

**FACT-FINDING REPORT
STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD
MARCH 1, 2001**

**STATE EMPLOYMENT
RELATIONS BOARD
2001 MAR -5 A 10:49**

In the Matter of)	
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)	
Bazetta Township Trustees)	
)	
)	
And)	00-MED-11-1318
)	00-MED-11-1319
)	
Bazetta Police Union)	

APPEARANCES

For Bazetta Township Trustees

**Michael L. Seyer, Consultant
Robert Jacola, Police Chief
Charles Sayers
Marc Arnal
William Glancy
Michael Piros**

For Bazetta Police Union

**Dennis Haines, Attorney
Michael J. Hovis, President
Thomas L. Miller, Vice President**

Fact-Finder: Marc A. Winters

BACKGROUND

The Fact-Finding involves Bazetta Township Trustees, (hereafter referred to as the "Township") and the Bazetta Township Police Union, (hereafter referred to as the "Union"). The Union's bargaining unit is composed of all full-time Patrol Officers and all full-time Sergeants in accordance with SERB rules. The State Employment Relations Board duly appointed Marc A. Winters as Fact-Finder in this matter.

The Fact-Finding Hearing was conducted on Friday, February 16, 2001, in the Bazetta Township Police Station. The Fact-Finding began at 9:00 A. M. At the beginning of the Fact-Finding Hearing mediation was offered and attempted. However, the mediation attempt did not resolve any of the issues.

The Fact-Finder would like to convey his appreciation not only for the courtesy and cooperation given to the Fact-Finder by both parties, but to each other as well.

The Hearing was conducted in accordance with the Public Employee Bargaining Statue set forth in Rule 4117. Rule 4117-9-05 sets forth the criteria the Fact-Finder is to consider in making recommendations. The criteria are:

1. Past collectively bargained agreements, if any.
2. Comparisons of the unresolved issues relative to the employees in the bargaining unit with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved.
3. The interest and welfare of the public, and the ability of the public employer to finance and administer the issue proposed and the effect of the adjustment on then normal standards of public service.
4. The lawful authority of the public employer.
5. Any stipulations of the parties.
6. Such other factors, not confined to those listed above which are normally or traditionally taken into consideration in the determination of issues submitted to mutually agree-upon dispute settlement procedures in the public service or private employment.

I must point out that very little negotiation had taken place prior to this fact-finding and very little dialogue was presented concerning the issues during the fact-finding as a result of the parties not fully taking advantage of the collective bargaining process.

One issue, concerning personal vacation days, was settled prior to the start of Fact-Finding while another issue, concerning shift differential, was withdrawn by the Union during the Hearing.

The following issues were hereby considered at the Fact-Finding Hearing on February 16, 2001:

1. Wages
2. Health and Safety
3. Uniform Allowance
4. Lay Off Clause
5. Longevity Pay
6. Service Connected Disability

Issue 1: Article 31: Wages

Union Position: A 10% wage increase in each year of a 3 year agreement.

Township Position: A wage freeze in the 1st year of the contract with a 2% wage increase in the 2nd year and a 2% wage increase in the third year.

Discussion: The Union takes the position that their Police Department is ranked 15th out of 17 Police Departments in Trumbull County for wages. Coupled with the fact that 62% of the time Officers work alone while felony arrest have increased for the last two years. During that time the Police Department was reduced by one Patrol Officer.

The Township argues that they can not offer a wage increase do to a deficit in the Police budget and the fact that a Police levy was not able to be placed on the ballot for the last election. The Township contends that a wage freeze in the first year of the contract would help show the community that the Police levy is justified. The Township also challenges the Union's comparisons stating that the Officers are not 15th out of 17 but somewhere in the middle of the comparison Police Departments. The Township further contends that they are in the process of filling the one vacancy.

To that end the Union contends that the Township used money from the Police budget on a salary for a full-time secretary and to help pay the salary of a cleaning person along with overspending in regards to a the new Police Station. The Union further states that money for this contract can be allotted out of a three hundred thousand (\$300,000.00) dollar surplus sitting in the General Fund.

Upon careful consideration of all evidence presented this Fact-Finder has come to the following conclusions. First, after looking at the comparisons provided to me by both parties, the Bazetta Police Department is not the highest paid, but actually fall in the lower middle of the spectrum. In most cases the higher paid departments had populations that ranged anywhere from two times higher to almost ten times higher the population of Bazetta. Second, the General Fund does have a surplus of \$300,00.00 and has been used in the past to supplement the Police Department, however, that surplus is to be used for emergencies in all departments of the Township. Third at an initial point in the negotiations, the Union was willing to take a wage freeze the 1st year of the contract in order to help justify the Police levy being placed on the ballot for an upcoming election. Fourth, it appears the Police budget for 2001 will only have about \$48,000 left, after all expenditures, to run the Police Department for the year. Fifth, the Township did spend a

considerable amount of money on non-essentials salaries and the costs associated with the new Police Department, however, these expenditures fall within the Trustee's prerogative. Sixth, the Township should be allowed, once again, to attempt to have a levy placed on the next ballot so they won't have to continually dip into the surplus. In the mean time, the Trustees will have time to either look how they have the surplus invested or what measures they can take in case the levy is not placed on the ballot or if the levy would happen to be defeated. The Police Officers and Sergeants need to keep pace with the comparable departments in Trumbull County, so the Trustees may very well have to go back to the surplus to supplement the Police Department should a levy not pass.

Finding of Fact: Based on the above conclusions and all testimony presented it is my recommendation that the wages be as follows:

- Effective October 1, 2000 — Wage Freeze
- Effective October 1, 2001 — 4% wage increase
- Effective October 1, 2002 — 4% wage increase

Issue 2: Article 21: Health And Safety

Union Position: The Union request minimum staffing standards of two paid Commission Officers per shift.

Township Position: The Township rejects the Union's demand.

Discussion: The Union contends that 62% of the time Police Officers work by themselves. This causes an unsafe working condition for the Officers and the community. The Union states that felony arrest have increased over the past two years. The Union also provided a formula for scheduling two Officers per shift.

The Township rejects any attempt to institute minimum staffing standards stating that it is managements right to determine the size and composition of the workforce and the number of shifts required. The Township further claims the Union's request is a permissive subject of bargaining and one which the Township has no intent to bargain over citing ORC - 4117.08.

Finding of Fact: The Township is correct. The Union's request is a permissive subject for bargaining. Any Employer may legally refuse to bargain over such permissive subjects. However, once an Employer engages in discussions or negotiations over a permissive subject and takes a position other than refusing to bargain, the Employer must continue to bargain over that issue. In this negotiations that was not the case. The Township has not agreed to negotiate with the Union over this minimum staffing proposal. I therefore find that a new Section on minimum staffing is not warranted.

Issue 3: Article 30: Uniform and Equipment Allowance

Union Position: The Union request that the uniform allowance be increased by \$100.00 effective December 1, 2001; and by \$50.00 effective December 1, 2002.

Township Position: The uniform allowance be increased by \$25.00 effective December 1, 2001.

Discussion: The Township rejects a 20% increase in uniform allowance fro December 1, 2001 and another \$50.00 on December 1, 2002 as being excessive. The Township feel that a \$25.00 increase in December 2001 would be appropriate.

The Union contends that the increases are necessary to be comparable with the other 17 full-time police departments in Trumbull County in which the uniform allowances range from \$400.00 to \$900.00 with the majority of the departments being higher than Bazetta.

Finding of Fact: Based on all wage comparisons, including the uniform comparisons, a modest increase in the uniform allowance is justified to keep in line with other Police Departments. Such increase will be as follows:

Effective December 1, 2001 — \$50.00

Effective December 1, 2002 — \$50.00

Issue 4: Article 13: Layoff and Recall

Union Position: the Union proposes new language which would require the Township to lay off all non-essential, special, part-time and reserve employees before any full-time Officer is laid off

Township Position: The Township rejects the Union's proposal and proposes to maintain current contract language.

Discussion: The Township opposes the Union's proposal stating it is an unfair practice to bargain away the employment rights of employees not covered by the Agreement. The Union, on the other hand, wants to preserve full-time Officer's jobs and states that they would gladly perform the work of the secretary and the cleaning person if forced into a lay off situation.

Finding of Fact: The Union did not prove that the current lay off language had or would have adverse affects on their bargaining unit do to the non-essentials (the secretary and the cleaning person) being on the Police Department payroll. Especially since there has been no layoff to use as experience. The Township had testified as to hiring an additional Officer but made no mention of any upcoming lay offs.

Suggested Language: Current Language

Issue 5: Article 32: Longevity

Union Position: The Union request that the cap on longevity pay be removed from the current formula.

Township Position: The Township rejects the Union's proposal.

Discussion: The Union wants to increase the amount of longevity pay. The Township, on the other hand, feels the Union's request is excessive and that the currently receive the highest maximum of longevity pay in a survey of all Township Police Departments.

Finding of Fact: The Union did not prove that Bazetta Township is substandard in the practice of longevity pay.

Suggested Language: Current Language.

Issue 6: Article 25: Service Connected Disability

Union Position: The Union request that the disability payment clause be extended from the present 60 days to 365 days at full pay.

Township Position: The Township is willing to extend the service connected disability clause to 120 days but all other current language is to be maintained.

Discussion: The Union request full pay for any job related illness or injury which would not be charged against their accumulated sick time. Since the injury or illness arises out of working for the Township in the protection of their citizens the Union feels they should be fully compensated above what worker's compensation pays and the Officers should not have any of such time charged against their sick time.

The Township feels that extending the current disability days of 60 days to 120 days is an appropriate extension. However, job related illnesses or injuries under one week which is not compensated by worker's compensation will still be charged against the employee's sick time.

Finding of Fact: The Union has not shown that the loss of full pay, as compared to the percentage which worker's compensation pays, has in any way disadvantaged their membership. The Township offer to increase the current disability days of 60 days to 120 days is a reasonable offer. However, and in addition to the extension to 120 days, employees should not be penalized for the 1st week if involved in a service connected disability. As stated by both sides, such injuries or illnesses that last a week or less are very rare.

Suggested Language:

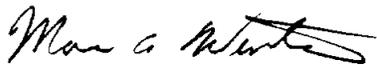
Section 1. In the event a non-probationary employee is injured while in the performance of his job duties or contracts a service connected illness, the Employer shall grant to an employee who filed the appropriate application, and who is required to be absent from work as

a result of said injury or illness, temporary disability pay as described herein pending the determination by the Bureau of Worker's Compensation claim, not to exceed one hundred and twenty (120) calendar days from the date of the reported injury or illness. Such payment may be granted under the following conditions:

A: Maintain current language.

B: Maintain current language.

Section 2. Maintain current language except in Option 1 and Option 2 change the reference of sixty (60) calendar days to one hundred and twenty (120) calendar days.



Marc A. Winters
Marc A. Winters, Fact-Finder