BEFORE THE
STATE EMPLOYMENT RELATIONS BOARD

FACT FINDING PROCEEDINGS
CASE NO. 03-MED-01-0019

IN THE MATTER OF:

CITY OF TIPP CITY, OHIO

AND

TIPP CITY POLICE PATROLMEN'S GROUP
FRATERNAL ORDER OF POLICE OF OHIO,
OHIO LABOR COUNCIL, INC.

APPEARANCES:

FOR CITY: John J. Krock

FOR THE UNION: Dennis E. Sterling

REPORT AND RECOMMENDATIONS OF THE FACT FINDER

James E. Murphy
Fact Finder

BACKGROUND:

Tipp City, Ohio is a suburban community of approximately 9,200 people located in Miami County about 15 miles north of Dayton. . The City and Union have maintained an amicable collective bargaining relationship since 1988, reflected in five successive contracts, the most recent of which was effective from April 21, 2000 through April 20, 2003. The bargaining unit is comprised of all non-supervisory Police Officers employed by the City, currently 13 in number.

During the past few months the parties engaged in several collective bargaining sessions and were successful in reaching agreement on many items. However, as of the commencement of the hearing in this matter, they remained at impasse on six issues, to wit: Article 15, Compensation and Pension Pickup; Article 15, Shift Differential; Article 17, Insurances (health); Article 17, Insurances (life); Article 26, Equipment and Clothing; and Article 34, Duration. Accordingly, this case came on for hearing in Tipp City, Ohio on May 14, 2003.

Evidence and able argument in support of the parties' respective positions on the disputed issues were presented at the hearing. What follows is a summary of that evidence, the parties' positions, the Fact Finder's Recommendations and the rationale for same. In making my recommendations, I have considered and relied upon the following statutory criteria, whenever such factors were advanced by the parties: the factor of past collectively bargained contracts; 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; the interest of the public; the ability of the public employer to finance and administer the issues proposed; the effect of the adjustments on the normal standards of public service; the lawful authority of the public employer; the stipulations of the parties; and such other factors, not confined to those noted above, which are normally or traditionally taken into consideration in the determination of issues submitted to mutually agreed upon dispute settlement procedures in the public service or in private employment.

ARTICLE 15: Compensation and Pension Pickup:

Evidence and Positions:

Section 15.1 of the current contract contains provisions setting forth the pay rates, by step, for each year of its three year term. The FOP now seeks a 4% increase in the wage scale for each of the three years in the proposed contract. The City offers a 2% yearly increase.

In support of its position, the Union notes that the city and its tax base are growing (by 100-120 people per year), and contends that the proposed increase is needed in order to keep pace with other cities in the geographic area, thus facilitating the recruitment and retention of quality employees.

The City, in response, cites the effects of the current economic downturn on its income tax receipts, investment income and contributions from the State of Ohio. In this connection the City provided evidence that income tax receipts actually declined in 2002 and are projected to do so (excluding a non-transferrable increase earmarked for parks) again in 2003. A second revenue source (about 10%), the state Local Government Fund, is threatened by Ohio's economic problems. A third major source of City funding, the property tax, is projected to grow slightly in 2003, as it has for some time. Finally, investment income is decreasing, apparently as a result of both the general stock market decline and the use of prior surpluses to fund recent budget shortfalls.

In addition to the above cited revenue problems, the City notes the increasing cost of health insurance coverage for its employees, as well as the cost of debt service on its recently completed police headquarters building. The City also cites the increased costs resulting from the recently expired collective bargaining agreement, which provided wage increases of 5% (plus 2% for first responder certification), 3% and 3%, increases in the employer share of health insurance premiums from 80% to 90% over the life of the agreement, pension pick-up rolled into the base and longevity and clothing allowance increases.

Both parties provided wage rate comparisons with other localities, the City with ten and the FOP with nine. Only one municipality, Urbana, is common to both lists. The FOP list, with two exceptions, has the virtue of comparing localities in closer proximity to Tipp City, while the City's list consists of localities closer in size. Perhaps not surprisingly, Tipp City is one of the top payers on the City's list, one of lowest on the FOP's. Combining both lists puts the City pretty much in the middle. A look at only those municipalities in Miami or an immediately adjacent county, which tends to eliminate rural locales, places Tipp City toward the bottom, both for minimum and maximum wage rates.

As for internal comparisons, the City's one other unionized bargaining unit, of some 21 service and maintenance employees, is scheduled for a 4% raise this year. Since that contract expires in September 2003, future increases are unknown at this time. The 18-20 unrepresented employees, who include management and the amount of whose raises are solely at the discretion of the City , are scheduled for increases of 3.5% in both 2003 and 2004.

At my request, the City kindly prepared a document showing the cost per year of each one percent wage increase for the members of this bargaining unit. That figure, including the additional fringe benefits costs associated therewith, is $14, 740 for a 2% increase, $22, 111 for a 3% increase and $29,481 for a 4% increase. Put differently, each percentage point increase costs the City slightly over $7,000 per year.

Rationale:

Considering all of the facts set forth above, and although the City presented an effective case for fiscal restraint, I believe a relatively modest increase of 3.5% the first and second years of a new contract, and 3% in the third, is warranted here. These increases, in total, will cost about $10,500 more in the first and second years, and $7,000+ more in the third year, than the City was prepared to offer this bargaining unit, and will more nearly approximate what the City has all ready agreed to pay its other employees. With respect to the last named consideration, I note that raises of 3.5% per year are scheduled for the unrepresented employees, over whose pay the City has complete control, in both 2003 and 2004. Moreover, looking at wage rates for policemen in the most nearly adjacent communities, which I believe is the more valid comparison, would seem to argue for increases greater than 2% per year in Tipp City. Given the undoubted economic problems confronting state and local governments, the lack of information available as to wage increases being given this year in comparable localities, and the current low rate of inflation, I do not believe that the 4% per year raises sought by the FOP are warranted at this time.

Recommendation:

It is recommended that wage rates for each member of the bargaining unit be increased by 3.5% in 2003, 3.5% in 2004 and 3% in 2005.

ARTICLE 15: Shift Differential

Evidence and Positions:

The City's police operate on a three shift basis, 8 am to 4 pm, 4 pm to Midnight, and Midnight to 8 am. There are currently four officers on first shift, four on second, and three on third. The first and second shifts rotate every two weeks; the third (made up of volunteers) is permanent.

The recently expired contract provides an additional $.20/hour for working the second shift and $.40/hour for working the third shift, commonly called a shift differential. The contract also provides, however, that shift differentials are only paid if an employee works the applicable shift for two or more consecutive pay periods (i.e. more than four consecutive weeks). Since officers on the first two shifts are regularly rotated every two weeks, no one normally qualifies for the second shift differential.

The FOP now seeks to eliminate the two-consecutive pay period requirement and to raise the shift differential amount by $.20/hour for both afternoon and evening shifts. The City wants to retain the existing contract language, both as to eligibility and amount.

The FOP's list of nine comparables shows that only two other cities pay shift differentials, one $0.20/$0.20 and one $0.45/$0.50; neither has a consecutive week requirement. Three cities simply pay no shift differential, while four others have none because the officers involved all rotate shifts on a regular basis.

The City's list of nine comparables shows four cities paying no shift differential, one at $0.25/$0.35, one at $0.30/$0.40, one at $0.35/$0.35, one at $0.35/$0.45, and one at $0.45/$0.50. Although it is not completely clear, I will assume that those localities on the City's list which do pay a shift differential do not have a consecutive week requirement.

Rationale:

Combining the lists of comparables, as I did above, shows that most of the municipalities to which I have been cited do not pay any shift differential. Of those in Miami or an immediately adjacent county, only two of nine (in addition to Tipp City) make such payments. At least four comparable communities do not pay shift differentials precisely because their officers regularly rotate shifts. Finally, since the third shift is staffed entirely by volunteers, it appears that the existing differential payment, together with other motivations, is sufficient to fill current needs.

In these circumstances, and also keeping in mind that the current arrangement is the product of a long and amicable bargaining relationship, I do not believe that a change in the existing contract language, either as to eligibility or amount, has been justified here.

Recommendation:

It is recommended that the existing contract language of this section remain unchanged.

ARTICLE 17 INSURANCES:

Evidence and Positions:

Article 17.1 of the recently expired contract provides, among other things, that the City will pay 90%, and employees who elect to participate 10%, of the premium costs of a group hospitalization/major medical insurance plan. The same section also provides that the City will provide, at no cost to the employee, a $35,000 term life insurance policy for each officer.

The City now seeks to change the language regarding premium cost sharing so that bargaining unit employees will pay the same percentage share as other City employees, with that figure to be determined sometime after negotiations are completed with the service and maintenance unit later this year. At the same time, the City wants to retain the existing amount of term life insurance it purchases for each employee. In contrast, the FOP wants to retain the present premium cost sharing arrangement and to increase the amount of term life insurance coverage to $50,000 per employee.

In support of its position the City cites the rapidly rising costs of health insurance premiums, 21.7% in 2002 for example, particularly in light of its financial difficulties discussed above. Rather than attempting to force the members of this bargaining unit to accept higher premium shares at this time, however, the City would prefer that such increases occur only if and when similar increases are successfully negotiated with the service and maintenance unit and, apparently, imposed on non-bargaining unit employees and managers. Thus all of its employees would share equally the burdens caused by rising health insurance costs, while at the same time retaining quality coverage.

The FOP points out that the current share arrangement has only just been instituted as a result of provisions negotiated in the last contract which gradually reduced the employees' share from 80-20, to 85-15 and finally to 90-10. To almost immediately reverse that proportion without compelling need, in the Union's opinion not demonstrated here, would be, according to the FOP, inequitable. As to life insurance, the FOP notes that the existing amount of $35,000 is approximately $10,000 below the yearly wage of senior employees, and will be even further below when a new wage scale is finalized.

Looking at the Union's nine comparables, one municipality furnishes 100% employer paid health insurance, four have a 90-10 arrangement similar to Tipp City, one has 85-10 and three have partial contributions described in amounts rather than percentages. The City's nine comparables show two 100% employer paid plans, three 90-10s (including Urbana), one 95-5, one 92.5-7.5, one in which the employer's contribution is capped and one whose contributions are expressed in amounts rather than percentages. Statewide averages, albeit somewhat outdated but the latest available, show employee contributions in cities under 25,000 of 12.5% single and 11.4% family.

Based on the above it is clear that the present 90-10 split in Tipp City, while undoubtedly generous in this day and age, is not atypical and is in fact pretty much the norm among the comparable localities to which I have been referred by the parties. Moreover, the FOP's argument, namely that to accept the City's proposal would be to, in effect, substitute another entity as the bargaining unit's representative for purposes of health insurance, has considerable force. In sum, I am not persuaded that a sufficient basis exists to warrant changing the current health insurance premium split in the manner proposed.

As to life insurance, the comparables furnished by both parties show a range from $15,000 to $60,000, with several in the $20,000 to $30,000 area and with Tipp City somewhat above the norm. Accordingly, I do not believe that a sufficient basis has been established to warrant changing the existing policy amount.

Recommendation:

It is recommended that Article 17, Section 17.1 of the current collective bargaining agreement be changed to read as follows: "The Employer shall provide to all bargaining unit employees a group hospitalization/major medical insurance plan for those employees electing to accept such coverage. The Employer shall pay 90% of the premium cost and each employee shall pay 10% of the premium cost for the duration of the Agreement. The Employer shall provide a $35,000 term life insurance policy at no cost to the employee."

ARTICLE 26 EQUIPMENT AND CLOTHING:
Evidence and Positions:

The recently expired contract contained a clause providing a clothing allowance of $600 per year per employee, intended to defray the cost of replacing required uniforms. The FOP seeks to increase that amount by $25 in each year of the proposed three year agreement. The City wants to retain the existing amount

The City's nine comparables show uniform allowances from a high of $900 to a low of $500, with two localities simply supplying new uniforms as needed. The average of those giving an allowance was $662. The FOP's list of nine shows a high of $800, a low of $450 (with an average of $650) and four who replace as needed.

Considering the above figures together with the fact that the allowance in Tipp City has not been raised for three years, I believe a modest increase in the uniform allowance is warranted at this time. I shall, therefore, recommend an increase of $25 in the uniform allowance for 2003, but no further increases during the contract term.

Recommendation:

. It is recommended that Article 26, Section 26.1 of the agreement be amended to substitute "$625.00" for "$600.00." The remainder of Section 26.1 is to remain as presently written.

ARTICLE 34 DURATION:
Positions and Rationale:

Both parties agree that the proposed contract should be effective for three years. They disagree, however, with respect to its effective date, the City opting for the date of ratification while the FOP wants it retroactive to the expiration date of the most recent agreement, April 21, 2003. In my experience successor contracts are normally made retroactive to the expiration date of the predecessor, and I see no basis for changing that practice here.

Recommendation:

It is recommended that Article 34, Section 34.1 A be amended to read as follows: "This Agreement shall be effective April 21, 2003 and shall remain in full force and effect until April 20, 2006.

Finally, I recommend that the parties include all tentative agreements reached during negotiations in their final Agreement.

This concludes the Fact Finders Report and Recommendations. I wish to thank all parties for their helpful and cooperative approach throughout this proceeding.

May 28, 2003

James E. Murphy