

**STATE OF OHIO  
BEFORE THE STATE EMPLOYMENT RELATIONS BOARD**

In the Matter of

State Employment Relations Board,

Complainant,

v.

City of Munroe Falls,

Respondent.

STATE EMPLOYMENT  
RELATIONS BOARD  
2011 JUL 12 A 9:30

Case No. 2010-ULP-09-0338

**ORDER  
(OPINION ATTACHED)**

Before Chair Zimpher, Vice Chair Spada, and Board Member Brundige: June 30, 2011.

On September 1, 2010, the Ohio Patrolmen's Benevolent Association ("Charging Party" or "Intervenor") filed an unfair labor practice charge against the Respondent, City of Munroe Falls ("Respondent"), alleging that Respondent violated Ohio Revised Code ("O.R.C.") §§ 4117.11(A)(1), (A)(3), and (A)(5). On October 14, 2010, the State Employment Relations Board ("the Board" or "Complainant") determined that probable cause existed to believe that the City had committed or was committing unfair labor practices in violation of O.R.C. §§ 4117.11(A)(1) and (A)(5), but not (A)(3), authorized the issuance of a Complaint, and referred the matter to an expedited hearing.

On November 3, 2010, a Complaint was issued. On December 21, 2010, the parties submitted joint stipulations of fact and joint exhibits in lieu of evidentiary hearing. Subsequently, all parties filed briefs setting forth their legal arguments. On February 3, 2011, the Board construed the joint stipulations of fact as a joint motion and transferred the case from the Hearings Section to the Board for a decision on the merits.

After reviewing the unfair labor practice charge, Complaint, Answer, Joint Stipulations, Proposed Order, exceptions, response to exceptions, and all other filings in this case, the Board issues a Board Opinion, incorporated by reference, with supporting Findings of Fact and Conclusions of Law, finding that Respondent violated Ohio Revised Code §§ 4117.11(A)(1) and (A)(5) when it failed to maintain the status quo and

unilaterally implemented terms and conditions of employment for the Full-Time Sergeant without bargaining to ultimate impasse.

Respondent City of Munroe Falls is hereby ordered to take the following actions:

**A. CEASE AND DESIST FROM:**

Interfering with, restraining, or coercing employees in the exercise of their rights guaranteed in Ohio Revised Code Chapter 4117, and from refusing to bargain collectively with the exclusive representative of its employees, by failing to maintain the status quo and by unilaterally implementing terms and conditions of employment for the bargaining-unit employee without bargaining to ultimate impasse, and from otherwise violating Ohio Revised Code §§ 4117.11(A)(1) and (A)(5).

**B. TAKE THE FOLLOWING AFFIRMATIVE ACTION:**

- (1) Return to the status quo ante, including providing equitable relief to the Ohio Patrolmen's Benevolent Association and its bargaining-unit member for any losses sustained as a result of the unilaterally-implemented changes, and bargain in good faith with the Ohio Patrolmen's Benevolent Association toward a successor CBA;
- (2) Post for sixty days in all the usual and normal posting locations where bargaining-unit employees represented by the Ohio Patrolmen's Benevolent Association work, the Notice to Employees furnished by the State Employment Relations Board stating that the City of Munroe Falls shall cease and desist from actions set forth in paragraph (A) therein and shall take the affirmative action set forth in paragraph (B) therein; and
- (3) Notify the Board via electronic mail within 20 calendar days from the date the Order becomes final of the steps that have been taken to comply therewith.

It is so ordered.

Zimpher, Chair; SPADA, Vice Chair; and BRUNDIGE, Board Member, concur.

  
W. CRAIG ZIMPHER, CHAIR

### TIME AND METHOD TO PERFECT AN APPEAL

You are hereby notified that an appeal may be perfected, pursuant to Ohio Revised Code Section 4117.13(D) by filing a notice of appeal setting forth the order appealed from and the grounds of appeal with the court of common pleas in the county where the unfair labor practice in question was alleged to have been engaged in, or where the person resides or transacts business, within fifteen days after the mailing of the State Employment Relations Board's order. A copy of the notice of appeal must also be filed with the State Employment Relations Board, at 65 East State Street, 12<sup>th</sup> Floor, Columbus, Ohio 43215-4213, pursuant to Ohio Administrative Code Rule 4117-7-07.

### PROOF OF SERVICE

I certify that a copy of this document was served upon each party by certified mail, return receipt requested, and upon each party's representative by ordinary mail, this 12<sup>th</sup> day of July, 2011.

*Licia M. Sapp*

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LICIA M. SAPP, ADMINISTRATIVE ASSISTANT



# NOTICE TO EMPLOYEES

FROM THE  
STATE EMPLOYMENT RELATIONS BOARD

POSTED PURSUANT TO AN ORDER OF THE STATE EMPLOYMENT RELATIONS BOARD, AN AGENCY OF THE STATE OF OHIO

After the parties submitted joint stipulations of fact and joint exhibits in lieu of an evidentiary hearing, the State Employment Relations Board has determined that we have violated the law and has ordered us to post this Notice. We, Respondent City of Munroe Falls, intend to carry out the Order of the State Employment Relations Board and to abide by the following:

**A. CEASE AND DESIST FROM:**

Interfering with, restraining, or coercing employees in the exercise of their rights guaranteed in Ohio Revised Code Chapter 4117, and from refusing to bargain collectively with the exclusive representative of its employees, by failing to maintain the status quo and by unilaterally implementing terms and conditions of employment for the bargaining-unit employee without bargaining to ultimate impasse, and from otherwise violating Ohio Revised Code §§ 4117.11(A)(1) and (A)(5).

**B. TAKE THE FOLLOWING AFFIRMATIVE ACTION:**

- (1) Return to the status quo ante, including providing equitable relief to the Ohio Patrolmen's Benevolent Association and its bargaining-unit member for any losses sustained as a result of the unilaterally-implemented changes, and bargain in good faith with the Ohio Patrolmen's Benevolent Association toward a successor CBA;
- (2) Post for sixty days in all the usual and normal posting locations where bargaining-unit employees represented by the Ohio Patrolmen's Benevolent Association work, the Notice to Employees furnished by the State Employment Relations Board stating that the City of Munroe Falls shall cease and desist from actions set forth in paragraph (A) therein and shall take the affirmative action set forth in paragraph (B) therein; and
- (3) Notify the State Employment Relations Board via electronic mail within 20 calendar days from the date the Order becomes final of the steps that have been taken to comply therewith.

***SERB v. City of Munroe Falls, Case No. 2010-ULP-09-0338***

\_\_\_\_\_  
BY

\_\_\_\_\_  
DATE

\_\_\_\_\_  
TITLE

**THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED**

This Notice must remain posted for sixty consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this Notice or compliance with its provisions may be directed to the State Employment Relations Board.

**STATE OF OHIO  
BEFORE THE STATE EMPLOYMENT RELATIONS BOARD**

In the Matter of

State Employment Relations Board,

Complainant,

v.

City of Munroe Falls,

Respondent.

Case No. 2010-ULP-09-0338

**OPINION**

SPADA, Vice Chair:

On September 1, 2010, the Ohio Patrolmen's Benevolent Association ("the OPBA") filed an unfair labor practice charge against the City of Munroe Falls ("the City"), alleging that the City violated Ohio Revised Code ("O.R.C.") §§ 4117.11(A)(1), (A)(3), and (A)(5). On October 14, 2010, the State Employment Relations Board ("SERB" or "Complainant") determined that probable cause existed to believe that the City had committed or was committing unfair labor practices in violation of O.R.C. §§ 4117.11(A)(1) and (A)(5), but not (A)(3), authorized the issuance of a Complaint, and referred the matter to hearing. On November 3, 2010, a Complaint was issued. On November 10, 2010, the OPBA filed a Motion to Intervene, which was granted in accordance with Rule 4117-1-07(A).

On December 21, 2010, the parties submitted joint stipulations of fact and joint exhibits in lieu of evidentiary hearing. Subsequently, all parties filed briefs setting forth their legal arguments. On February 3, 2011, the Board construed the joint stipulations of fact as a joint motion and transferred the case from the Hearings Section to the Board for a decision on the merits.

For the reasons below, we find that the City violated O.R.C. §§ 4117.11(A)(1) and (A)(5) by failing to maintain the status quo and by unilaterally implementing terms

and conditions of employment for the Full-Time Sergeant without bargaining to ultimate impasse.

### **I. FINDINGS OF FACT**<sup>1</sup>

1. The City of Munroe Falls is a “public employer” as defined in § 4117.01(B). (S.)

2. The Ohio Patrolmen’s Benevolent Association is an “employee organization” as defined in § 4117.01(D), and is the Board-certified bargaining representative for the City’s Police Sergeant bargaining unit. (S.)

3. The OPBA was first certified as the exclusive bargaining representative for a bargaining unit of “Full-Time Sergeants” on August 22, 1991. The OPBA was again certified as the exclusive bargaining representative on April 29, 2004, pursuant to a Petition for Amendment of Certification that the City did not oppose. In 1991, the bargaining unit had two members. Since 2004, the unit has consisted of only one member; currently, Sergeant David Smith is the only member of the bargaining unit. (S.; Exhs. 1, 2)

4. The applicable collective bargaining agreement (“CBA”) between the City and the OPBA was dated April 1, 2007 to March 31, 2010. (S.; Exh. 3)

5. On November 23, 2009, the OPBA timely notified the City, pursuant to Article 30 of the CBA, that the OPBA intended to negotiate a successor agreement. (S.; Exh. 4)

6. On December 17, 2009, the City’s Law Director acknowledged the OPBA’s notice and encouraged the OPBA to provide an outline of the issues to be addressed by all three OPBA bargaining units in the City in the upcoming negotiations. (S.; Exh. 5)

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<sup>1</sup> References in the record to the Joint Stipulations of Fact filed by the parties are indicated parenthetically by “S.” References to the Joint Exhibits in the record are indicated parenthetically by “Exh.,” followed by the exhibit number(s). References to the record are intended for convenience only and are not intended to suggest that such references are the sole support in the record for the related Finding of Fact (“F.F.”).

7. On March 11, 2010, the OPBA and the City met for the purposes of negotiating successor CBAs for all three OPBA bargaining units, including the sergeant's bargaining unit. (S.)

8. On March 12, 2010, the OPBA filed a Notice to Negotiate a successor to the CBA covering the sergeant's unit. (S.; SERB Case No. 2010-MED-03-0300; Exh. 6)

9. On April 15, 2010, the OPBA and the City bargained to impasse for all three bargaining units, including the sergeant's unit. (S.)

10. On April 20, 2010, the OPBA wrote to SERB and requested a separate panel of fact finders for each set of negotiations. (S.; Exh. 8)

11. On April 27, 2010, SERB sent a list of fact finders to the parties. (S.; Case No. 2010-MED-03-0300; Exh. 9)

12. On May 5, 2010, the City Law Director notified SERB and the OPBA that the City would not be selecting a fact finder for the sergeant's bargaining unit as the City was not willing to recognize a single-member unit for collective bargaining purposes. (S.; Exh. 10)

13. After May 5, 2010, the City and the OPBA mutually selected fact-finder Virginia Wallace-Curry to serve as neutral for the fact-finding in Case No. 2010-MED-03-0300. (S.)

14. On May 7, 2010, the OPBA notified SERB of the parties' mutual selection of Ms. Wallace-Curry to serve as fact finder in Case No. 2010-MED-03-0300. (S.; Exh. 11)

15. On August 30, 2010, the City Law Director notified fact-finder Wallace-Curry that "the City of Munroe Falls has informed the OPBA that it does not intend to recognize the Police Sergeants Bargaining Unit as it is now a single member unit[.]" (S.; Exh. 13)

16. The parties did not proceed to fact finding, as the City refuses to recognize Sergeant Smith's single-member bargaining unit. (S.)

17. On August 27, 2010, the City passed Resolution #16-2010 setting forth the rate of pay for Police Sergeant contrary to the terms of the expired CBA. (S.; Exh. 12)

18. Beginning in September 2010, the City has refused to consider the merits of several grievances filed by Sergeant Smith for alleged violations of the CBA, including grievances concerning holiday pay and health insurance premium contribution. (S.)

## II. DISCUSSION

At issue is whether the City violated O.R.C. §§ 4117.11(A)(1) and (A)(5) by failing to negotiate a collective bargaining agreement with a bargaining unit consisting of only one employee. O.R.C. §§ 4117.11(A)(1) and (A)(5) state in relevant part as follows:

(A) It is an unfair labor practice for a public employer, its agents, or representatives to:

(1) Interfere with, restrain, or coerce employees in the exercise of rights guaranteed in Chapter 4117. of the Revised Code[;]

\*\*\*

(5) Refuse to bargain collectively with the representative of his employees recognized as the exclusive representative \* \* \* pursuant to Chapter 4117. of the Revised Code[.]

The Complainant has the burden of demonstrating by a preponderance of the evidence that the Respondent has committed an unfair labor practice. O.R.C. § 4117.12(B)(3). Good-faith bargaining is determined by the totality of the circumstances. *In re Dist 1199/HCSSU/SEIU, AFL-CIO*, SERB 96-004 (4-8-96). A circumvention of the duty to bargain, regardless of subjective good faith, is unlawful. *In re Mayfield City School Dist Bd of Ed*, SERB 89-033 (12-20-89); *NLRB v. Katz*, 369 U.S. 736, 82 S.Ct. 1107 (1962).

After a collective bargaining agreement expires, parties to that agreement can change terms and conditions of employment only through mutual agreement or if ultimate impasse is reached. *In re City of Circleville*, SERB 2005-007 (10-5-2005) (“*Circleville*”). A unilateral change to the status quo ante is a violation of law because terms and conditions of employment continue in effect until the parties reach “ultimate impasse.” *Id.* The status quo ante is a middle period between official contract expiration and the exhaustion of the dispute settlement procedures under O.R.C.

§ 4117.14 or an alternative, mutually agreed-upon dispute resolution procedure. The status quo ante includes carryover of all prior provisions in an expired agreement because O.R.C. § 4117.01(G) requires bargaining over the continuation, modification, or deletion of a contract term. *Circleville*, supra.

It is well established that the obligation of maintaining the status quo ante does not end until ultimate impasse is reached. *Id.* Ultimate impasse cannot occur until such time as the parties have at the least exhausted either (1) the statutory dispute resolution procedures under O.R.C. § 4117.14 or (2) their own mutually agreed upon dispute resolution procedure. *In re Columbus*, SERB 85-004 (2-6-85).

Ultimate impasse did not occur in this case. The parties stipulated that the City refused to go to fact-finding. (F.F. 17) It is undisputed that, after the expiration of the CBA on March 31, 2010, the City made unilateral changes to the status quo ante. The City passed Resolution #16-2010 setting forth the rate of pay for Police Sergeant. Resolution #16-2010 sets forth terms and conditions of employment that conflict with the terms of the CBA. (F.F. 18; Exh. 12) Consequently, the evidence supports a finding that the City violated O.R.C. §§ 4117.11(A)(5) by refusing to bargain and by failing to maintain the status quo ante following the expiration of the CBA.

The City defends its refusal to bargain by arguing that the plain language of O.R.C. Chapter 4117 provides only for collective bargaining units containing more than one employee. According to the City, upon reading the text of the statute, the only reasonable conclusion that one can reach is that the statute is intended to provide protections only to those individuals engaged in group activity, meaning that single-member units are not protected by Ohio law. O.R.C. § 4117.03 grants public employees the right to engage in “concerted activities for the purpose of collective bargaining” and to “bargain collectively” with their employers. O.R.C. § 4117.04(A) refers to bargaining units comprised of “employees,” not the singular “employee.”

The City argues that a review of the words used in O.R.C. §§ 4117.03 and 4117.04 reveals that the text relates only to actions taken by more than one person. The City cites decisions from other states and the National Labor Relations Board (“NLRB”) that hold that single-member bargaining units are not appropriate and will not

be recognized and urges that SERB find these decisions persuasive. The arguments the City presents are the same arguments that SERB considered and rejected in *In re City of Wauseon*, SERB 88-019 (12-23-88) (“*Wauseon*”).

In *Wauseon*, SERB addressed, and overruled, the employer’s objections to an employee organization’s Petition for Representation Election seeking to represent a proposed bargaining unit consisting of one full-time police sergeant. SERB recognized:

The National Labor Relations Act and the collective bargaining laws of numerous other states contain language similar to O.R.C. Chapter 4117 in many areas, including representation and unit design. However, the statute of *no* other jurisdiction contains the restriction on police unit structure set forth in O.R.C. §4117.06(D)(6). That provision requires that:

With respect to members of a police department, [the Board shall not] designate as appropriate a unit that includes rank and file members of the department with members who are of the rank of sergeant or above.

*Wauseon*, supra at 3-114 (emphasis in original).

Because O.R.C. § 4117.06(D)(6) precluded the City of Wauseon’s only police sergeant from being included in the bargaining unit of rank and file officers, SERB went on to hold that the proposed single-member bargaining unit was permissible:

Thus, *where there is no other possible unit configuration*, where the employee seeks representation by an established employee organization that also represents other units in collective bargaining, and where no harmful effects to the Employer’s efficiency or structure are demonstrated, this Board will find single-employee units are appropriate.

*Wauseon*, supra at 3-116 (emphasis added).

Several years after SERB decided *Wauseon*, the New York Public Employment Relations Board (“NY PERB”) considered whether a bargaining unit could be comprised of a single police sergeant in *Town of Crawford Police Benevolent Ass’n v. Town of Crawford* (February 29, 2000), 33 Off. Dec. of N.Y. Pub. Employ. Rel. Bd. ¶ 3008 (“*Crawford*”). NY PERB found that “collective bargaining presupposes that there is more than one eligible person.” *Id.* While New York’s bargaining law does not contain

a provision analogous to O.R.C. § 4117.06(D), other factors made the inclusion of the Town of Crawford's police sergeant with rank and file officers inappropriate. In contrast to SERB's analysis in *Wauseon*, however, the fact that the sergeant did not fit into any other bargaining unit did not affect NY PERB's analysis: "That our determination leaves the sergeant unrepresented does not warrant a contrary finding." *Crawford*, supra.

In addition to citing *Wauseon*, Complainant argues that the single-member status of the bargaining unit does not relieve the City of its obligation to bargain with the OPBA for the following reasons: (1) the law of this state, specifically O.R.C. § 4117.04(B), requires bargaining with the representative of employees recognized as the exclusive representative or certified pursuant to O.R.C. Chapter 4117, without qualification or reservation regarding the size of the bargaining unit; and (2) it is SERB, and not the public employer, who has exclusive jurisdiction under O.R.C. § 4117.06 to determine the unit appropriate for collective bargaining.

O.R.C. § 4117.04(B) provides that "[a] public employer shall bargain collectively with an exclusive representative designated under section 4117.05 of the Revised Code for purposes of Chapter 4117." No statutory provision exempts from collective bargaining public employers faced with the prospect of negotiating with the exclusive representative of a single-member unit. No statutory provision automatically eliminates a Board-certified exclusive representative in the event its membership declines to one person. O.R.C. § 4117.04(B)'s bargaining obligation deals specifically with the public employer and the exclusive representative of its public employees, and does not consider the number of employees in the unit.

Under O.R.C. § 4117.06, SERB has exclusive jurisdiction to determine the unit appropriate for collective bargaining. Exercising its exclusive jurisdiction, SERB decided in both 1991 and 2004 that the bargaining unit of "All Full-Time Sergeants" was appropriate for collective bargaining. *Wauseon* stands for the proposition that the single-member bargaining unit is appropriate under the particular circumstances of that case, which are mirrored by the ones in this case. Sergeant Smith is represented by an established employee organization that also represents other City units in collective bargaining, and the City has not argued that it has been impacted by harmful effects to

its efficiency or structure. By refusing to negotiate with the Board-certified exclusive representative, the City has violated O.R.C. § 4117.11(A)(5).

Accordingly, while the evidence clearly established that the City's actions in this case violated O.R.C. § 4117.11(A)(5), we must consider as a separate issue whether the City's actions violated O.R.C. § 4117.11(A)(1). When a violation of O.R.C. § 4117.11(A)(1) is alleged, the appropriate inquiry is an objective one rather than a subjective one. *In re Pickaway County Human Services Dept.*, SERB 93-001 (3-24-93), *aff'd sub nom. SERB v. Pickaway Human Services Dept.*, 1995 SERB 4-46 (4<sup>th</sup> Dist. Ct. App., Pickaway, 12-7-95). A violation will be found if, under the totality of the circumstances, it can be reasonably concluded that the employees were interfered with, restrained, or coerced in the exercise of their O.R.C. Chapter 4117 rights by the public employer's conduct. *In re Hamilton County Sheriff*, SERB 98-002 (1-23-98), *aff'd sub nom. Hamilton County Sheriff v. SERB*, No. A98-00714 (Mag. Dec., CP Hamilton, 10-9-98), *aff'd No. C-990040* (1<sup>st</sup> Dist Ct App, Hamilton, 8-27-99).

The OPBA was first certified as the exclusive bargaining representative for a bargaining unit of "Full-Time Sergeants" on August 22, 1991. The OPBA was again certified as the exclusive bargaining representative on April 29, 2004, pursuant to a Petition for Amendment of Certification that the City did not oppose. In 1991, the bargaining unit had two members. Since 2004, the unit has consisted of only one member. The City, by exercising its right to fill or not fill a vacant position in the bargaining unit, has essentially created the one-person bargaining unit. The City has refused to consider the merits of several grievances filed by the bargaining-unit member for alleged violations of the CBA, including grievances concerning holiday pay and health insurance premium contribution.

In *State Emp. Relations Bd. v. Miami Univ.* (1994), 71 Ohio St.3d 351, 1994-Ohio-189, 1995 SERB 4-1, the Ohio Supreme Court held that an Ohio public employer may not unilaterally withdraw recognition of and/or refuse to bargain collectively with an incumbent union, despite any good faith doubt the employer may have concerning the union's continuing majority status. In discussing the public employer's responsibilities under O.R.C. Chapter 4117, the Court stated: "The duty to bargain with an exclusive

representative continues so long as the representative maintains its exclusive status. Once certified, the representative's exclusive status is maintained until the representative is displaced in accordance with the procedures set forth in R.C. 4117.07.”

The OPBA is still the Board-certified exclusive representative of the bargaining unit. The City's refusal to recognize the existing Board-certified exclusive representative, under the totality of the circumstances presented in this case, interferes with, restrains, or coerces the bargaining-unit employee in violation of O.R.C. § 4117.11(A)(1).

While Ohio's Public Employees' Collective Bargaining Act has similarities with the National Labor Relations Act and other states like New York on provisions regarding bargaining-unit composition, Ohio has *not* enacted a statutory provision prohibiting one-person bargaining units. Further, such units are not our preference. In this case, a larger unit was originally certified by SERB but was reduced to only one person through attrition and the City's decision to not hire employees to fill vacancies. Whether we will certify a one-person unit under an initial representation petition is not automatic, especially if the employee could be included in a larger bargaining unit under O.R.C. § 4117.06; likewise, it is not a question we can reach herein.

### **III. REMEDY**

Based upon the foregoing, an order with a Notice to Employees should be issued ordering the City of Munroe Falls to do the following:

A. Cease and desist from:

Interfering with, restraining, or coercing employees in the exercise of their rights guaranteed in Ohio Revised Code Chapter 4117 and refusing to bargain collectively with the exclusive representative of its employees by implementing terms and conditions of employment contradictory to the terms of the expired CBA without bargaining to ultimate impasse, and from otherwise violating Ohio Revised Code §§ 4117.11(A)(1) and (A)(5).

- B. Take the following affirmative action:
- (1) Return to the status quo ante, including providing equitable relief to the Ohio Patrolmen's Benevolent Association and its bargaining-unit member for any losses sustained as a result of the unilaterally-implemented changes, and bargain in good faith with the Ohio Patrolmen's Benevolent Association toward a successor CBA;
  - (2) Post for 60 consecutive calendar days in all the usual and customary posting locations where bargaining-unit employees represented by the Ohio Patrolmen's Benevolent Association work, the Notice to Employees furnished by the State Employment Relations Board stating that the City of Munroe Falls shall cease and desist from actions set forth in paragraph (A) and shall take the affirmative action set forth in paragraph (B); and
  - (3) Notify the State Employment Relations Board in writing within 20 calendar days from the date the **ORDER** becomes final of the steps that have been taken to comply therewith.

#### **IV. CONCLUSIONS OF LAW**

1. The City of Munroe Falls is a "public employer" as defined by O.R.C. § 4117.01(B).
2. The Ohio Patrolmen's Benevolent Association is an "employee organization" as defined by O.R.C. § 4117.01(D).
3. The City of Munroe Falls violated O.R.C. §§ 4117.11(A)(1) and (A)(5) when it refused to recognize or negotiate with the Board-certified exclusive representative by failing to maintain the status quo and by unilaterally implementing terms and conditions of employment for the bargaining-unit employee without bargaining to ultimate impasse.

#### **V. DETERMINATION**

For the reasons stated above, we find that the City of Munroe Falls violated Ohio Revised Code §§ 4117.11(A)(1) and (A)(5) when it failed to maintain the status quo and unilaterally implemented terms and conditions of employment for the Full-Time Sergeant without bargaining to ultimate impasse. A cease-and-desist order with a Notice to Employees shall be issued to the City ordering it to (1) return to the status quo

ante, including providing equitable relief to the Ohio Patrolmen's Benevolent Association and its bargaining-unit member for any losses sustained as a result of the unilaterally-implemented changes, and bargain in good faith with the Ohio Patrolmen's Benevolent Association toward a successor CBA; (2) post for 60 consecutive calendar days in all the usual and customary posting locations where bargaining-unit employees represented by the Ohio Patrolmen's Benevolent Association work, the Notice to Employees furnished by the Board stating that the City of Munroe Falls shall cease and desist from actions set forth in paragraph (A), and shall take the affirmative action set forth in paragraph (B), of the Notice to Employees; and (3) notify the Board in writing within 20 calendar days from the date the order becomes final of the steps that have been taken to comply therewith.

Zimpher, Chair, and Brundige, Board Member, concur.