

IN THE MATTER OF FACT-FINDING PROCEDURES  
BETWEEN

STATE EMPLOYMENT  
RELATIONS BOARD

2004 MAY 21 A 10:46

CITY OF AMHERST, OHIO

AND

THE OHIO PATROLMEN'S  
BENEVOLENT ASSOCIATION

FINDINGS OF FACT AND  
RECOMMENDATIONS

CASE NO. (P)

03-MED-10-1100

(PATROLMEN)

03-MED-10-1101

(SERGEANTS)

LOUIS M. THOMSON, JR.  
FACT-FINDER

APPEARANCES:

FOR THE UNION  
KEVIN POWERS, ESQ., ATTORNEY  
BRIAN BRANCATELLI, SERGEANT

FOR THE SHERIFF  
MICHAEL LOUGHMAN, ESQ., ATTORNEY  
RICHARD S. PLESS, DEPUTY AUDITOR  
LONNIE DILLON, CHIEF OF POLICE  
DENNIS CLOTZ, SAFE-SERVICE DIRECTOR

## SUBMISSION

THIS MATTER CONCERNS FACT-FINDING PROCEEDINGS BETWEEN THE CITY OF AMHERST, OHIO (HEREINAFTER REFERENCED AS "THE CITY" OR "THE EMPLOYER" AND PATROL OFFICERS AND SERGEANTS (HEREINAFTER REFERENCED AS "THE UNION" OR "THE EMPLOYEES)).

THE PATROL OFFICERS ARE DESIGNATED AS CASE NO. 03-MED-10-1100 AND THE SERGEANTS AS CASE NO. 03-MED-10-1101.

THE STATE EMPLOYMENT RELATIONS BOARD ("SERB") DULY APPOINTED LOUIS M. THOMSON, JR. OF TOLEDO, OHIO AS THE FACT-FINDER FOR THE SUBJECT CASES EFFECTIVE AS OF DECEMBER 10, 2003. THE PARTIES WERE CONTACTED THE FOLLOWING DAY AND INDICATED THEY WERE STILL NEGOTIATING.

THE FACT-FINDER RECEIVED A CALL ON MARCH 12, 2004 WHEREIN THE PARTIES REQUESTED HEARING DATES IN APRIL AND MAY, 2004. ON MARCH 19, 2004, THE PARTIES AGREED TO MEET ON MAY 4, 2004.

KEVIN POWERS, ESQ., ATTORNEY, REPRESENTED BOTH OPBA UNITS AND MICHAEL J. LOUGHMAN, ESQ. REPRESENTED THE CITY OF AMHERST, OHIO.

THE FACT-FINDING PROCEEDINGS WERE CONDUCTED PURSUANT TO THE OHIO COLLECTIVE BARGAINING LAW AND THE RULES AND REGULATIONS OF SERB.

THE FACT-FINDER UPON THE ADVICE OF THE PARTIES, DID NOT ATTEMPT TO  
MEDIATE THE ISSUES.

BOTH PARTIES PARTICIPATED FULLY AT THE FACT-FINDING HEARING.

THE FACT-FINDER IN WORKING UP THE FOLLOWING FINDINGS OF FACTS AND  
RECOMMENDATIONS ON THE ISSUES AT IMPASSE, HAS TAKEN INTO  
CONSIDERATION THE CRITERIA LISTED IN RULE 4117-09-05(I) OF THE SERB  
REGULATIONS. FURTHER, THE FACT-FINDER HAS ALSO TAKEN INTO  
CONSIDERATION ALL RELIABLE INFORMATION RELEVANT TO THE ISSUES  
BEFORE HIM.

IT SHOULD BE NOTED THAT THE PATROL BARGAINING UNIT CONSISTS OF  
ABOUT TWENTY (20) FULL-TIME PATROL OFFICERS AND THE SUPERVISOR UNIT  
CONSISTS OF FOUR (4) FULL-TIME SERGEANTS.

IT SHOULD BE NOTED, FOR THE RECORD, THAT THE DEPARTMENT ALSO HAS A  
UNIT OF FIVE (5) FULL-TIME DISPATCHERS AND FOUR (4) PART-TIME  
DISPATCHERS.

**EXHIBITS:**

**UNION EXHIBITS:**

NO. 1 – COPY OF SEPTEMBER 24, 2003 AMHERST NEWS-TIMES.

- NO. 2 – COPY OF ARTICLE FROM AMHERST NEWS-TIMES, DATED  
JANUARY 28, 2004.
- NO. 3 – COPY OF NEWS ARTICLE FROM NEWS-TIMES, DATED  
JANUARY 22, 2004.
- NO. 4 – COPY OF NEWS-TIMES ARTICLE, DATED DECEMBER 10, 2003.
- NO. 5 – COPY OF AMHERST, OHIO ESTIMATED RESOURCES, DECEMBER 28, 1999.
- NO. 6 - COPY OF AMHERST, OHIO ESTIMATED RESOURCES, JANUARY 2, 2001.
- NO. 7 - COPY OF AMHERST, OHIO ESTIMATED RESOURCES, DECEMBER 20, 2001.
- NO. 8 - COPY OF AMHERST, OHIO ESTIMATED RESOURCES, JANUARY 2, 2003.
- NO. 9 - COPY OF AMHERST, OHIO ESTIMATED RESOURCES, DECEMBER 29, 2003.
- NO. 10 - COPY OF AMHERST, OHIO ESTIMATED RESOURCES, JANUARY, 29, 2004.
- NO. 11 - COPY OF MANAGERMENTS DISCUSSION AND ANALYSIS, FOR YEAR  
ENDING DECEMBER 31, 2002.
- NO. 12 - COMPARISON OF POPULATIONS.
- NO. 13 - ESTIMATED RESOURCES FOR CITY OF ELYRIA, DATED APRIL 23, 2004.
- NO. 14 - ESTIMATED RESOURCES FOR CITY OF SHEFFIELD LAKE, DATED  
JANUARY 6, 2004.
- NO. 15 - COMPARISON OF MISCELLANEOUS BENEFITS.
- NO. 16 - COMPARISON OF MISCELLANEOUS BENEFITS.
- NO. 17 - NEWS ARTICLE FROM NEWS-TIMES, DATED JUNE 4, 2003.
- NO. 18 – COMPARISON OF BENEFITS.

CITY EXHIBITS:

NO. A – COPY OF AMHERST 2003 ESTIMATED RESOURCES AND APPROPRIATIONS.

NO. B - COPY OF AMHERST 20043 ESTIMATED RESOURCES AND APPROPRIATIONS.

NO. C - COPY OF AMHERST 2004 PERMANENT APPROPRIATIONS BUDGET.

NO. D – COPY OF GENERAL FUND FINANCIAL MODEL, DATED FEBRUARY 5, 2004.

NO. E – COPY OF WAGE INCREASES FOR CITIES IN THE COUNTY.

NO. F – COPY OF CITY OF AMHERST PERMANENT APPROPRIATIONS BUDGET FOR  
2004.

STATEMENT OF UNRESOLVED ISSUES

THE UNRESOLVED ISSUES ARE AS FOLLOWS:

- ARTICLE 18 - WORK HOURS AND OVERTIME COMPENSATION, SECTION 7:  
CURRENTLY, THE MAXIMUM AMOUNT OF COMPENSATORY TIME OFF THAT MAY BE ACCRUED IS ONE HUNDRED AND FIFTY (150) HOURS AND THE UNION WOULD LIKE TO INCREASE THE ACCRUAL AMOUNT TO TWO HUNDRED AND TWENTY-FIVE (225) HOURS.
- ARTICLE 19 – HOLIDAYS, SECTION 3: CURRENTLY, EMPLOYEES ARE PAID ONE AND ONE-HALF OF THEIR REGULAR BASE PAY IF THEY HAVE TO WORK ON EASTER, MEMORIAL DAY, FOURTH OF JULY, THANKSGIVING DAY, AND CHRISTMAS DAY. THE UNION WOULD LIKE TO BE PAID ONE AND ONE-HALF OF THEIR REGULAR BASE PAY FOR ALL OF THE FEDERAL

HOLIDAYS WHICH WOULD INCLUDE , IN ADDITION TO THOSE LISTED IN THE PRECEDING SENTENCE, NEW YEAR'S DAY, WASHINGTON'S BIRTHDAY, MARTIN LUTHER KING DAY, LABOR DAY, COLUMBUS DAY, AND VETERANS DAY. EASTER, HOWEVER, IS NOT A FEDERAL HOLIDAY.

- ARTICLE 19 – HOLIDAYS: THE UNION WOULD LIKE TO CARRYOVER UNLIMITED HOLIDAYS. THIS PROPOSAL AGAIN AFFECTS SCHEDULING AND OPERATIONS OF THE DEPARTMENT.
- ARTICLE 23 – SICK LEAVE, SECTION 9: CURRENTLY, A FULL-TIME EMPLOYEE WITH TEN (10) OR MORE YEARS OF SERVICE WITH THE POLICE DEPARTMENT, MAY AT THE TIME OF RETIREMENT, ELECT TO BE PAID IN CASH FOR ONE QUARTER (1/4) OF UP TO SIXTEEN HUNDRED (1600) HOURS OF ACCRUED BUT UNUSED SICK LEAVE. A FULL-TIME EMPLOYEE WITH TWENTY-FIVE (25) OR MORE YEARS OF SERVICE WITH THE POLICE DEPARTMENT, MAY AT THE TIME OF RETIREMENT, ELECT TO BE PAID IN CASH FOR ONE HALF (1/2) OF UP TO TWELVE HUNDRED (1200) HOURS OF ACCRUED BUT UNUSED SICK LEAVE.
- ARTICLE 23 – SICK LEAVE: THE UNION WOULD LIKE TO ADD IN THIS SECTION THAT IF AN EMPLOYEE DOES NOT USE ANY SICK TIME IN A YEAR, THEY MAY TRANSFER UP TO 24 HOURS INTO THEIR COMPENSATORY TIME BANK.

- ARTICLE 27 – COMPENSATION, SECTION 1: FOR THE LAST THREE YEARS, EMPLOYEES HAVE RECEIVED A 4% WAGE INCREASE. EMPLOYER WOULD LIKE TO OFFER A 2% WAGE INCREASE FOR THE NEXT THREE YEARS AND THE UNION STARTED WITH A REQUEST OF A 4% WAGE INCREASE AND IS NOW ASKING FOR A 5% WAGE INCREASE FOR THE NEXT THREE YEARS.
- ARTICLE 27 – COMPENSATION, SECTION 1: CURRENTLY, THE SERGEANT RANK DIFFERENTIAL IS TWELVE PERCENT (12%). THE UNION HAS INDICATED THAT THEY WOULD LIKE THE SERGEANT RANK DIFFERENTIAL TO BE 12%. EMPLOYER IS NOT SURE WHY UNION HAS LISTED THIS AS A POINT OF DISAGREEMENT SINCE THEY ARE ASKING FOR THE CURRENT CONTRACT LANGUAGE.
- ARTICLE 34 – MEDICAL INSURANCE: CURRENTLY, THE EMPLOYER PROVIDES EMPLOYEES WITH MEDICAL, DENTAL, AND VISION INSURANCE AND PAYS THE FULL PREMIUM COSTS. THE UNION WOULD LIKE TO KEEP ALL THAT IS CONTAINED IN THE CURRENT ARTICLE WITH THE ADDITION OF LASER EYE SURGERY TO BE PAID BY THE EMPLOYER, NOT TO EXCEED \$600.00 PER EYE.  
  
EMPLOYER WOULD LIKE TO FORM AN INSURANCE COMMITTEE TO MEET AND DISCUSS CONCERNS RELATING TO INSURANCE COVERAGE, ADMINISTRATIVE AND COST ISSUES, AND TO MAKE RECOMMENDATIONS

TO THE ADMINISTRATION TO RESOLVE INSURANCE CONCERNS. THE CITY SHALL BE REPRESENTED BY THE MAYOR/DESIGNEE AND THE UNION SHALL DESIGNATE ONE MEMBER FROM EACH OF THE BARGAINING UNITS AS ITS REPRESENTATIVES. OTHER NON-POLICE UNIONS MAY PARTICIPATE IN THIS COMMITTEE. THE COMMITTEE SHALL MEET ON A QUARTERLY BASIS OR AS NEEDED TO ADDRESS AREAS OF CONCERNS. EMPLOYER WOULD ALSO LIKE THE MEMBERS OF THE BARGAINING UNIT TO PARTICIPATE IN THE OHIO BUREAU OF WORKERS' COMPENSATION'S 10 STEP DRUG AND ALCOHOL PROGRAM.

FACT-FINDERS DISCUSSION:

ARTICLE 18 -- WORK HOURS AND OVERTIME COMPENSATION (SECTION 7 ONLY). CURRENTLY THE MAXIMUM AMOUNT OF COMPENSATORY TIME OFF THAT MAY BE ACCRUED IS ONE HUNDRED AND FIFTY (150) AND THE UNION IS SEEKING AN INCREASE TO TWO HUNDRED AND TWENTY-FIVE (225) HOURS.

AT THE PRESENT TIME ACCRUAL TIME WITHIN THE VARIOUS JURISDICTIONS WITH THE COUNTY ARE "ALL OVER THE MAP". RANGING FROM 36 HOURS (AVON LAKE) TO 480 HOURS (LORAIN, SHEFFIELD LAKE).

THE AVERAGE FOR THE EIGHT JURISDICTIONS IS 204.5 HOURS. THE AMHERST ACCRUAL TIME IS ON THE "LOW SIDE." INCREASE ACCRUAL TIME BY 75 HOURS TO 225.

ARTICLE 19 – HOLIDAYS, SECTION 3

CURRENTLY, EMPLOYEES ARE PAID ONE AND ONE-HALF OF THEIR REGULAR BASE PAY IF THEY WORK ON EASTER, MEMORIAL DAY, FOURTH OF JULY, THANKSGIVING DAY AND CHRISTMAS DAY. THE UNION WOULD ADD NEW YEARS DAY, WASHINGTON’S BIRTHDAY, MARTIN LUTHER KING DAY, LABOR DAY, VETERANS DAY, COLUMBUS DAY AND CHRISTMAS DAY.

THE UNION ALSO WOULD LIKE TO CARROVER AN UNLIMITED NUMBER OF HOLIDAYS, LANGUAGE WHICH IS NOT IN THE CURRENT CONTRACT LANGUAGE.

THIS IS STRICTLY A MONEY ISSUE. THE UNION SEEKS AN INCREASE OF SIX ADDITIONAL HOLIDAYS PER OFFICER WORKING TIMES 1 ½ HIS REGULAR BASE PAY. COUNTYWIDE THE HOLIDAY SCHEDULES VARY WIDELY. INCREASE THE HOLIDAYS ELIGIBLE FOR 1 ½ PAY BY ADDING THANKSGIVING DAY AND CHRISTMAS DAY WHICH ARE “FAMILY” HOLIDAYS. NO CARRYOVER ON HOLIDAYS.

ARTICLE 23 – SICK LEAVE (SECTION 9)

CURRENTLY, A FULL-TIME EMPLOYEE WITH TEN (10) OR MORE YEARS OF SERVICE WITH THE POLICE DEPARTMENT MAY AT THE TIME OF RETIREMENT, ELECT TO BE PAID IN CASH FOR ONE QUARTER (1/4) OF UP TO SIXTEEN (1600) HUNDRED HOURS OF ACCRUED BUT UNUSED SICK LEAVE. A FULL-TIME EMPLOYEE WITH TWENTY-FIVE (25) OR MORE YEARS OF SERVICE, MAY AT THE

TIME OF RETIREMENT, ELECT TO BE PAID IN CASH FOR ONE HALF (1/2) OF UP TO TWELVE HUNDRED (1200) HOURS OF ACCRUED BUT UNUSED SICK LEAVE.

THE EMPLOYER WOULD LIKE TO KEEP THE SECTION AS IT IS AT PRESENT. THE UNION SEEKS TO TAKE AWAY THE CAP ON THE AMOUNT OF HOURS OF SICK LEAVE THAT ONE CAN CASH OUT AND WANTS TO ADD THAT A FULL-TIME EMPLOYEE WITH THIRTY (30) OR MORE YEARS OF SERVICE WITH THE DEPARTMENT, MAY AT THE TIME OF RETIREMENT, ELECT TO BE PAID IN CASH FOR SEVENTY-FIVE PERCENT (75%) OF AN UNLIMITED NUMBER OF HOURS THAT AN EMPLOYEE HAD ACCRUED.

WITHIN THE COUNTY THE SICK LEAVE CASH OUT VARIES FROM 25% UP TO A MAXIMUM OF 30 DAYS (AVON LAKE) TO 100% UP TO A MAXIMUM OF 150 DAYS (SHEFFIELD LAKE) OR 100% UP TO 105 DAYS AND 50% OVER 105 DAYS (ELYRIA). THE CITY WOULD LIKE THE SECTION TO REMAIN AS IT IS.

LEAVE THE MAXIMUM PAYMENT FOR THOSE WITH TEN (10) OR MORE YEARS OF SERVICE AT FOUR HUNDRED (400) HOURS.

LEAVE THE MAXIMUM PAYMENT FOR THOSE WITH TWENTY-FIVE (25) OR MORE YEARS OF SERVICE AT SIX HUNDRED (600) HOURS.

CHANGE SO THAT FULL-TIME EMPLOYEE WITH THIRTY (30) OR MORE YEARS OF SERVICE WITH THE AMHERST POLICE DEPARTMENT, AT THE TIME OF RETIREMENT SHALL BE ALLOWED TO BE PAID IN CASH FOR SEVENTY-FIVE (75%) OF ALL ACCRUED BUT UNUSED SICK LEAVE. SUCH PAYMENT FOR SICK LEAVE ON THIS BASIS SHALL BE CONSIDERED TO ELIMINATE ALL SICK LEAVE ACCRUED BY THE EMPLOYEE AND SUCH PAYMENT SHALL BE MADE ONLY ONCE TO THE EMPLOYEE.

ARTICLE 23 - THE UNION REQUEST TO ADD TO THIS SECTON A PROVISION THAT IF AN EMPLOYEE DOES NOT USE ANY OF HIS SICK LEAVE IN A YEAR THAT HE/SHE HAS THE OPTION OF TRANSFERRNG UP TO TWENTY-FOUR (24) HOURS INTO HIS COMPENSATORY TIME BANK. THE FACT-FINDER CANNOT RECOMMEND THIS REQUEST.

#### ARTICLE 27 - COMPENSATION

THE CURRENT CONTRACT LANGUAGE GRANTED A FOUR PERCENT (4%) WAGE INCREASE EACH YEAR OF THE CONTRACT. THE UNION INITIALLY SOUGHT A 4% INCREASE FOR EACH YEAR AND LATER INCREASED THEIR REQUEST FOR FIVE PERCENT (5%) EACH YEAR OF THE NEW CONTRACT.

A COMPARISON WITH AMHERST AND THE OTHER SEVEN CITIES AND VILLAGES WITHIN THE COUNTY FINDS THE CITY OF AMHERST, AS FAR AS PATROLMEN'S WAGES ARE CONCERNED, APPROXIMATELY \$1140.00 BELOW THE AVERAGE OF

ALL OTHERS IN THE COUNTY. IT WAS INTERESTING TO LEARN THAT THE TWO LARGEST CITIES, LORAIN AND ELYRIA PAY THEIR 10 YEAR EMPLOYEES LESS THAN SOME OF THE “BEDROOM” COMMUNITIES SUCH AS AVON LAKE AND NORTH RIDGEVILLE.

ONE OF THE AREAS THE FACT-FINDER IS BOUND BY THE SERB PROVISION’S TO FOLLOW IS “3. THE INTEREST AND WELFARE OF THE PUBLIC, THE ABILITY OF THE PUBLIC EMPLOYER TO FINANCE AND ADMINISTER THE ISSUES PROPOSED, AND THE EFFECTS OF THE ADJUSTMENTS ON THE NORMAL STANDARD OF PUBLIC SERVICE.

WHILE IT IS POSSIBLE THAT THE CITY OF AMHERST COULD FUND ANOTHER 3-YEAR CONTRACT WITH THE UNION WITH A 4% WAGE INCREASE IF THIS WAS A “STAND ALONE” AGREEMENT, HAVING RECEIVED TESTIMONY THAT AFSCME SETTLED FOR 2% WAGE INCREASE IN EACH OF THE 3 YEARS AND COUPLING WITH THIS THE FACT THAT AFSCME AND THE OTHER 3 BARGAINING UNITS ALL HAVE “ME TOO” PROVISIONS, THIS FACT-FINDER WOULD, IF HE GRANTED THE UNION’S 4% (OR 5%) INCREASE, ALSO PROVIDE THE SAME INCREASE TO THE OTHER BARGAINING UNITS.

THERE IS ALSO THE POSSIBILITY THAT THE CITY MIGHT FIND ITSELF IN THE POSITION OF HAVING TO PROVIDE A SOMEWHAT SIMILAR INCREASE TO THEIR

NON-BARGAINING UNIT EMPLOYEES. IN OTHER WORDS ALL THE EMPLOYEES OF THE CITY WOULD LIKELY GET A 4% (OR 5%) INCREASE.

THIS FACT-FINDER CANNOT RECOMMEND ANY MORE THAN THE OFFERED 2% FOR EACH YEAR OF THE AGREEMENT.

THE CITY AND THE UNION BOTH APPEAR TO AGREE THAT THE TWELVE PERCENT (12%) DIFFERENTIAL FOR THE SERGEANT'S RANK SHOULD BE MAINTAINED AND THE FACT-FINDER AGREES.

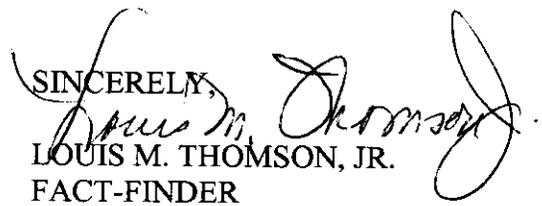
THE UNION WOULD LIKE TO KEEP THE CURRENT CONTRACT LANGUAGE AND ADD A NEW SECTION WHICH WOULD ALLOW FOR LASER EYE SURGERY TO BE PAID BY THE EMPLOYER, NOT TO EXCEED \$600.00 PER EYE.

THE DAY OF EMPLOYERS PAYING 100% OF THE PREMIUMS FOR THE EMPLOYEE INSURANCE PROGRAMS IS FAST COMING TO AN END. THE CITY SHOULD BE LIABLE FOR THE FULL AMOUNT OF MEDICAL, DENTAL AND VISION INSURANCE FOR THE NEXT 3 YEARS WITH THE PROVISION THAT THE UNION SHALL FULLY PARTICIPATE IN THE FORMATION OF AN INSURANCE COMMITTEE TO DISCUSS AND ACT ON THE PROBLEM OF COST CONTAINMENT. THE MEMBERS OF THE BARGAINING UNIT SHALL ALSO PARTICIPATE IN THE OHIO BUREAU OF WORKERS COMPENSATION 10 STEP DRUG AND ALCOHOL PROGRAM. THE MEMBERS OF THE BARGAINING UNIT SHALL PREPARE THEMSELVES FOR THE

TIME IN THE NEAR FUTURE WHEN THEY WILL HAVE TO ASSUME A SHARE OF  
THE PREMIUMS FOR THEIR INSURANCE.

LEAVE INSURANCE AS IS WITH THE ABOVE-NOTED PROVISIONS.

THIS FACT-FINDER WOULD LIKE TO THANK THE PARTIES FOR THEIR KINDNESS  
AND COURTESY EXTENDED TO HIM.

SINCERELY,  
  
LOUIS M. THOMSON, JR.  
FACT-FINDER