such appointments on off-duty time when possible. All such appointments shall be approved in advance by the Fire Chief or the member's Battalion Chief.

- c) When a member has been exposed to a contagious disease (as would normally be subject to quarantine as prescribed by Health Department Standards) and presence on the job would jeopardize the health of others.
 - d) When a medical situation arises involving illness of a member's immediate family. The relationship must meet the requirements defined in the City Personnel Guidelines.
 - e) When leave is needed for the purpose of attending a funeral, making arrangements, or otherwise attending to the affairs of a deceased family member.
 - f) When leave is authorized by the Family and Medical Leave Act.
- 5-5 Members shall provide a physician's release in certain circumstances. The release shall state that the member has been under the physician's care and that the member is released to perform full or regular duties. The member shall provide the release prior to or at the time of returning to work. Supervisors shall not allow a member to return to work without this release. A release is required in all the following circumstances:
- a) Any sick leave taken for personal illness or injury which exceeds 48 hours (2 shifts).
 - b) Any sick leave taken due to exposure to contagious disease.
 - c) Following any surgery, whether sick leave was taken or not.
 - d) Any off-duty injury requiring a physician's examination or treatment.
 - e) When requested by the Fire Chief.
- 5-6 Frequent claiming of sick leave may constitute grounds for the assumption by the Fire Chief that the physical condition of a member is below the standard required for the proper performance of duties and this may lead to a request for a physical examination to determine fitness for the job. Any such examination shall be conducted in accordance with requirements of Texas Civil Service law.
- 5-7 Members who abuse sick leave are subject to disciplinary action, up to and including indefinite suspension.
- 5-8 In Operations Division, members claiming sick leave shall notify the Operations Chief on duty of their inability to report to work and the reason they cannot report. Members shall make this notification at least 30 minutes prior to their scheduled duty shift. The Operations Chief receiving this notification shall notify the station captain where the member was scheduled to work and both the Battalion Chief and the captain shall notify their relief at shift change. In other divisions, members shall notify someone in the office of their absence. This notification shall be made within 30 minutes of the start of their scheduled shift.
- 5-9 While on sick leave, members shall not work at another job. The Fire Chief may make exceptions to this rule with appropriate medical clearance.

- 5-10 Members who use sick leave shall sign a personnel action form and shall indicate on the form the reason for their absence.
- 5-11 Members who are members of the "Doubling List" and whose sick leave is exhausted are allowed to have other members work for them in accordance with the guidelines on substitutes and rules of the "Doubling List" as established by the members.

Section 6 Military Leave

- 6-1 Fifteen (15) days of military leave per Federal fiscal year are available to members of the reserves or National Guard. This military leave may be taken for weekend drills, annual duty, specialized training, or any other active military duty.
- 6-2 Members must notify their chain of command as far in advance as possible of the need to take military leave.

Section 7 Return from Active Military Duty

- 7-1 Return from active military duty will be handled in accordance with USERRA and applicable sections of Civil Service law.
- 7-2 In order to be eligible to be returned to duty after a period of military service, a member must meet each of the following requirements:
 - a) Member must have received an honorable discharge or other honorable separation from service
 - b) Member must remain physically and mentally fit to discharge the duties of their position
 - c) Member must make application for reinstatement within the time limits established in USERRA
 - d) Member must maintain current required certifications, including TCFP structure firefighter and DSHS Emergency Medical Technician
- 7-3 To determine physical fitness for duty, members may be required to complete an entry physical and the incumbent physical ability test
 - a) Members whose absence for military duty is greater than or equal to one year shall be required to take the physical and PAT
 - b) Members whose absence for military service is less than one year may be required to take the physical and PAT at the discretion of the Fire Chief
- 7-4 Mental fitness for duty will be assumed unless evidence indicates otherwise. If a question as to mental fitness arises, the Fire Chief will institute proceedings under Section 143.081 of Civil Service law.
- 7-5 At the discretion of the Fire Chief, an orientation and retraining period may be required prior to a returning member being assigned to fire suppression duties.

Section 8 Substitutes

- 8-1 Members in operations division may employ substitutes (commonly called swap time) to work in their place.
- 8-18-2 ~~Members may have no more than 12 substitutions during the fiscal year (Oct. 1st-Sept. 30th), exceptions may be requested in writing to the Fire Chief.~~
- 8-28-3 When a member employs a substitute, the member is on duty for payroll purposes only. The substitute is on duty for all other purposes.
- 8-38-4 Members shall request approval for substitutes at least one shift in advance on the form provided for this purpose. The Company Officer shall recommend approval or disapproval of the substitution and forward the form to the Operations Chief. The Operations Chief shall make the final decision of approval or disapproval of the substitution. Operations Chief substitutes shall be approved or disapproved by the Fire Chief. Requests for substitutes received less than one shift in advanced may be considered at the discretion of the officers involved.
- 8-5 Members shall make a reasonable effort to employ a substitute of equal rank. In every case, substitutes shall be qualified to perform the duties of the position filled. Members shall not employ substitutes more than one rank below their own. ~~Operations Chiefs may make exceptions to this rule if sufficient qualified members are available to fill all positions, any moving by members is voluntary, no step up pay is created, and no major disruption of the crew is created.~~
- 8-6 ~~Substitutions are time for time only, no other form of remuneration is allowed regardless of the circumstance.~~
- 8-48-7 ~~Members working overtime are not permitted to employ a substitute.~~
- 8-58-8 Station officers shall record substitutes in the company log book. Operations Chiefs shall record substitutes in the Operations Chief's log book and on the status report.
- 8-68-9 Members shall not work another job while off with a substitute with the exception of required military reserve drills.
- 8-78-10 Any substitute arrangements that will result in a member being off multiple shifts ~~over an extended period of time will shall~~ not be approved.
- 8-88-11 ~~Substitutes may be employed to attend college or university classes but not between the hours of 7:00 a.m. and 5:00 p.m. weekdays.~~
- 8-98-12 Receiving time off by employing a substitute is a privilege, not a right. Members who abuse this privilege are subject to disciplinary action and/or having this privilege revoked on an individual basis at the discretion of the Fire Chief.

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Section 9 Disciplinary Action

- 9-1 All disciplinary action taken shall be taken in accordance with State and local Civil Service rules and regulations and in accordance with any applicable federal, state, and local statutes.
- 9-2 The degree of disciplinary action that may be taken by the Fire Department is as follows:
 - a) Oral reprimand (including documented oral reprimand)
 - b) Written reprimand
 - c) Demotion
 - d) Temporary suspension without pay.
 - e) Indefinite suspension without pay.
- 9-3 Action taken will depend on the degree of the offense, the record of the offender, and the seriousness of the consequences of the violation.
- 9-4 Company officers and Battalion Chiefs may give oral reprimands. If desired, these officers may document these oral reprimands to the Fire Chief on the form provided.
- 9-5 All levels of disciplinary action other than oral reprimand shall be given by the Fire Chief. Officers who believe disciplinary action is needed shall initiate such action by letter through channels to the Fire Chief. Officers shall include in this letter a description of the problem, any supporting evidence or documentation, and a recommendation for action.
- 9-6 Any member subject to disciplinary action shall be given an opportunity to present any information he/she has or any mitigating circumstances prior to disciplinary action being taken.
- 9-7 The Fire Chief shall have the final decision in all disciplinary matters, subject to appeal procedures in civil service statutes.

Section 10 Promotional Procedures

- 10-1 The Fire Chief shall make all promotions in accordance with Texas civil service law and City of Texarkana, Texas Civil Service Rules and Regulations.
- 10-2 At least two copies of all books on promotional reading lists will be available at the Texarkana Public Library. One copy of each book will be kept in the library and will be available to study there. One or more copies of each book will be available to members to check out. Books shall be checked out for seven (7) days only. Books shall not be checked out consecutively by the same person

- 10-3 Books on promotional reading lists may be available from the Fire Department library. When a promotional exam is not posted, members may check out these books in accordance with normal procedures. From the time an exam notice is posted until an exam is given, members may check out these books for no longer than seven (7) consecutive days. Books shall not be checked out consecutively by the same person.
- 10-4 From the time an exam notice is posted until an exam is given, only those members eligible to take that promotional exam may check out study material for that exam. This applies both at the public library and at the department library.
- 10-5 Members shall return any books that are on the reading list for a currently posted promotional exam in a prompt manner and no later than the due date. Failure to return books on time will result in disciplinary action.
- 10-6 Members shall not take promotional exams while on duty; however, members may employ a substitute while taking a promotional exam.
- 10-7 Members must make arrangements to be present when an exam is given regardless of vacation or other leave time.
- 10-8 The Civil Service Director shall schedule the date, time, and location of exams. Member's dates of eligibility for the exam will not be consulted when scheduling the exam.

Section 11 Overtime Hiring and Emergency Recall

11-1 Routine Overtime Hiring

- a) Routine overtime hiring must be done in a consistent manner to insure fairness to all members. Circumstances in hiring vary. Generally, someone must be hired immediately. Sometimes time is not a concern within reasonable limits. Be sure that all members are afforded the same opportunity to work if they so desire, within the guidelines imposed by these rules.
- b) Overtime hiring worksheets will be provided for each crew. Each crew's worksheet will have the names of members on the other two crews listed in order of seniority. Care must be exercised to be certain that the appropriate worksheet for the crew on duty is used.
- c) The last member hired will be listed in the Operations Chief log book and on the list kept in the Operations Chief's office for that purpose. Each shift will have a separate column on the "last hired" sheet.
- d) When hiring, the member calling (normally the Operations Chief) will start with the first name on the overtime hiring worksheet under the person last hired.

- e) Members will be called in the order that their name appears on the worksheet. No member will be skipped except for reasons listed in this procedure. If a member is hired, write the time hired for and the station on the left side of their name. If a member is not hired, indicate the reason on the right side of their name.
- f) Overtime hiring will be for ½ shift at a time under normal circumstances. All daytime slots will be filled prior to hiring evening slots.
- g) Members will be utilized at their rank whenever possible. If not possible, they will be utilized at the highest available position below their rank.
- h) Members must be capable of filling the position needed. Members who cannot drive fire department vehicles, including those on probation, may be hired if sufficient personnel are available to fill required driver and officer positions. (Except see policy on probationary firefighters for exception during first few months of employment.) Otherwise, no member should be excluded from working overtime if arrangements can reasonably be made to fill all required positions.
- i) Members on sick leave will not be hired overtime. For purposes of overtime, sick leave begins when a member calls in sick and does not end until the member reports back to work. For example, a member is off on sick leave 24 hours on Monday. His next scheduled shift is Thursday. He is not eligible for overtime on Tuesday or Wednesday.
- j) Members on vacation are not eligible for overtime. For purposes of overtime, vacation leave begins at the time a member is actually off work and ends when he reports back. For example, a member's vacation starts at 7:00 AM on April 15 and he reports back to work at 7:00 AM on April 30. He is eligible for overtime on April 13 and 14, but he is not on April 28 or 29. This rule is written for purposes of consistency. This is being approached in different ways by different people.
- k) Members off on holiday, vacation, or incentive leave of one shift or less are ineligible for overtime only on their shift while they are actually on leave. For example, a member takes a holiday on Monday night. He is eligible for overtime on Tuesday.

- l) Operations Chiefs may consider response time in the hiring process. For example, it is 06:45 and the next person on the list for hiring lives approximately 90 minutes away. The position needs to be filled at 07:00 or someone will be forced to stay overtime. It is appropriate to skip the out of town person and go down the list to someone who lives closer. It would not be appropriate to skip someone if the hiring is being done for the PM shift and there is sufficient time for travel. The Operations Chief needs to use judgment in this process. He must balance giving equal rights to overtime work to all members against the immediate need to fill an open position. If a member is skipped when hiring for daytime because of travel time, the skipped member(s) shall be considered for the PM shift if needed.
- m) When calling for overtime, always identify yourself and the purpose of your call to the person answering the phone even if the member is not home. If you reach an answering machine, leave this information on the machine. This is the proper and courteous thing to do and helps prevent complaints that the member was not called.
- n) Phone rings are only 5 seconds apart. Always let the phone ring at least 6 times before hanging up and writing "no answer" on the call sheet.
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- q) Only members assigned to Operations Division are eligible for regular overtime in Operations Division. New members who have not completed training and members assigned to other divisions are not eligible. Members are not eligible for regular overtime on their own shift.

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- a) Emergency recall hiring will be handled differently. If an entire shift is needed to be recalled, or all off duty personnel, the Incident Commander should request the dispatcher to initiate a recall of a particular shift or shifts through the "Code Red" system. When the Incident Commander needs a certain number of personnel (less than a full shift), he should contact the investigator on call and request that the investigator initiate a recall of personnel until he has contacted the required number. Members living in the immediate Texarkana area will be called before those who travel any significant distance. No particular order of calling is required in an emergency recall. Any members who can be reached will be hired.

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- d) Members shall not engage in business activities related to other employment while on duty and shall not use city property or facilities for such activities.
- e) Members shall use care in selecting outside employment to ensure that the employment does not create a conflict of interest with regard to their Fire Department employment.
- f) Members shall not use their status as Fire Department members in any way to generate additional business or solicit favors in regard to outside employment.
- g) Members shall inform the Fire Chief on the appropriate form when the member leaves employment at a part-time job previously approved.

12-2 Flower Fund

- a) A flower fund has been established in the Fire Department. This fund shall be maintained to provide flowers in accordance with these guidelines.
- b) When the balance in the fund is depleted, the Battalion Chiefs in charge of each crew and division will collect a contribution from each participating member. The particular amount of the contribution will be determined by the Fire Chief. Participation by members is voluntary.
- c) The flower fund will be administered by the Fire Department Administrative Coordinator. The Administrative Coordinator will receive and deposit all contributions, make payments, and place orders. In the absence of the Administrative Coordinator, the Fire Chief or a member designated by the Fire Chief will administer the fund.
- d) Flowers will be sent to the funeral of a current member, the immediate family of a current member, or a retired member. For purposes of this section, immediate family is defined as husband, wife, son, daughter, father, mother, brother, sister, father-in-law, or mother-in-law.
- e) If requested by the family of the deceased, a contribution may be made to a chosen charity in lieu of sending flowers.
- f) Members who become aware of a death in one of these categories shall notify the Battalion Chief on duty. The Battalion Chief shall notify the Fire Chief so that necessary arrangements can be made.

12-3 Nepotism

- a) City personnel guidelines regulate nepotism within the City government. Refer to the personnel guidelines for exact wording.
- b) Within the Fire Department, the nepotism rules will be applied as follows:
 - i) Two related members will not be allowed to work at the same station.
 - ii) Two related Captains will not be allowed to work on the same crew.
 - iii) No member shall supervise, directly or indirectly, a related member.
- c) As long as the requirements in 3-9.02 above are not violated, related members may work on the same shift. Operations Chiefs should make a reasonable effort to accommodate related members when a related member is eligible for overtime on his relative's shift.
- d) Related members will not normally be permanently assigned to the same crew. While legal, it would present scheduling problems if the restrictions had to be dealt with on a regular basis.

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- a) In order to maintain consistency between City personnel guidelines and Fire Department policies while maintaining an awareness of differences in Fire Department schedules, the following policy will be followed in regard to attending training or college & university classes on duty days.
 - i) Members may employ a substitute (swap time) to attend classes, but not from 7:00 AM to 5:00 PM weekdays.
 - ii) Regular college classes may not be attended on duty regardless of job relationship except for classes that are required by the department.
 - iii) Shorter seminars (one or two day) that are job related will be considered on an individual basis by the Fire Chief.
- b) Exceptions to the above policy may be made if the Fire Chief considers a particular class beneficial to the department as a whole and the exception is reasonable.

12-5 Public Service Leave

- a) A member called to jury duty or subpoenaed to testify as a witness will receive public service leave during the time of the court appearance.
- b) If a member is not selected for a jury, the member will return to work immediately after being dismissed by the judge.
- c) If a member is selected to serve on a jury, the member will return to work after the completion of the trial and dismissal by the judge.
- d) A member called as a witness will return to work as soon as released by the judge.
- e) The above guidelines are general. Obviously, if a member is selected for a jury but does not have to report for an extended period of time, he should work when scheduled in the interim. Common sense must be used in applying these guidelines.
- f) All members shall document court appearance requirements by providing a copy of the juror summons or the subpoena.

12-6 Member Telephone Numbers

- a) All members are required to provide their home telephone number for contact during off duty hours.
- b) Normally, member phone numbers will be posted at all fire stations and in the Operations Chief's office.
- c) If a member requests in writing, his phone number will be omitted from the lists posted at the fire stations. It will still be included on the list posted at the Operations Chief's office.

- d) Member's phone numbers are not to be released to callers. If a request is received for a member phone number, advise the caller that the number cannot be released. Offer to take the caller's name and phone number and relay the information to the member as soon as possible. Always maintain a professional and courteous attitude when dealing with this situation.

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

§ 553.31**29 CFR Ch. V (7-1-11 Edition)**

in the case of public safety employees as discussed below in section (3)), as well as all the facts and circumstances in a particular case, in determining whether employment in a second capacity is substantially different from the regular employment.

(3) For example, if a public park employee primarily engaged in playground maintenance also from time to time cleans an evening recreation center operated by the same agency, the additional work would be considered hours worked for the same employer and subject to the Act's overtime requirements because it is not in a *different capacity*. This would be the case even though the work was *occasional or sporadic*, and, was not regularly scheduled. Public safety employees taking on any kind of security or safety function within the same local government are never considered to be employed in a *different capacity*.

(4) However, if a bookkeeper for a municipal park agency or a city mail clerk occasionally referees for an adult evening basketball league sponsored by the city, the hours worked as a referee would be considered to be in a different general occupational category than the primary employment and would not be counted as hours worked for overtime purposes on the regular job. A person regularly employed as a bus driver may assist in crowd control, for example, at an event such as a winter festival, and in doing so, would be deemed to be serving in a different capacity.

(5) In addition, any activity traditionally associated with teaching (e.g., coaching, career counseling, etc.) will not be considered as employment in a *different capacity*. However, where personnel other than teachers engage in such teaching-related activities, the work will be viewed as employment in a *different capacity*, provided that these activities are performed on an occasional or sporadic basis and all other requirements for this provision are met. For example, a school secretary could substitute as a coach for a basketball team or a maintenance engineer could provide instruction on auto repair on an occasional or sporadic basis.

§ 553.31 Substitution—section 7(p)(3).

(a) Section 7(p)(3) of the FLSA provides that two individuals employed in any occupation by the same public agency may agree, solely at their option and with the approval of the public agency, to substitute for one another during scheduled work hours in performance of work in the same capacity. The hours worked shall be excluded by the employer in the calculation of the hours for which the substituting employee would otherwise be entitled to overtime compensation under the Act. Where one employee substitutes for another, each employee will be credited as if he or she had worked his or her normal work schedule for that shift.

(b) The provisions of section 7(p)(3) apply only if employees' decisions to substitute for one another are made freely and without coercion, direct or implied. An employer may suggest that an employee substitute or "trade time" with another employee working in the same capacity during regularly scheduled hours, but each employee must be free to refuse to perform such work without sanction and without being required to explain or justify the decision. An employee's decision to substitute will be considered to have been made at his/her sole option when it has been made (i) without fear of reprisal or promise of reward by the employer, and (ii) exclusively for the employee's own convenience.

(c) A public agency which employs individuals who substitute or "trade time" under this subsection is not required to keep a record of the hours of the substitute work.

(d) In order to qualify under section 7(p)(3), an agreement between individuals employed by a public agency to substitute for one another at their own option must be approved by the agency. This requires that the agency be aware of the arrangement prior to the work being done, i.e., the employer must know what work is being done, by whom it is being done, and where and when it is being done. Approval is manifest when the employer is aware of the substitution and indicates approval in whatever manner is customary.



U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division
Washington, D.C. 20210

November 23, 2004

FLSA2004-23

Dear **Name***,

This is in response to your letter requesting an opinion letter concerning the issue of "donating" and "exchanging" time under section 7(p)(3) of the Fair Labor Standards Act (FLSA) for firefighters employed by the **Name***. We regret the long delay in responding.

A firefighter suffered an injury and was unable to work for an extended period. Her fellow firefighters decided to work her regular shift to ensure that her pay and benefits would continue uninterrupted. The employer, after becoming aware of this practice, disallowed it, and stated that the injured firefighter would be required to repay all the donated time. A discussion between you and a member of my staff on March 9, 2004, revealed that this employee has not worked for about four months, and during that time up to nine of her co-workers voluntarily substituted in her place during her scheduled shifts. On average, each of the firefighters substituted one 24 hour shift on her behalf.

You ask whether a group of firefighters may "donate" time to another firefighter by working in her place during her regular shift schedule in order for her to receive regular pay. The FLSA does not use the terms "donate" or "exchange," but rather uses the term "substitute." Generally, the FLSA and the implementing regulations provide that public agency employees may agree to substitute for each other and that the pay of both the substituting and substituted employee is unaffected. These provisions would permit the scenario described in your letter as long as the "substitution" comports with the statutory and regulatory substitution requirements set out below.

Section 7(p)(3) of the FLSA provides that two individuals employed in the same capacity by the same public agency may agree, solely at their option and with the approval of the public agency, to substitute for one another during scheduled work hours. 29 U.S.C. §207(p)(3). It further states that the hours worked by the substituting employee shall be excluded by the public agency in the calculation of the hours for which the substituting employee is entitled to overtime compensation under the Act. The implementing regulations provide that when "one employee substitutes for another, each employee will be credited as if he or she had worked his or her normal work schedule for that shift." 29 CFR §553.31(a).

The regulations limit the application of section 7(p)(3) to situations where the "employees' decisions to substitute for one another are made freely and without coercion, direct or implied. An employer may suggest that an employee substitute or 'trade time' with another employee working in the same capacity during regularly scheduled hours, but each employee must be free to refuse to perform such work without sanction and without being required to explain or justify the decision. An employee's decision to substitute will be considered to have been made at his/her sole option when it has been made (i) without fear of reprisal or promise of reward by the employer, and (ii) exclusively for the employee's own convenience." 29 CFR §553.31(b).

The implementing regulations also provide guidance on satisfying the statutory requirement for a public agency to approve an agreement between employees to substitute for one another. This approval requirement is satisfied "when the employer is aware of the substitution and indicates approval in whatever manner is customary." 29 CFR §553.31(d).

Finally, there is no provision in section 7(p)(3) or its implementing regulations that could be construed to require one individual to "repay" the other individual who agrees to a work substitution arrangement. Previous opinion letters issued by the Wage and Hour Division, dated January 2, 1987 and December 13, 1993, have stated consistently that there is no FLSA requirement that an employee substitute in turn in order to pay back the other employee. This is a matter left for the parties to resolve.

You also ask whether a firefighter may substitute shifts with more than one firefighter at any one time.



U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division
Washington, D.C. 20210

Neither section 7(p)(3) nor its implementing regulations limit the number of substitutions between employees. See January 2, 1987 opinion letter. However, as mentioned above, an agreement between individuals employed by a public agency to substitute for one another at their own option must be approved by the agency. Additionally, section 7.7 of the collective bargaining agreement between the **Name*** and the **Name*** Professional Fire Fighters Union Local 3174 is consistent with this requirement by noting that employees "may exchange shifts if advance approval is obtained from the Fire Chief, and there shall be no liability for overtime pay as a result of the shift exchange." Thus, while both section 7(p)(3) and the collective bargaining agreement require employer approval to substitute work performed by one employee for another employee, neither prohibits a public agency from limiting the number of times work substitutions can be exchanged.

This opinion is based exclusively on the facts and circumstances described in your request and is given on the basis of your representation, explicit or implied, that you have provided a full and fair description of all the facts and circumstances which would be pertinent to our consideration of the question presented. Existence of any other factual or historical background not contained in your request might require a different conclusion than the one expressed herein. You have represented that this opinion is not sought by a party to pending private litigation concerning the issue addressed herein. You have also represented that this opinion is not sought in connection with an investigation or litigation between a client or firm and the Wage and Hour Division or the Department of Labor.

We trust that the above is responsive to your inquiry.

Sincerely,

Alfred B. Robinson, Jr.
Acting Administrator

*Note: * The actual name(s) was removed to preserve privacy.*

TTFD-Schlotter, Eric

From: Melissa Cranford <cranford@laborcounsel.net>
Sent: Wednesday, July 22, 2015 10:35 AM
To: TEX-Powell, Jim
Subject: SWAP time issue

CONFIDENTIAL COMMUNICATION: PROTECTED BY ATTORNEY-CLIENT PRIVILEGE

Dear Jim:

Per our conversation of yesterday, please be advised that the City has a large area of discretion in regulating the practice of shift swapping in the fire department. Please find some of the options we discussed below, from most restrictive to least:

1. Prohibit employees from engaging in shift swapping. (The only caution I would add, is that it needs to be applied uniformly and in both the police and fire departments.)
2. Prohibit employees from paying workers directly. (This is probably a good limitation for a number of reasons, as the City does have some exposure in allowing an individual to work if it results in either a minimum wage violation or an overtime deficit because of additional time worked for which the employee would not receive a time and a half equivalent. Allowing the extra shifts also drives up the potential cost of overtime if paid in accordance with the FLSA and the City's payroll practices. Further, by allowing an employee to pay a co-worker out of pocket to work instead of a time-for-time swap results likely results in a non-payment of payroll taxes and proportional retirement benefits.)
3. Require a minimum number of hours to be worked by each employee per pay period or per month. (This restriction is also backed up by the guidelines for the Affordable Care Act. Under the ACA, to be considered a full-time employee and eligible for employee sponsored coverage, employees must work 30 hours per week. Employees who are not working 30 hours per week, but are accepting benefits may be engaging in fraudulent conduct under the insurance plan. Employers who knowingly allow the employee's conduct may also encounter liability through the plan documents.)
4. Require a minimum number of shifts to be worked per pay period or per month.
5. Require that shift swap be paid back within a pay period.
6. Require approval from supervisor to engage in shift swapping
7. Prohibit shift swapping between ranks. (i.e., only drivers may work for drivers.)

These are some of the most obvious and common limitations, but a combination of any of these rules may also be instituted. Please let me know what questions you might have in forming a policy.

Kindest regards,

Melissa H. Cranford

Approved;

C. P. Birmingham, Fire Chief

Texarkana, Texas
December 15th, 1954To: C. P. Birmingham
Chief Fire Department
Texarkana, Texas

We; the undersigned members of the Texarkana, Texas Fire Department, desire to make the following agreement. It is agreed and understood by and between each of the undersigned that in the event any of us should become sick or disabled to the extent that we are unable to carry out our duties in the Fire Department., and after all sick leave has been exhausted by the man affected that we agree to "double" for him. Providing however, that the following provisions are complied with.

(1) No member is to be actively engaged in gainfull employment while receiving the benefits of this agreement. If the members of this agreement feel that this provision is being violated or abused they can by a majority vote "expell" the member in question.

(2) No member is required to work (double) during his vacation or specified (regular) day off.. However this provision is optional and should a man elect to work during these periods he can do so. Should a member desire ~~not~~ to work during these periods he is required to make up the time at a later date. Each mans cooperation will contribute to the success of this agreement.

agreement

(3) The members of this ~~max~~ request the Chief and Department Officers to allow the men that are doubling to work at the station where the vacancy exists, as a result of man being off sick or disable. However this request is made with the thought in mind of maintaining the efficiency of the Department at all times.

EACH UNDERSIGNED MEMBER IS ENTITLED TO RECEIVE DOUBLING BENEFITS OF 180 WORKING DAYS (not to exceed 180 work days)

Resigned	<i>[Signature]</i>	<i>E. D. Dixon</i>	Retired
Deceased	<i>[Signature]</i>	<i>A. H. Jamell</i>	Retired
3	<i>[Signature]</i>	<i>H. D. Schlink</i>	Retired
4	<i>[Signature]</i>	<i>G. F. Slaton</i>	
5	<i>[Signature]</i>	<i>Joe A. Burnett</i>	Resigned
6	<i>[Signature]</i>	<i>G. I. Bennett</i>	
7	<i>[Signature]</i>	<i>J. H. Hughes</i>	Resigned
Deceased	<i>[Signature]</i>	<i>Joe H. Gill</i>	
9	<i>[Signature]</i>	<i>Joe E. Benjamin</i>	Retired
Retired	<i>[Signature]</i>	<i>B. W. Galt</i>	
Retired	<i>[Signature]</i>	<i>H. E. McSee</i>	
12	<i>[Signature]</i>	<i>B. J. Chapman</i>	Retired
Resigned	<i>[Signature]</i>	<i>J. H. L. Brown</i>	Resigned
Retired	<i>[Signature]</i>	<i>B. J. Fox</i>	
15	<i>[Signature]</i>	<i>Joe E. Pope</i>	Deceased
16	<i>[Signature]</i>	<i>Edward Benlig</i>	
Resigned	<i>[Signature]</i>	<i>Clown R. Fin</i>	Deceased

Additional signatures to be made on the reverse side.

REGULAR MEETING
DECEMBER 28, 1954
7:00 P.M.

The City Council of the City of Texarkana, Texas, met in Regular Session in the Council Chambers of the Municipal Building, December 28, 1954 at 7:00 P.M. Mayor A. P. Miller, Jr. present and presiding.

CALL TO ORDER

Chief of Police Leon Arnold called the meeting to order.

ROLL CALL

On roll call the following Aldermen were present:

Hon. J. R. Bryant, Alderman Ward 1	Hon. N. S. Petty, Alderman Ward 5
Hon. A. P. LeGrand, Alderman Ward 2	Hon. C. E. Hervey, Alderman Ward 6
Hon. Paul Blankenship, Alderman Ward 3	Hon. Geo. McCoppin, Alderman at large
Hon. J. W. Poore, Jr., Alderman Ward 4	

* * * * *

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LIGHT, WATER AND FIRE

Alderman Petty discussed the matter of off duty firemen which was placed in his Committee at the last meeting.

ACTION TAKEN

Motion was made by Alderman Petty, seconded by Alderman Bryant, that firemen in the Fire Department of the City of Texarkana, Texas, shall be permitted to engage in agreements to double for sick or disabled fellow firemen, not sick, injured or disabled in line of duty, said doubling to be on a volunteer basis, without any compulsion from anyone. The sick, injured or disabled firemen shall be carried on the payroll of the City of Texarkana, Texas, after his sick leave has been exhausted so long as there is some qualified fireman of the Fire Department of the City of Texarkana, Texas, working for him during his tour of duty, and the period of time for such doubling shall not exceed 180 working days. For the purposes of clarity, if a fellow fireman agrees to double for the sick, injured or disabled employee, fails to present himself for work, the sick, injured or disabled firemen shall be considered absent without leave. If a fellow fireman presents himself for work and begins work, the fellow fireman will be considered in line of duty for all purposes, except pay purposes. If the fellow fireman violates any civil service rule while doubling for a sick, injured or disabled fireman, the fellow fireman shall be subject to such disciplinary action as though he were on his regular tour of duty.

On roll call the following Aldermen voted:

Yeas: Bryant, LeGrand, Blankenship, Poore, Petty, Hervey, McCoppin
Yeas: 7
Nays: None

McKINNEY FIRE DEPARTMENT
ADMINISTRATIVE DIRECTIVE

Issued 08/09/2013	Archived:
Effective: 08/09/2013	
Revised: 05/21/15	
Authorized by: D T Kistner	Date: 05/21/15

Trade-Out
1.028

Related Directives/SOG/Memo's	Related Forms

1.028.01 **PURPOSE:**

It is the purpose of this policy to outline and define the Trade-out Policy for the McKinney Fire Department.

1.028.02 **SCOPE:**

It is the policy of the McKinney Fire Department to allow shift personnel to trade with each other on a limited basis while meeting the needs of the Department. It shall be the responsibility of all members and Fire Department employees to be familiar, understand, and implement this directive.

1.028.03 **DEFINITIONS:**

Trade-out – By mutual agreement, one individual of equal classification is voluntarily working for another with the concurrence of their supervisors.

Company Officer – the officer (s) for whom a person works and officially reports.

1.028.04 **POLICY:**

- A. Company officers are responsible for their personnel; they have the authority to approve or deny trade-out requests.
- B. All trade-outs shall be on a time-for-time basis only.
- C. Trade-out shall be allowed on an "as needed" basis, regulated by the company officer. The members involved in the trade-out will be within the same classification and have the necessary knowledge and expertise to perform all the duties of the position. (e.g., Captain for

Captain, Driver for Driver, Firefighter for Firefighter). Duties, functions, and activities of a particular assignment shall not be compromised.

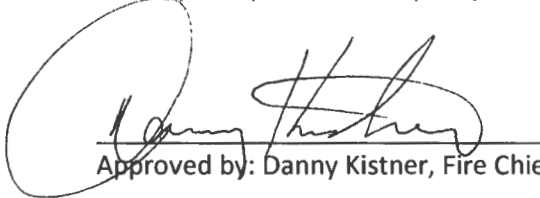
- D. Members are responsible for their particular shift. Members cannot delegate responsibility for their work shift to another. When a substitute does not or cannot report as agreed, the responsibility for securing another substitute remains with the member originally scheduled to work. If a substitute cannot be secured, the regularly scheduled member shall report for work as scheduled. If a substitute calls in sick or must leave due to illness or family emergency, the sick time will be charged to the regularly scheduled member.
- E. Trade-out records will be the responsibility of the members trading time. The company officer will be responsible for recording the trade on the Central Calendar as well as keeping all records in the stations trade-out log. Disputes should be settled at the company officer's level, then up the chain of command as required.
- F. Member will not be eligible for trade-outs while on probation for fire recruit or disciplinary probation.

1.028.04 SUSPENSION:

- A. Trade-out leave shall be considered a privilege, and as such, may be suspended. Any individual placed on trade-out suspension shall not give or receive new trade-outs for the duration of the suspension. Any outstanding time to be received or given by the suspended individual shall only be allowed upon approval of the Battalion Chief.

1.028.05 EXCEPTIONS:

- A. Any exceptions to this policy shall be at the discretion of the Fire Chief or designee.



Approved by: Danny Kistner, Fire Chief

Nacogdoches Fire & Rescue	104.3
Standard Operating Procedure	Leave Time – Exchange of Time
Originally Issued: 00-00-00	Approved By:
Last Revision: 07-13-11	

OBJECTIVE:	The objective of this section is to establish guidelines regarding exchange of time that are in addition to those leave guidelines established in the City of Nacogdoches Personnel Policies guidebook. The following information is specific for Nacogdoches Fire & Rescue operations.
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PHILOSOPHY

Exchange of time between members increases flexibility among firefighters, improves employee morale and has a direct relationship to decreased use of sick and emergency leave.

STANDARD

- I. Exchange of Time
 - A. Members may have another member work for them for a total of 96 hours each month. Exchange of time must meet other conditions of this section.
 - B. Exchanges of time are just that, exchanges of time. Members may work for others who can reasonably be expected to repay them with time (see subsection I(2) below for special circumstances). Members are not authorized to exchange time for remuneration other than like time itself.
 - C. All exchanges must be documented on the Department's Exchange of Time Agreement form and must be approved prior to the occurrence of the exchange.
 - D. A station officer has the authority and responsibility for approving or not approving Exchange of time request for Driver/Engineers and Firefighters.
 - E. With due cause, a BC may disapprove an Exchange of Time that was approved by a Captain.
 - F. A Battalion Fire Chief (BC) has the authority and responsibility for approving or not approving Exchange of time request for Captains.
 - G. With due cause, a BC may disapprove an Exchange of Time that was approved by a Captain.
 - H. Exchanges permitted:
 1. Battalion Fire Chief for Battalion Fire Chief
 2. Captain for Captain or Driver/Engineer
 3. Driver/Engineer for Captain, Driver/Engineer, or Firefighter
 4. Firefighter for Firefighter or Driver/Engineer
 - I. Exchange of Time form: The Exchange of Time form is to be filled out before the exchange of time takes place. This document is to cover any possible questions about why an employee was working other than their normal shift. Both parties must sign the form before the exchange takes place.
 - J. Special Circumstances:
 1. If an employee exhausts all leave time due to a major illness or accident, other members may at their own choice exchange time for that employee without the affected employee having to replace the time. Such situations must be approved by the Fire Chief

2. From time to time other situations occur that make non-traditional exchange of time appropriate (working outside of permitted ranks, extended family illness, etc.). Variances of this policy to accommodate those occasions require approval of the fire chief.
- K. Qualifying Situations:
1. An employee may not work for another employee on Exchange of Time after being absent due to sickness until they have completed their next shift assignment.
 2. If an Exchange of Time request was previously signed before an employee is off sick, it is the responsibility of the member who was to work to get someone else to take their place or notify the member for whom they were to work for that they cannot work. Any disciplinary action, docked pay, or charged leave time will be against the employee who was to work for another employee.
 3. Anyone on Firefighter Probation status is not eligible to work for another employee but they may have someone else work in their place.
 4. An employee on the same shift cannot take Vacation or Comp-time to Exchange Time with someone on their particular shift.
 5. An employee working overtime cannot get someone to work for him/her.
- L. Exceptions: Exceptions to this policy may be made in extenuating circumstances. Members who feel they have a need for an exception shall present their request in writing to their BC. The final decision will come from the Fire Chief.

Legal Basis

Texas Local Government Code

Section 142.001. GENERAL PROVISIONS RELATING TO HOURS OF LABOR AND VACATION OF MEMBERS OF FIRE AND POLICE DEPARTMENTS IN MUNICIPALITIES.

(d) Sections 142.0013, 142.0015, and 142.0017 do not prevent a fire fighter or police officer from working extra hours when exchanging hours of work with another fire fighter or police officer with the consent of the department head.

29 CFR §553.31(a).

Title 29: Labor

Subtitle B: Regulations Relating to Labor (Continued)

CHAPTER V: WAGE AND HOUR DIVISION, DEPARTMENT OF LABOR

SUBCHAPTER A: REGULATIONS

PART 553: APPLICATION OF THE FAIR LABOR STANDARDS ACT TO EMPLOYEES OF STATE AND LOCAL GOVERNMENTS

Subpart A: General

553.31 – Substitution - section 7(p)(3).

(a) Section 7(p)(3) of the FLSA provides that two individuals employed in any occupation by the same public agency may agree, solely at their option and with the approval of the public agency, to substitute for one another during scheduled work hours in performance of work in the same capacity. The hours worked shall be excluded by the employer in the calculation of the hours for which the substituting employee would otherwise be entitled to overtime compensation under the Act. Where one employee substitutes for another, each employee will be credited as if he or she had worked his or her normal work schedule for that shift.

(b) The provisions of section 7(p)(3) apply only if employees' decisions to substitute for one another are made freely and without coercion, direct or implied. An employer may suggest that an employee

substitute or trade time with another employee working in the same capacity during regularly scheduled hours, but each employee must be free to refuse to perform such work without sanction and without being required to explain or justify the decision. An employee's decision to substitute will be considered to have been made at his/her sole option when it has been made (i) without fear of reprisal or promise of reward by the employer, and (ii) exclusively for the employee's own convenience.

(c) A public agency which employs individuals who substitute or trade time under this subsection is not required to keep a record of the hours of the substitute work.

(d) In order to qualify under section 7(p)(3), an agreement between individuals employed by a public agency to substitute for one another at their own option must be approved by the agency. This requires that the agency be aware of the arrangement prior to the work being done, i.e., the employer must know what work is being done, by whom it is being done, and where and when it is being done. Approval is manifest when the employer is aware of the substitution and indicates approval in whatever manner is customary.

		
Exchange of Time Agreement		
In accordance with Chapter 142 of the Texas Local Government Code, firefighters are eligible to exchange time for time with other firefighters with approval of the department head. Exchanges must be hour for hour unless otherwise approved by the Fire Chief (ex: extended illness, etc.). Exchanges for any remuneration other than time are not authorized.		
Member Giving Exchange		Person Receiving Exchange
Date of Exchange	Begin Time	End Time
This agreement is for a total exchange of _____ hours.		
CERTIFICATION		
- The member <u>giving the exchange</u> is responsible for reporting to the assigned station on the date and time shown to work. - The member <u>giving the exchange</u> will be charged leave time or docked pay to cover any and all overtime cost as a result of failing to fulfill the terms of this Agreement and may be subject to disciplinary action. - The member <u>giving the exchange</u> certifies that they are capable of performing the duties of the person they are working for. - The member <u>giving the exchange</u> shall not be absent due to emergency or illness on their last shift prior to the exchange. - The member <u>giving the exchange</u> is not on firefighter probationary status. - Members may only receive 96 hours per month in exchanges unless approved by the Fire Chief. - Exchanges must be approved in advance and may be denied for the good of the Department or other valid reason by the shift commander.		
Member Receiving Exchange		Date
Member Giving Exchange		Date
Officer Authorizing Exchange		Date



Standard Operating Procedures/Guidelines

Revision Number

2

Shift Adjustment Policy

Date Issued: 10/19/2012 • Date Revised: 09/09/2016

Purpose: This policy will serve as the guideline for personnel wishing to perform mutually agreed-upon shift adjustment(s). This policy will only address mutual shift adjustment(s) or "time-for-time" agreements. Effective with this policy, shift adjustments based on "time-for-cash" or "time-for-services" agreements **will no longer be an option.**

Scope: The *Shift Adjustment Policy (aka: Traded Hours/Shift Trade/Time Trade)* SOP/SOG applies to all members within the Operational field of the Longview Fire Department.

Definitions: TRO (Traded Hours Off) is the payroll code for the time off an employee is using.

TRW (Traded Hours Worked) is the payroll code for the time worked for another employee.

I. Policy

- A.** An employee will be allowed no more than 10 shifts or 240 hours of TRO (Traded Hours Off) per calendar year. In addition, no employee will be allowed more than 10 shifts or 240 hours of TWO (Traded Hours Worked) per calendar year.
- B.** Employees participating in a mutually agreed-upon shift adjustment must be completely capable of fulfilling the expected job-duties of the individual with whom they are replacing.
- C.** Firehouse will be properly documented to reflect a shift adjustment taking place with the proper payroll codes TRW or TRO as the employee's Activity Code for that particular time/shift as well as the other mutually agreeing party.
- D.** When an employee wishes to arrange a shift adjustment they will notify their immediate supervisor not less than 24-hours prior to the scheduled date that the adjustment is to occur.
- E.** The Station Officer and/or Battalion Chief retain the authority to approve/deny any shift adjustment being requested at their discretion with reasonable justification.
- F.** Once a shift adjustment has been mutually agreed-upon at the individual-level and further approved at the supervisory-level, the responsibility of ensuring that the work expectation is met becomes that of the individual who agreed to cover the position. In the event that circumstances arise (sick, emergency, etc.) that prevent the adjustment from taking place as arranged, the responsibility to have the position covered remains with the individual who was expected to

work and any subsequent replacements must also meet all applicable work expectations.

- G.** The Training Section Chief must authorize (prior to Operational approval) all shift adjustments involving Apprentices and non-checked off Firefighter/Medics.
- H.** Violations of the Shift Adjustment Policy by exceeding the guidelines within the calendar year shall result in disciplinary action (Class II offense) and restriction from participating in future shift adjustments for a period of twelve months.

APPROVED:


J.P. Steelman, Fire Chief

BURLESON FIRE DEPARTMENT



104.06

Exchange of Time

Purpose

The purpose of this policy is to establish the procedures to be followed when exchanging time with another employee.

Policy

The Burleson Fire Department will allow exchanges of time when all stated procedures are followed.

Procedures

The following conditions and guidelines will designate when a trade out will be allowed:

1. A Burleson Cobweb form must be completed online prior to trade date, to be placed on the calendar, and immediate supervisor notified by employee.
2. A new employee will not be eligible for exchange of time until they complete their probation.
3. An employee will be responsible for making up any mandatory training missed, if the trade alters any scheduled training or any planned special events.
4. At all times, persons in each assigned apparatus positions must have completed the appropriate qualifications in the Task Books (SOP 102.02, 102.03, 102.04).



LUFKIN FIRE DEPARTMENT

TRADE OUT POLICY

ADMINISTRATIVE
DIRECTIVE
125

7.9.m

Issued/Revised: 02/15/2012, 02/10/2014 Effective: 02/15/2012, 03/12/2014 Reviewed: 01/14/2014	<u>Related Directives/Memos/SOP</u>	<u>Related Forms</u>
	AD 150 Sick Leave Policy AD 190 General Orders	Trade Out Form at BC Office

125.01 PURPOSE

To provide a standardized policy for managing trade outs within the department. This Directive details the guidelines for the following scenarios:

- A. Battalion Chief's Discretion
- B. Planned Trade Out
- C. Unplanned Trade Out
- D. Sick leave use by scheduled working employee
- E. Unexcused absence

125.02 BATTALION CHIEF'S DISCRETION

It shall be at the Battalion Chief's discretion whether to accept or deny the trading of a shift or any portion of a shift with another member or employee whether it is planned or unplanned. A trade out request form must be filled out and signed by both parties and the Battalion Chief prior to allowing a planned trade out. Failure to adhere to the following procedures may result in loss of trade out privileges and/or possible disciplinary action depending on circumstances, frequency, and/or severity.

It is the responsibility of the replacement to disclose to the affected Battalion Chief any lack of qualifications and/or capabilities with regard to their ability to perform all of the duties of the requesting employee. Disclosure is to take place prior to approval or disapproval of the trade-out.

125.03 PLANNED TRADE OUT:

A planned trade out is defined as one in which all paperwork has been completed and signed by the shift before the trade-out is to take place.

The required paperwork is the form on the clipboard at the office of the Battalion Chief. It must be completed and all required signatures obtained, as well as approved by the Battalion Chief. The trade-out should be placed on the department electronic calendar by the Battalion Chief or their designee, so that it will be noted when morning assignments are being completed.

Persons trading out must be of the **SAME** EMS certification level for the Lt. and FF positions. All persons trading out must be within one rank of each other. It should also be understood that if the person working is not trained to fill in a specialized position of the requesting employee, then the trade out will be refused on that basis.

This is the **PREFERRED** method of trading shifts.

125.04 UNPLANNED TRADE OUT:

The department recognizes that occasionally unforeseen personal events arise and employees need to be off within reasonable parameters and frequencies. When the concerned parties are unable to complete the required paperwork prior to the date the trade out is to occur the

Attachment: 2016-116 ATTH 11 City of Lufkin FD Policy (1545 : 2016-116 RES revising fire department swap time policy)

following procedure **MUST** be followed **WITHOUT** deviation.

- A. The person requesting the trade will contact their Battalion Chief (or designee) prior to the designated shift and request the trade. If the trade is approved, then the working employee will contact the affected Battalion Chief and verify that they will report for duty in place of the requesting employee.
- B. If the requestor is unable to contact their Battalion Chief they are to contact the on duty Battalion Chief and submit their request under the same procedure and in accordance with all other policies and procedures of the department.
- C. As soon as possible, on the shift in question, the working employee will complete all required paperwork.
- D. Failure to follow these procedures may result in the loss of trade out privileges which may be invoked by a Battalion Chief or the Fire Chief.

125.05 SICK LEAVE USE BY REPLACEMENT EMPLOYEE:

If an employee has been approved to work for another employee and then finds that they are sick and unable to work the shift then they are directed to call and attempt to find a replacement. If they are unable to find a replacement then they are directed to conform to the normal **sick leave procedure (AD 150)**. The person who was scheduled to work will be debited vacation, not the person who agreed to work the shift. The trade-out will need to be resolved between the affected employees.

125.06 UNEXCUSED ABSENCE: If the preceding policy is not followed, the employee will be considered to be AWOL, and appropriate departmental disciplinary policies will be adhered to. (See General Orders 190.29)



Ted Lovett, Fire Chief

STANDARD OPERATIONAL GUIDELINES	SECTION 6	SUBSECTION B
EMPLOYEE SUBSTITUTIONS		AUGUST 2013

Par. 01 **Purpose**

A. To establish appropriate policy, to be used by Paris Fire Department personnel, for regulating shift trades.

Par. 02 **Substitution Matrix**

A. The following applies:

1. A Deputy Chief may substitute for another Deputy Chief or for a “qualified” Captain.
 - a. *Qualified* – refers to the capabilities/experience of an employee who has previous experience stepping-up to the higher rank and can competently complete those duties at the higher ranking level (e.g., a Captain which has previously stepped up to the Deputy Chief position and has had Incident Command experience would be “qualified” to repay a Deputy Chief for a time trade).
2. A Captain may substitute for another Captain, a Driver Engineer, or for a Deputy Chief (if qualified).
3. A Driver Engineer may substitute for another Driver Engineer, a Firefighter, or a Captain (if qualified and then only at the discretion of that shift’s Deputy Chief), but **NOT** for a Deputy Chief.
4. A Firefighter may substitute for another Firefighter, or a Driver Engineer,
5. A Probationary Firefighter (PF) may substitute for another PF or a Firefighter, but only as allowed by the shift’s Deputy Chief of whom the substitution will be on.

Par. 03 **Prerequisites**

A. Substitutions are a privilege and are not to be abused and of equal rank wherever possible.

1. Substitutions are an equal time-for-time trade.
2. Substitutions do not qualify for step-up or any salary compensation.
 - a. An employee substituting for another employee at a higher ranking level does so without remuneration.
3. An employee may NOT pay cash or offer other considerations for future substitutions.
 - a. Monetary reimbursement for time already owed, however, may be permitted, but only with special permission of the Fire Chief.
 4. Each and every substitution must be verified by both shift’s Deputy Chief’s prior to a trade.
 - a. Deputy Chief’s must ensure that apparatus staffing and/or special skill needs are not jeopardized.
 - b. Once a trade has been verified with the DC’s involved, the substitute employee then becomes responsible for the duty.
 - aa. If the substitute employee fails to report for the substitute shift, that person (the substitute employee) will be considered AWOL and subject to loss in pay
 - bb. If, however, the proposed trade has not been verified with the Deputy Chief’s, then the person originally scheduled to work the shift will be responsible for the duty and, if the duty is not met, will be considered AWOL and subject to loss in pay.
5. A person substituting for an employee whose duties include driving/operating apparatus must have the Driver/Operator Certification.

STANDARD OPERATIONAL GUIDELINES	SECTION 6	SUBSECTION B
EMPLOYEE SUBSTITUTIONS		AUGUST 2013

6. An employee of rank, who is working as a substitute, will be used in a position of rank instead of utilizing “step-up” for another employee to fill the position.
 - a. An exception may be for training purposes as authorized by the Fire Chief.

CITY OF SHERMAN FIRE DEPARTMENT
STANDARD OPERATING PROCEDURES
 103 Exchange Time

Issued: 10/2001
 Revised 01/2013
 Page 1 of 4

OBJECTIVE: To establish guidelines for the substitution of time for members of the Sherman Fire Department

103.01 EXCHANGE TIME

- 103.01.01 Exchange time is voluntary and is a agreement between two members of the department. Members are responsible for tracking exchange time and "pay back" of time.
- 103.01.02 Exchange time shall not result in overtime, out of classification pay, mileage pay or other costs to the City of Sherman
- 103.01.03 The Station Officer being affected by the trade may approve substitution for all exchanges within the same rank and classification. Exchanges out of rank or classification must be approved by the Shift Commander. Once the Station Officer approves an exchange time he must notify the Shift Commander as soon as possible of the trade.
- 103.01.04 The request for substitution must be submitted no later than one (1) hour prior to the trade beginning. Request for exchange time must be completed on the Department Exchange time form. **Request via e-mail and verbal request** will not be accepted. In case of an emergency situation the affected Station Officer shall complete an exchange time form by proxy and note on the form that the form was approved without signature. (01/2013).
- 103.01.05 Members may exchange time with members who do not hold the same qualifications only if the Company efficiency will not be unduly affected by the trade time. Minimum Company efficiency will be defined as three EMT-P personnel at sub stations and a minimum of one EMT-P at Central Station.
- 103.01.06 Members may stay over or relieve early another member up to a maximum of 1.0 hours without having to complete an exchange time form. Approval must be granted from the Station Officer, who must then inform the Shift Commander. (01/2013)

Approved and in effect. J J Jones, Fire Chief

CITY OF SHERMAN FIRE DEPARTMENT
STANDARD OPERATING PROCEDURES
 103 Exchange Time

Issued: 10/2001
 Revised 01/2013
 Page 2 of 4

- 103.01.06.01 If, during the one (1) hour early relief or late relief, the member is required to respond to an incident, the member shall complete a request for overtime. (01/2013).
- 103.01.07 Sick leave by either member involved in the exchange time, prior or immediately after a trade time will result of forfeiture of trade time privileges for a period of three (3) months on the first occurrence. A second occurrence will result in forfeiture of trade time privileges for a period of six (6) months. This may be appealed to the Fire Chief.
- 103.01.08 It is understood that members trading time are expected to maintain any continuing education requirements missed at their own expense.
- 103.01.09 Battalion Chiefs desiring to exchanging time must obtain approval from the Fire Chief.
- 103.01.10 Exchange time must be completed (paid back) within the same calendar year (01/2013). Each member shall work the required number of shifts each calendar year, including approved leaves.(01/2013).
- 103.01.11 Under no circumstance shall a "Cash Sub" be allowed. Trade time is for time only and no other form of compensation shall be permitted. (01/2013).

103.02 RESPONSIBILITY

- 103.02.01 When the exchange time has been approved by both members and approved by the supervisor, the employee who has agreed to work shall be responsible for the duty shift. When the employee who has agreed to work is unable to report as agreed, the responsibility for securing another substitute and getting the approval of the Shift Commander, remains his/her responsibility. (09/08).

Approved and in effect. J J Jones, Fire Chief

CITY OF SHERMAN FIRE DEPARTMENT
STANDARD OPERATING PROCEDURES
 103 Exchange Time

Issued: 10/2001
 Revised 01/2013
 Page 3 of 4

- 103.02.02 If the member who has agreed to work utilizes sick leave to cover the exchange time he will be required to verify the illness according to departmental policy. The member will be charged Sick Leave for the agreed hours and will be placed on trade time restriction for a period of three (3) months on the first occurrence. This may be appealed to the Fire Chief. (09/08).
- 103.02.03 A second occurrence will result in a forfeiture of exchange time privileges for a period of six (6) months. This may be appealed to the Fire Chief.
- 103.02.04 If the member who has agreed to work does not report for duty, that member will be considered to be in violation of Departmental Standard Operating Procedures and may be subject to disciplinary action. (09/08)
- 103.02.05 If the exchange time was not approved or submitted on the Department Trade Time Form, the responsibility for the duty hours remains with the person normally assigned to that shift. (09/08)
- 103.02.05 Members who are working exchange time, for any period of time, are considered "On Duty" and are subject to all department rules and regulations as well as City of Sherman Personnel Policies and Procedures. (10/08)
- 103.02.06 Members who are working exchange time are considered "On Duty" for purposes of protection under Worker Compensation and other like benefits. (10/08).

Approved and in effect. J J Jones, Fire Chief

CITY OF SHERMAN FIRE DEPARTMENT
STANDARD OPERATING PROCEDURES
 103 Exchange Time

Issued: 10/2001
 Revised 01/2013
 Page 4 of 4

Sherman Fire Department
 Exchange Time Form

Name of member regularly scheduled for duty: _____

Name of member who will be working: _____

Date exchange will occur: _____

Hours exchange will occur: _____

Name of affected supervisor: _____

The undersigned members have agreed to trade time. Both members understand that a trade of time should be paid back. Both members participating in the exchange of time understand this is voluntary and in accordance with department policy.

 Supervisor Signature

 Member Signature
 (Regularly scheduled for duty)

 Member Signature
 (Member who will be working)

 (Date form submitted to supervisor)

Approved and in effect. J J Jones, Fire Chief

Tyler

RULES & REGULATIONS**SECTION 33: TRADING OF TIME**

Personnel are allowed to trade time rank for rank with their supervisor's permission. District Chiefs may approve other than rank for rank trading of time in cases of emergencies or unusual circumstances. Members are not allowed to pay someone to work for them.

TTFD-Schlotter, Eric

From: Jennifer Otey <jotey@ci.duncanville.tx.us>
Sent: Thursday, July 30, 2015 8:48 AM
To: TEX-Powell, Jim
Subject: RE: Civil Service Fire Department - Swap Time

Trading Work Time

7.9 A trade or trading time is defined as any exchange of time within one shift between two members of the department. Employees involved in the trade scenario are making an agreement between themselves and not the city or department.

7.9.1 Trades can be taken for the enhancement of education, community service, and personal matters. The number of trades per individual or per shift will be at the discretion of the Station Officers. However, no shift trades shall be allowed if it will cause the employee to work more than (48) forty-eight consecutive hours without time off.

7.9.2 The Fire Department is not responsible for any controversy or discrepancies over trade time, owed, to be paid back, or when trade time is to be paid back.

7.9.3 All trades will be documented on a Trade Form and approved by the Station Officer of the on-duty shift prior to the trade become a bona-fide trade. Trade forms are located at each fire station.

7.9.4 Trades shall be between individuals of equal rank and capabilities.

7.9.5 Any employee who assumes a tour of duty for another also undertakes all responsibilities for that tour of duty.

7.9.6 Failure to report for a trade shall be considered absence without leave and will result in disciplinary action.

7.9.7 Trade time does not impact the FLSA twenty-eight day cycle.

7.9.8 Trade time can only be used when the person requesting the trade is scheduled to be on duty for his/her assigned shift. Trade time cannot be used for days when 114 the individual is not scheduled to be on duty, i.e. you cannot use a trade day if you are scheduled to be on vacation, ESL, holiday, and you cannot use a trade day if you are off on sick leave or workers compensation leave.

Jennifer Otey
HR Manager

From: TEX-Powell, Jim [mailto:Jim.Powell@txkusa.org]

Sent: Wednesday, July 29, 2015 4:46 PM

To: scollard@paristexas.gov; rivy@cityoflufkin.com; Denise Myers; pearls@ci.nacogdoches.tx.us; lstdidham@nbtexas.org; rray@tylertexas.com; jrogers@tylertexas.com; jpittman@tylertexas.com; cjohnston@marshalltexas.net; wgraves@marshalltexas.net; craigl@ci.sherman.tx.us; jvaughn@coppelltx.gov; lnorris@gptx.org; kshields@ci.desoto.tx.us; Janet.goad@midlothian.tx.us; dlee@lancaster-tx.com; Jennifer Otey

Subject: Civil Service Fire Department - Swap Time

Our Fire Department is Civil Service and participates in "swap time," the trading of work shifts among firefighters. I am wanting to know if any of you have a policy regarding swap time. If so, please share. Thanks. jim

Jim Powell, CPM

19.7 – SUB CALLS

- A. Trading or exchanging of on-duty work time between members shall be known as a “sub call”. Sub calls shall be by mutual agreement between the members concerned. Each member will be individually responsible for sub time they owe and sub time owed to them. **A sub call is the exchange of on-duty time; cash transactions related to sub calls are prohibited.** A member who is away from duty on a properly approved sub call where the sub actually works the member’s scheduled duty period shall be considered as present for duty for pay purposes. Members scheduled for duty are the members paid for such duty.
1. A member may be off with a sub only during the member’s regularly scheduled duty period.
 2. A member who subs for another cannot qualify for overtime pay during the period of the sub call.
- B. Sub calls shall be applicable only to members assigned to 24-hour shift duty, Fire Prevention Specialist assigned to the Fire Prevention Division, and members below the classification of Battalion Chief assigned to the Communications Section.
- C. Sub calls are a privilege and are **not** an earned right; abuse of sub calls is cause for this privilege to be revoked. A prime factor to be considered prior to approving a sub call request is operational effectiveness.
- D. Members are allowed to trade time, rank for rank, with their supervisor’s permission. Battalion Chiefs must approve out of rank subs between Firefighters and Drivers and between Lieutenants and Captains. Sub calls for Fire Prevention Specialists must be approved by the Fire Marshal. Assistant Chiefs must approve subs between Captains and Battalion Chiefs.
- E. Sub calls are ineligible for sick leave. If a member becomes ill and unable to work prior to or while serving as a sub, it shall be his/her responsibility to obtain another sub or notify the individual for who he/she was subbing. If another sub cannot be arranged or if the individual who arranged the sub cannot come in and finish the shift, the member who arranged the sub will be charged vacation leave for the remainder of the shift. When vacation time is utilized in these situations, a memo initiated by the member’s immediate supervisor shall be forwarded through the chain-of-command to the Chief of Department for notification purposes.

- F. Members who are injured in the line of duty are eligible for injury leave and Worker's Compensation benefits. This also applies to members injured in the line of duty while subbing. However, if the injured member is unable to work the remainder of the shift due to an injury while serving as a sub, it shall be his/her responsibility to obtain another sub or notify the individual for whom he/she was subbing. If another sub cannot be arranged or if the individual who arranged the sub cannot come in and finish the shift, the member who arranged the sub will be charged vacation leave for the remainder of the shift. When vacation time is utilized in these situations, a memo initiated by the member's immediate supervisor shall be forwarded through the chain-of-command to the Chief of Department for notification purposes.
- G. Sub calls requiring a member to work more than forty-eight (48) continuous hours on an MICU are not allowed. Sub calls for more than two (2) of the member's consecutive shifts must be approved by the Battalion Chief. Such requests must be justified and submitted to the Battalion Chief. The Battalion Chief will determine any impact the request would have on operational effectiveness and forward the request to the Assistant Chief, Operations for notification purposes only.