

STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

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In Regard to the Matter of the Fact-Finding Between:

THE CITY OF AVON	)	CASE NO'S:
	)	02-MED-07-0639
-AND-	)	02-MED-07-0640
	)	02-MED-07-0641
THE FRATERNAL ORDER OF POLICE	)	
OHIO LABOR COUNCIL, INC.	)	

APPEARANCES:

For The City:

Sandy Conley	Employer Advocate
Robert Roe Fox	Employer Advocate
Bob Hamilton	Director of Finance
June F. Mitchell	Assistant Finance Director
Sandy Martin	Secretary

For The Union:

James E. Boomer	Union Representative
Eric Bergen	Patrol Unit Representative
Rich Bosley	Patrol Unit Representative
Richard Frederik	Dispatch Unit Representative
Meri Sprungl	Dispatch Unit Representative

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BEFORE ALAN MILES RUBEN, FACT-FINDER

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BACKGROUND:

The Employer, the City of Avon, exercises statutory and charter authority and responsibility, inter alia, for the provision of crime prevention and detection services to protect its some 11,500 residents.

The City's Police Department is organized into three Collective Bargaining Units.

The Department's five Sergeants are members of Bargaining Unit "A", the thirteen Patrol Officers are members of Bargaining Unit "B" and the six Dispatchers are members of Bargaining Unit "C".

Each of the Bargaining Units is exclusively represented by The Fraternal Order of Police/Ohio Labor Council, Inc. The Union conducts multi-unit negotiations with the City which have led to the execution of four successive consolidated Collective Bargaining Contracts, the last of which was entered into as of January 1, 2000 for an initial term which expired on December 31, 2002.

Pursuant to the Contractual requirements, timely notices were given of the intent to modify or amend the Agreement and negotiations proceeded looking towards the execution of a new Agreement. Bargaining sessions began on August 29, 2002 and continued through December 3, 2002. After the fifth inconclusive meeting the parties declared impasse in their

negotiations, and the undersigned was appointed Fact-Finder by the State Employment Relations Board on November 29, 2002.

At the direction of the parties a mediation session was held on January 24, 2003 where a Tentative Agreement was reached on all outstanding issues. However, the proposed Agreement was rejected by vote of the members of each of the Bargaining Units, and the Fact-Finder proceeded to conduct an evidentiary hearing on February 10, 2003, at the Avon City Hall.

The Fact-Finder observes that the mediated settlement rejected by the Union contained several economic components, none of which, however, was proposed by either party in their pre-hearing submissions, and consequently will not be further considered by the Fact-Finder.

Timely in advance of the evidentiary hearing, the parties provided the Fact-Finder with the statements required by Ohio Administrative Code 4117-9-05(F) and the Ohio Revised Code Section 4117.14(C)(3)(a).

Before the date of the Fact-Finding proceedings, the parties had tentatively agreed to revise the provisions of the following Articles:

- Article 11 - Educational Incentive
- Article 12 - Special Leaves
- Article 18 - Uniform Allowance
- Article 19 - Work Week/Scheduled Hours
- Article 20 - Holidays
- Article 24 - Discipline
- Article 27 - Labor Council Representation And Time

for amendments to the following provisions of the 2000 Agreement:

Article 13 - Medical And Hospitalization Insurance  
Article 39 - Duration  
Appendix A - Wages

However, the Fact-Finder was informed at the February 10, 2003 evidentiary hearing that the Tentative Agreement respecting Article 20, "Holidays" had been rejected by the Bargaining Units.

The City objected to the Fact-Finder considering the Union's Holiday proposal because it had not been listed as an unresolved issue in the Union's pre-hearing submission, and because the City was unprepared to make a evidentiary presentation with respect the issue. Further, the City stated that the agreement to retain Article 20 without change was part of a package of Tentative Agreements wherein the City made concessions concerning such matters as Uniform Allowance (Article 18), Work Week (Article 19) and Sick Leave (Article 21), and rejection of a part of the package would result in unraveling of the whole.

The Union's pre-Fact-Finding hearing statement, submitted in compliance with Administrative Code Rule 4117-9-05(F), recited that Article 20 - Holidays had been the subject of a tentative Agreement, and "requested that the Fact-Finder

incorporate all tentatively agreed [upon] and all unchanged articles ... in his report."

In consequence, the Union's list of issues to be submitted to fact-finding was limited to the following:

"V. Unresolved Articles:

"Article 13 - Medical And Hospitalization Insurance

"Article 39 - Duration

"Appendix A - Wages."

Under the terms of O.R.C. Section 4117.14(C)(3)(a) and O.A.C. 4117-9-05(F) the parties are required to submit their list of unresolved issues to the Fact-Finder prior to the day before the hearing, and a party's failure to do so precludes the Fact-Finder from receiving evidence on its proposals. The presentation at the hearing of an additional issue not reflected in the pre-hearing statement is inconsistent with the submission requirement. Therefore, in obedience to these legislative and administrative mandates, the Fact-Finder finds that he lacks jurisdiction to consider the Union's proposal for amendment to Article 20 - Holidays.

In making his recommendations upon all of the unresolved issues properly before him the Fact-Finder has been guided by the factors set forth in O.R.C. Section 4117.14(C)(4)(e) and Ohio Administrative Code 4117-9-05(K) namely:

"(a). past collectively bargained agreements, if any, between the parties;

"(b). comparison of the issues submitted to final offer settlement relative to the employees in the bargaining unit involved with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;

"(c). the interest and welfare of the public, the ability of the public employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standard of public service;

"(d). the lawful authority of the public employer;

"(e). the stipulation of the parties;

"(f). such other facts, not confined to those listed in this section, which are normally or traditionally taken into consideration in the determination of the issues submitted to final offer settlement through voluntary collective bargaining, mediation, fact-finding, or other impasse resolution proceedings in the public service or private employment."

In consideration of the Fact-Finder's docket, the parties graciously consented to extend the time within which he might issue his Report.

#### UNRESOLVED ISSUES:

##### **I. Appendix A - Wages:**

##### **The 2000 Contract:**

Appendix A, Appendices A-1 through A-3 of the expired Contract set forth the wage scales effective January 1, 2002 for Patrol Officers and Dispatchers and the rank differential pay rate for Sergeants.

The pertinent provisions are reproduced below:

"Appendix A-1 - Sergeant Wages:

"Section 1. All full-time Sergeants shall be paid in accordance with the following scale:

"A. Sergeants shall receive a rank differential pay rate equal to fifteen percent (15%) greater than the rate received by a police officer in the highest wage rate.

"Section 2. The City will pay the full contribution to PERS or PFDPF, respectively.

....

"Appendix A-2 -Patrol Officer Wages

....

"Section 3. Effective with the first pay of 2002, all full-time employees shall be paid in accordance with the following scale:

"Start Rate - \$15.81  
"After 1 Year - \$16.80  
"After 2 Years - \$17.78  
"After 3 Years - \$18.77  
"After 4 Years - \$19.76

"Section 4. The City will pay the full contribution to PERS or PFDPF, respectively.

....

"Appendix A-3 - Dispatcher Wages

....

"Section 3. Effective with the first pay of 2002, all full-time employees shall be paid in accordance with the following scale:

"Start Rate - \$12.39  
"After 1 Year - \$13.10  
"After 2 Years - \$13.82  
"After 3 Years - \$14.54  
"After 4 Years - \$15.25

"Section 4. The City will pay the full contribution to PERS or PFDPF, respectively.

...."

**The Union's Proposal:**

The Union seeks across-the-board wage increases of 3% in 2003, 3.5% in 2004 and 3.5% in 2005 which it claims is necessary in order for Bargaining Unit members to keep pace with their colleagues in other comparable Lorain County and adjacent Cuyahoga County Police Departments.

The Union further seeks to eliminate the City's "pick-up" of employees' pension contribution. The effect of the present arrangement is to reduce the wages reported to the appropriate State Pension Fund, and decrease the pension benefits of every retiring employee by either 8.5% or 10%, depending upon the pension fund to which the employee is a contributor.

**The City's Proposal:**

The Employer proposes a 2% wage increase in 2003, and additional 2% increases in 2004 and 2005. It argues that the City has had to bear dramatic increases in "health care premiums", and that its proposal will compensate Bargaining Unit members commensurately with similarly ranked personnel in comparable jurisdictions.

The City opposes the Union's proposal to "roll-in" to base wages the cost of employee's share of pension contribution,

which is currently paid by the City (10% for Patrol and Road Officers; 8.5% for Dispatchers). Eliminating the pension pick-up would require the Employer to pay approximately 2% additional to the pension funds and therefore would be equivalent to a 2% increase in employees' base wages. The Union's wage proposals ignore the cost implications of eliminating the pension pick-up.

**The Fact-Finder's Analysis and Findings:**

A. Elimination of Employer Pension Pick-up.

Under the present arrangement where the City pays the employees' share of the required pension contributions, the senior Patrolman's wage is set at \$41,600.00 with the City's pension contribution based upon that figure.

Were employees to pay the pension contribution as a payroll deduction, the Patrolman's gross salary would be reported as \$45,600.00, and his net pay would be \$41,160.00 after deduction for the pension contribution. The Patrolman's retirement entitlements, however, would be based upon the \$45,600.00 figure, not the \$41,160.00 amount.<sup>1</sup>

If a Patrolman were to retire at that salary after twenty-five years of service, his pension would be increased by

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<sup>1</sup> The Patrolman would lose some \$60.32 per year at the present wage level because the FICA Medicare Tax of 1.45% would be applied to the \$45,760.00 wage base instead of the \$41,600.00 wage base.

\$2,596.00 per year over the amount he would receive if the present arrangement were kept in effect.

On the other hand, the increase in the Patrolman's pension benefits would raise the annual compensation cost to the City by \$871.52, or about 2% of the current base wage rate of \$41,600.00.

So long as the 2% additional wage cost imposed upon the City by discontinuance of the employees' pension contribution pick-up, is taken into account by the Fact-Finder when making his recommendations with respect to the percentage base wage increase, the City has no objection to the transfer of pension contribution responsibilities.

If employees are willing to moderate their demands for present increases in take-home pay in favor of larger pensions upon future retirement, the City believes the employees' preference for the allocation of available dollars should be respected.

However, any such change in pension contribution responsibility cannot be made retroactive since the City has continued to pick-up and pay into the pension funds the required employees' contribution thus far into 2003. Moreover, the Fact-Finder understands from the Union's presentation that it does not insist upon the implementation of its proposal this year, but is willing to defer discontinuance of the pension pick-up,

and, instead, press its case for an enhanced 3.5% wage increase for the current year.

The economic impact of a prospective transfer of pension contribution responsibility will be taken into account when the Fact-Finder considers the parties' wage increase proposals.

The Fact-Finder believes the Union's proposal to eliminate the pension pick-up effective as of January 1, 2004 is reasonable and will recommend its adoption.

**THE FACT-FINDER'S RECOMMENDATIONS:**

The Fact-Finder finds appropriate and recommends that Section 3 of Appendix A-1, Section 4 of Appendix A-2, Section 4 of Appendix A-3 each be amended to read as follows:

"The City will pay the full contribution to PERS or PFDPF, respectively for all pay periods in 2003 and not thereafter. Commencing with the first pay period in 2004, the State mandated employee's contribution to the appropriate State pension fund shall be deducted from the employee's gross pay and transmitted to the appropriate fund."

B. Wages

The parties have agreed to look to the selected Lorain County and neighboring Cuyahoga County Cities as "comparable" for purposes of wage determination.

Neither party attempted to compare the total compensation of Avon Bargaining Unit members with their counterparts in these

other Cities. They are apparently content to allow base wage rates to serve as adequate surrogates for total compensation.

Their respective tables portray the top step Patrol Officer's wages, and in the City's submission, the Dispatcher's and Sergeant's top step wages as well. The tables are set forth below:

**Neighboring Patrol Officer Wage Comparables** (2003)

<b><u>Department</u></b>	<b><u>Population</u></b>	<b><u>Top Step</u></b>
Amherst	11,797	\$21.26
Avon Lake (3% Assumption for 2003)	18,145	\$25.89
Bay Village (2003)	16,087	\$25.45
Elyria (2003)	55,953	\$20.76
Lorain (3% Assumption for 2003)	68,652	\$21.05
North Olmsted (2003)	34,113	\$25.02
North Ridgeville (2003)	22,338	\$23.07
Oberlin (3% Assumption for 2003)	8,195	\$20.95
Sheffield Lake	9,371	\$19.74
Westlake (2003)	31,719	\$26.26
<hr/>		
Average		\$22.95

2002  
Patrol Officer

City of Avon  
Comparable Wage Survey

Department of Police

<i>Patrol Officer</i>	2002		2003		2004	
Jurisdiction	Minimum	Maximum	Minimum	Maximum	Minimum	Maximum
Amherst	34,127	42,523	35,492	44,224		
Avon Lake	39,582	52,291				
Bay Village	35,453	50,906	36,871	52,942		
Elyria	34,024	41,925	35,045	43,182		
Lorain	33,989	42,493	35,178	43,981		
No. Ridgeville	40,976	46,114	42,640	47,986		
Oberlin	33,384	42,328				
Sheffield Lake		39,873				
Westlake	44,429	52,777	45,984	54,624		
<b>Average</b>	<b>36,996</b>	<b>45,692</b>	<b>38,535</b>	<b>47,823</b>		
Avon	36,171	45,219				

2002  
Sergeant

CITY'S SUBMISSION  
City of Avon  
Comparable Wage Survey

Department of Police

<i>Sergeant</i>	2002		2003		2004		
Jurisdiction	Minimum	Maximum	Minimum	Maximum	Minimum	Maximum	Differential
Amherst		47,626		49,531			
Avon Lake		58,843					
Bay Village		55,997		58,236			
Elyria		47,794		49,228			14.00%
Lorain		48,442		50,138			14.00%
No. Ridgeville		51,418		53,498			11.50%
Oberlin		47,403					12.00%
Sheffield Lake		43,861		44,869		46,665	
Westlake		59,109		61,178			
		460,493		366,678			
<b>Average</b>		<b>51,166</b>		<b>52,383</b>			
Avon Curr.		51,983					15.00%

2002  
Dispatcher

CITY'S SUBMISSION  
City of Avon  
Comparable Wage Survey

Department of Police

<i>Dispatcher</i>	2002		2003		2004	
<b>Jurisdiction</b>	<b>Minimum</b>	<b>Maximum</b>	<b>Minimum</b>	<b>Maximum</b>	<b>Minimum</b>	<b>Maximum</b>
Amherst						
Avon Lake	26,499	31,990				
Bay Village						
Elyria	27,871	29,409				
Lorain	26,910	31,050	27,852	32,137		
No. Ridgeville	31,158	33,322	32,427	34,674		
Oberlin	29,702	34,861	30,597	35,901		
Sheffield Lake		31,784		32,515		33,816
Westlake						
	142,140	192,416	90,876	135,227		
<b>Average</b>	<b>28,428</b>	<b>32,069</b>	<b>30,292</b>	<b>33,807</b>		
Avon	29,557	34,424				

The Patrol Officers current hourly base wage rate of \$19.76 is below the 2003 top step base hourly wage rate of every jurisdiction except Sheffield Lake, and \$3.19 below the average of the group, according to the Union's calculation.

Under the City's annual salary schedule, Avon's present annual base pay, adjusted for the pension pick-up, is \$45,600.00, approximately \$2,223.00 less than the average of the comparables. (It is not clear, however, whether the wages reported for the other jurisdictions have been similarly adjusted).

As the City points out, the pay of both the Sergeants and Dispatchers is above the average of their colleagues in counterpart jurisdictions. However, since both the Union and the City propose uniform wage increases equally applicable to all members of the Bargaining Units, the focus of the Fact-Finder is upon the largest segment, the Patrol Officers. The fact that other classifications may enjoy a comparative wage advantage, does not justify leaving the Patrol Officers behind.

The comparative data supports a recommendation for substantial wage increases.

Turning to past bargaining history, the City notes that over the past ten years, 1992-2001, Avon's wage increase rates have consistently exceeded both the State-wide and Cleveland Metropolitan Area public sector wage increase rates. Further,

the Avon increases were generally superior to the State-wide increases for Police Officers during the same time frame.

Thus, the City granted Department employees 4% increases in each of the four-year period commencing in 1992 and ending in 1995. In 1996 only a 2% wage increase was provided, but this was followed by a 12% increase in 1997, and 3% increases in 1988 and 1999. In 2000 a 5% increase was granted and last year, 2001, there was again a 4% increase. The average annual wage increase over this period was 4.5%, far above what the City proposes for the term of the successor Agreement.

Significant as these wage increases appear to be, the wage increases in comparable jurisdictions were even greater during this period because the Avon settlements did nothing to improve the relatively low ranking of its Patrol Officers vis a vis, their colleagues in other Lorain County and adjacent Cuyahoga County Departments.

The City does not claim inability to pay. Indeed, if anything, its ability to pay now is greater than it was during the period 1992 to 2001. Avon's population grew by 50% between 1990 and 2000, from 7,337 to 11,446.

Avon's median household income jumped 22% from \$54,545.00 in 1989 to \$66,747.00 in 1999, the highest in Lorain County according to information released by the U.S. Bureau of the Census.

Avon's commercial and industrial growth also increased significantly. Since 1994 thirty-four new industries located there, creating approximately 3,000 jobs.

The City's bonded indebtedness is only \$4.85 million and its bond rating is said to be one of the highest for a community of its size.

Indeed, Avon's General Fund Balance of \$2,180,000.00 as of December 31, 2002 represents 40% of the \$5,100,000.00 budgeted expenditures for 2003. This reserve is far in excess of the 5% to 10% of anticipated expenditures recommended by municipal credit rating agencies.

Of course, with growth in both residential and commercial development comes an increased need for services and a concomitant increase in expenditures. And, Avon's resources, although considerable, are finite, while residents' demands for services are infinite. Every dollar spent on personnel means \$1.00 less available for programmatic purposes.

Nonetheless, the Fact-Finder sees no justification for maintaining the wages of Patrol Officers substantially below average, and believes that a 3.5% increase in 2003, followed by a 3% increase in 2004 when the pension pick-up is discontinued, and a further 3.5% in 2005, are warranted, particularly in light of the potential increases in employee responsibility for health insurance premiums, as will be considered next, and are not

beyond the City's capacity to absorb them consistent with its other planned expenditures.

**THE FACT-FINDER'S RECOMMENDATIONS:**

The Fact-Finder finds appropriate and recommends that the wage scales set forth in Appendices A-2 and A-3 which became effective with the first pay of 2002 be increased by 3.5% effective with the first pay of 2003, and as so increased and after appropriate adjustment to the base wages for the discontinuance of the pension pick-up arrangement, then by an additional 3%, effective with the first pay of 2004, and as so adjusted and increased, then by an additional 3.5% effective with the first pay of 2005.

**II. Article 13, Section 2 - Health Insurance**

**The 2000 Contract:**

The expired 2000 Contract read as follows:

"Section 2. The City agrees to pay premium/contribution costs for health coverage for each eligible full-time employee enrolled in any of the health coverage plans offered by the City, up to the maximum amounts listed below:

	<u>Monthly Maximum Amount</u>	<u>Monthly Maximum Amount</u>
	<u>Single Coverage:</u>	<u>Family Coverage:</u>
"01/01/00	\$250.00	\$525.00

"The election of single or family coverage rests with the eligible bargaining unit employee. Any premium/contribution cost in excess of the maximum established herein shall be the responsibility of the participating employee and shall be paid through payroll deduction."

### **The City's Proposal**

The City seeks to eliminate the obligation to pay the full cost of health insurance premiums up to a maximum monthly amount of \$250.00 for single coverage and \$525.00 for family coverage.

It proposes instead to pay 80% of whatever the monthly premium charges are.

The City points out that whereas in 2002 the monthly charges for family coverage amounted to \$557.00, this year they increased to \$811.00. Correspondingly, the 2002 charge of \$255.00 a month for single coverage was boosted to \$325.00 for the current year.

Both the Bargaining Unit represented by the American Federation of State, County and Municipal Employees and that represented by the Teamsters agreed to the 80%-20% division of monthly premium charges and the City cannot justify treating the Police Patrolmen's Unit differently.<sup>2</sup>

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<sup>2</sup> The City and the Unions agreed, however, to add the following text to Section 29.04: "Notwithstanding the provisions of Sections 2, 3 and 4 herein, the parties agree that for calendar month January 2003, the employee contributions for health plan coverage shall be maintained at the levels in effect as of December 2002. The Employer shall therefore be responsible for

**The Union's Proposal:**

The Union seeks to amend Article 13, Section 2 to read as follows:

"Section 2. The City agrees to pay premium/contribution costs for health coverage for each eligible full-time employee enrolled in any of the health coverage plans offered by the City, up to the maximum amounts listed below:

<u>Monthly Maximum Amount</u> <u>Single Coverage</u>	<u>Monthly Maximum Amount</u> <u>Family Coverage</u>
01/01/2003 \$300.00	\$600.00
01/01/2004 \$325.00	\$625.00
01/01/2005 \$350.00	\$650.00

"The election of single or family coverage rests with the eligible bargaining unit employee. Any premium/contribution cost in excess of the maximum established herein shall be equally shared by the Employer and participating employee and shall be paid through payroll deduction."

If adopted, the Union's proposal would increase members' 2003 contribution towards paying the monthly premium charges for family coverage from the current \$32.00 to \$105.50 representing 13% of the current premium charge of \$811.00.

The counterpart contribution of Bargaining Unit members opting for single coverage would increase from \$5.00 a month to \$25.00 representing some 7.5% of the current premium charge of \$325.00.

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all costs in excess of \$32.00 per month for family coverage, or \$5.00 per month for single coverage, for the month of January 2003."

**The Fact-Finder's Analysis and Findings:**

The substantial increase in health insurance premiums experienced by the City of Parma is not an isolated phenomenon, but rather reflects the national trend in the cost of health care. There can be no assurance that the rate of increase, which has consistently outstripped the rise in the consumer price level over the past decade, will diminish in the foreseeable future.

Avon is a participant in the Lorain County Health Plan which is administered by Medical Mutual.

Lorain County offers two health insurance programs and its Board of Commissioners set the annual premium charges for participants. One plan covers medical expenses only, and carries a monthly charge this year of \$205.00 for single coverage and \$511.00 for family coverage.

The plan chosen by the majority of Avon employees covers in addition to medical expense, dental, drug and vision charges. The rates effective January 1, 2003 with this comprehensive health insurance program is \$325.00 per month for single coverage and \$811.00 per month for family coverage. The current charges represent an increase of some 45% over those obtaining in 2002. During 2002 employees selecting family coverage had \$32.00 per month deducted from their pay as their share of the premium charge. The City asserts that if employees were to

continue to pay the same amount, its health care cost for fiscal year 2003 would increase 78%, from \$376,800.00 to \$671,570.00, while the Employer' share would decline from 6% to 4%.

According to the State Employment Relations Board 2001 Report on The Cost of Health Insurance in Ohio's Public Sector, 70% of public employees contribute to the cost of their medical insurance, and pay, on the average, 12.4% of the cost of single coverage and 13.8% of the cost of family coverage.

But, the State-wide average of employee monthly contributions towards the cost of health insurance in 2001 amounted to \$30.46 for single coverage and only \$87.36 for family coverage.

However, the health insurance plans offered by Lorain County provide higher levels of benefits and more comprehensive services than most. The "medical plan" is a Medical Mutual "traditional plan", not a "preferred provider" program. It provides for a \$100.00 deductible for single coverage and \$200.00 for family coverage. After the applicable deductible has been satisfied, the plan pays 80% of covered services until an out-of-pocket maximum of \$500.00 for single coverage, and \$1,000.00 for family coverage has been paid by the employee. Thereafter the plan pays 100% of such charges. Prescriptions cost employees \$3.00 for generic drugs and \$10.00 for brand name drugs. Employees who need maintenance doses of medication may

utilize a mail order service and obtain the drugs without charge.

On the one hand, as the City argues, it is entirely appropriate that health insurance contributions for particular coverage be the same for all City employees. Differentials in employee's cost sharing tend to promote over-utilization of benefits by employees who bear less than an allocated share of the premium charges, and a corresponding subsidization of the favored group by all others.

In consequence, it is entirely desirable that there be uniformity in employee responsibility for health insurance costs.

The Fact-Finder recognizes that the two smaller City Bargaining Units have agreed to the City's proposal, and currently pay 20% of the premium charges.

But, on the other hand, the Fact-Finder also acknowledges the cogency of the Union's contention that implementation of the City's proposal would instantly require a \$130.00 a month increase in the amount deducted from their pay, or \$1,562.00 a year, completely offsetting the wage increase herein recommended. Moreover, it is likely that health insurance premium costs will continue to increase in the remaining two years of the Contract thereby eroding the future wage increases recommended in the last two years of the successor Contract.

years of the Contract thereby eroding the future wage increases recommended in the last two years of the successor Contract.

Of course, since the Police Bargaining Units have not accepted the City's proposed cost sharing arrangement, they are presently enmeshed in a worse case scenario. They are now paying the excess of premium charges over the Contractual cap on the City contributions. Employees electing family coverage pay \$286.00 a month, not \$162.00, while those opting for single coverage pay \$75.00 a month, not \$25.00.

Employees in the comparable communities pay nowhere near 20% of health insurance premiums as proposed by the City. The Cities' share of family health insurance premiums ranges from a low of \$625.00 per month in Elyria to a high of \$803.00 per month in Amherst.

A survey of the health insurance premium sharing in comparable communities compiled by Avon is set forth below:

**CITY OF AVON  
COMPARABLES SURVEY**

<b>Jurisdiction</b>	<b>Health Insurance/Employer Cost/Employee Cost</b>		
Amherst		Employer	Employee
	Family	\$803.09	0
	Single	\$330.45	0
Avon Lake		Employer	Employee
	Family	\$625	\$50
	Single	\$	0
Bay Village		Employer	Employee
	Family		0
	Single		0
Elyria		Employer	Employee
	Family –	\$625	\$15
	Single –	\$280	\$7
Lorain		Employer	Employee
	Family		0
	Single		0
Lorain County Sheriff's Office		Employer	Employee
	Family –	\$681	\$130
	Single –	\$290	\$35
Oberlin		Employer	Employee
	Family -	\$743.83	\$95
	Single -	\$365.36	\$70
North Ridgeville		Employer	Employee
	Family	\$650	0
	Single	\$300	0
Sheffield Lake		Employer	Employee
	Family	\$756	\$55
	Single	\$325	0
Westlake		Employer	Employee
	Family	\$	\$10
	Single	\$	\$10
<i>Avon Current</i>		<i>Employer</i>	<i>Employee</i>
	<i>Family</i>	<i>\$525</i>	<i>\$286</i>
	<i>Single</i>	<i>\$250</i>	<i>\$75</i>

The City's maximum exposure of \$525.00 for health insurance premiums has remained unchanged since 1993. The Fact-Finder believes it is equitable to increase the City's responsibility.

To provide some degree of certainty and stability for employees as to the amount of their take home pay, and to provide meaningful increases in their wages, the Fact-Finder believes that the monthly contributions of employees should be subject to some ceiling.

For this purpose the Fact-Finder finds it to be appropriate that the maximum employee contribution be set at \$100.00 per month for single coverage and \$200.00 a month for family coverage during the life of the Contract.

The Fact-Finder notes that the adoption by the other Bargaining Units of the 80%/20% cost sharing arrangement was not put into effect until February 2003. Employees in those Bargaining Units were reimbursed for amounts they paid in January in excess of the 2002 monthly contribution rate of \$32.00 for family coverage and \$5.00 for single coverage.

Therefore the Fact-Finder further finds it appropriate that the City reimburse employees for the amount of health insurance premiums they have paid in January 2003 in excess of \$5.00 for single coverage and \$32.00 for family coverage, and for the amount of health insurance premiums they paid in February

and March of 2003 in excess of \$25.00 for single coverage and \$162.00 for family coverage.

**THE FACT-FINDER'S RECOMMENDATIONS:**

The Fact-Finder finds appropriate and recommends that Article 13, Section 2 be amended to read as follows:

"Article 13 - Health Insurance/Life Insurance

...

"Section 2. The City agrees to pay 80% of the first \$1,000.00 of the monthly premium/contribution cost for family health insurance coverage for each eligible full-time employee enrolled in any of the health insurance plans offered by the City. Each eligible Bargaining Unit employee electing family coverage shall pay 20% of the monthly premium/contribution cost for family coverage up to a maximum amount of \$200.00 per month. Any monthly premium/contribution cost for family health insurance coverage exceeding such maximum employee contribution shall be paid entirely by the City.

"The City agrees to pay 80% of the first \$1,125.00 of the monthly premium/contribution cost for single health insurance coverage for each eligible full-time employee enrolled in any of the health insurance plans offered by the City. Each eligible Bargaining Unit employee electing single coverage shall pay 20% of the monthly premium/contribution cost for single coverage up to a maximum amount of \$100.00. Any monthly premium/contribution cost for single health insurance coverage exceeding such maximum employee contribution shall be paid entirely by the City.

"The election of single or family coverage rests with the eligible Bargaining Unit employee. The responsibility of participating employees for premium/contribution costs shall be paid through payroll deduction.

"Notwithstanding the above provisions, the parties agree as follows: For the calendar month of January

2003, the employee contributions for health insurance shall be maintained at the levels in effect as of December 2002. The Employer shall therefore be responsible for all premium costs in excess of \$32.00 per month for family coverage, and \$5.00 per month for single coverage for the said month of January 2003.

"For the calendar months of February and March 2003 the employee contributions for health insurance shall be fixed at \$25.00 per month for single coverage and \$162.00 per month for family coverage. The Employer shall therefore be responsible for all premium costs in excess of \$162.00 per month for family coverage and \$25.00 for single coverage for the said months of February and March 2003.

"The excess of contributions made by employees for health insurance in each of the three said months shall be refunded to employees by separate check payable not later than sixty (60) days after the execution of this Agreement."

### **III. Article 39 - Duration**

#### **The 2000 Contract:**

The expired Agreement numbered the "Duration" provision as Article 35. The agreed upon insertion of new Articles into the successor Contract requires the renumbering of this Article as Article 39. The text of the Duration provision in the 2000 Agreement read as follows:

"This agreement shall be effective as of January 1, 2000, and shall remain in full force and effect through December 31, 2002. The terms and conditions of the contract expiring September 30, 1999, shall continue to be honored by the parties until the commencement of this agreement.

"If either party desires to modify, amend, or terminate this agreement, it shall give written notice of such intent no earlier than one hundred eighty

(180) calendar days prior to the expiration date, nor later than one hundred fifty (150) calendar days prior to the expiration date of this agreement. Such notice shall be by certified mail with return receipt. The parties shall commence negotiations within two (2) calendar weeks after receiving notice of intent.

"The parties acknowledge that during the negotiations which resulted in this agreement, each party had unlimited right to make demands and proposals on any subject matter not removed by law from the area of collective bargaining, and that the understandings and agreement arrived at by the parties after the exercise of that right and opportunity are set forth in this agreement. Therefore, the Employer and the Labor Council, for the life of this agreement, each voluntarily and unequivocally waive the right and each agrees that the other shall not be obligated to bargain collectively or individually with respect to any subject or matter referred to or covered in this agreement, or with respect to any subject or matter not specifically referred to or covered in this agreement, even though such subjects or matters may not have been within the knowledge of either or both parties at the time they negotiated or signed this agreement."

**The City's Proposal:**

The City agrees that the term of the successor Contract ought to extend for three years. However, it resists retroactivity of wages in the absence of commensurate concessions from the Union with respect to the City's proposals.

**The Union's Proposal:**

The Union agrees with the City that the term of successor Agreement shall be for three years, but insists that any wage increases negotiated be retroactive to January 1, 2003. In

support of its position it notes that retroactivity has always been agreed upon by the parties.

**The Fact-Finder's Analysis and Findings:**

It is customary when successor Contracts are executed after the predecessor Agreement has expired, that wages be made retroactive to the commencement of the new Contract term.

No reason appears in the present case, particularly in view of the prior negotiating history of the parties, to deviate from this norm. Indeed, to do otherwise would reward foot-dragging on the part of an employer and encourage unions to rush into the fact-finding process prematurely.

**THE FACT-FINDER'S RECOMMENDATIONS:**

The Fact-Finder recommends that Article 39 be revised to read as follows:

→ "This agreement shall be effective as of January 1, 200~~2~~<sup>3</sup>, and shall remain in full force and effect through December 31, 2005. The terms and conditions of the contract expiring December 31, 2002, shall continue to be honored by the parties until the commencement of this agreement, provided, however, that the 2003 wage increases reflected in Appendix A shall be retroactive to January 1, 2003 and the additional amounts payable to employees as a result of such retroactivity shall be paid to them by separate check not later than sixty (60) days after the execution of this Agreement.

"If either party desires to modify, amend, or terminate this agreement, it shall give written notice of such intent no earlier than one hundred eighty (180) calendar days prior to the expiration date, nor later than one hundred fifty (150) calendar days prior to the expiration date of this agreement. Such notice

shall be by certified mail with return receipt. The parties shall commence negotiations within two (2) calendar weeks after receiving notice of intent.

"The parties acknowledge that during the negotiations which resulted in this agreement, each party had unlimited right to make demands and proposals on any subject matter not removed by law from the area of collective bargaining, and that the understandings and agreement arrived at by the parties after the exercise of that right and opportunity are set forth in this agreement. Therefore, the Employer and the Labor Council, for the life of this agreement, each voluntarily and unequivocally waive the right and each agrees that the other shall not be obligated to bargain collectively or individually with respect to any subject or matter referred to or covered in this agreement, or with respect to any subject or matter not specifically referred to or covered in this agreement, even though such subjects or matters may not have been within the knowledge of either or both parties at the time they negotiated or signed this agreement."

This Report signed, dated and issued at Cleveland, Ohio  
this 19<sup>th</sup> day of March, 2003.



Alan Miles Ruben  
Fact-Finder

AMR:ljj



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