

IN THE MATTER OF IMPASSE X
X
BETWEEN X
X
THE CITY OF FOREST PARK, OHIO X
AND X
FRATERNAL ORDER OF POLICE X
OHIO LABOR COUNCIL, INC. X
X
X

REPORT OF
THE FACT FINDER

SERB FILE NOS.: 04-MED-09-0807 and 0808

HEARING: February 9, 2005; Forest Park, Ohio

FACT FINDER: William C. Heekin

APPEARANCES

For the City

Paul R. Berninger, Attorney

For the FOP/OLC

Guy W. Kaufman, Staff Representative

ADMINISTRATION

By way of a telephone call from the State Employment Relations Board (SERB), the undersigned was informed of his designation to serve as fact finder regarding a successor labor contract, negotiations impasse. On February 9, 2005, and following receipt of pre-hearing submissions, a fact finding hearing went forward where testimony as well as document evidence was presented. The record was closed at the conclusion of the hearing and the matter is now ready for the issuance of a fact-finding report.

FINDINGS AND RECOMMENDATIONS

The City of Forest Park, Ohio (“the City”) employs 35 sworn Patrol Officers who for many years have been represented in collective bargaining by the Fraternal Order of Police, Ohio Labor Council, Inc. (“the FOP/OLC”). Accordingly, the City and the FOP/OLC (“the Parties”) are each signatory to the instant collective bargaining agreement (“the Labor Contract” or “the Agreement”). Here, the Parties have successfully negotiated the terms of a successor Agreement where one issue now remains at impasse: An FOP/OLC proposal to change Article XXVI, “Fitness/Ability”, which originally was made part of a prior Labor Contract back in 1996, as concerns the therein “Fitness Ability Testing” provision from a twice-a-year to a once-a-year fitness test; where the response of the City is that this provision should remain unchanged in its entirety.

Therefore and in addition to it being recommended that all tentatively agreed upon items as well as all unchanged contract provisions be herein adopted, the following is recommended as to the one item at impasse: That Article XXVI remain unchanged.

This follows in light of the almost ten-year history of this provision, including the disputed twice-a-year fitness test, where there has been no clearly identified experience regarding an inaccurate judgment as to physical fitness for police duty. At the same time, this

long history and prior acceptance is felt to outweigh the relevant comparisons data submitted by the FOP/OLC. However, some of the issues raised at the hearing by the FOP/OLC regarding the potential for an unjust outcome in the future concerning an almost ten-year old, fitness testing standard – involving certain concepts widely accepted in 1996 as to measuring physical fitness – are seen as legitimate. Accordingly and while also noting that some of the circumstances regarding the particular handling of this question during the recent negotiations apparently contributed to an impasse being reached, it is also recommended that a joint committee be formed to thoroughly study the question of physical fitness testing during the term of the successor Agreement. It seems to be a matter worthy of careful consideration going forward.



William C. Heekin
February 23, 2005
Cincinnati, Ohio

STATE EMPLOYMENT
RELATIONS BOARD

2005 FEB 24 P 1:28

February 23, 2005

Guy W. Kaufman
FOP/OLC Staff Representative
5752 Cheviot Road, Suite D
Cincinnati, Ohio 45247

Paul Berninger, Esq.
Wood Lamping
600 Vine Street
Suite 2500
Cincinnati, Ohio 45202-2491

RE: SERB Case No(s). 04-MED-09-0807 and 0808; City of Forest Park, Ohio
– FOP/OLC; impasse/fact finding.

Gentlemen:

Enclosed, please find two (2) copies of the REPORT OF THE FACT FINDER.
Also, enclosed is a copy of the STATEMENT.

It has been a privilege to have served as fact finder.

Cordially yours,



William C. Heekin

WCH/bwh

cc: Dale A. Zimmer (w/enclosure)
The Honorable Stephanie Summerow (w/enclosure)