



STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

STATE EMPLOYMENT
RELATIONS BOARD

2006 MAR 13 P 12: 32

In the Matter of:

Ohio Patrolmen's
Benevolent Association
(Sergeants and Patrolmen)

and

City of Seven Hills

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05-MED-04-0529

FACT FINDING REPORT
FINDINGS AND RECOMMENDATIONS

March 10, 2006

APPEARANCES

For the Union:

S. Randall Weltman, Attorney
Mike Salloum, Sergeants Representative
Sean Katrincsak, Patrolmen Representative

For the City:

Richard Pignatiello, Law Director
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I. BACKGROUND

The Fact Finder was appointed by the State Employment Relations Board (SERB) on October 19, 2005, pursuant to Ohio Revised Code Section 4117.14(C)(3). The parties mutually agreed to extend the fact-finding period and waive limitations on the conciliator's powers as provided in Ohio Revised Code §4117.14(G)(11) and Ohio Administrative Code Rule 4117-9-05(G). The parties are the Ohio Patrolmen's Benevolent Association (Union), representing the Sergeants and Patrolmen of the City's Police Department, and the City of Seven Hills (City). Seven Hills is located in south central Cuyahoga County. It is a suburb of Cleveland with a population of twelve thousand three hundred thirty nine (12,339) according to the 2000 Census. It is primarily a bedroom community with single-family housing.

The fact-finding involves the Police Department of the City and its Sergeant and Patrolmen. The bargaining unit is comprised of sixteen (16) employees, fourteen (14) Patrol Officers and two (2) Sergeants. The unit is represented by the Ohio Patrolmen's Benevolent Association. The parties have had a collective bargaining relationship for a number of years spanning several collective bargaining agreements.

The City also has bargaining units with its service employees and its clerical and technical workers. These units successfully concluded negotiations with the City prior to this fact finding.

II. THE HEARING

The fact-finding hearing was held on Monday, February 27, 2006 at the Seven Hills City Hall, 7325 Summitview Drive, Seven Hills, Ohio. The Union provided a pre-hearing statement, the City did not. The hearing began at 10:00 a.m and adjourned at

approximately 1:30 p.m. The parties attended, introduced evidence, and presented their positions regarding the issues at impasse. The parties jointly introduced the following exhibit into evidence:

1. Collective Bargaining Agreement, effective upon execution through June 30, 2005 (Agreement).

Additionally, the parties introduced the following exhibits into evidence:

Union Exhibits

1. Comparison of Court Time and Sick Leave with contiguous communities.
2. Comparison of Court Time and Sick Leave with west side communities.
3. Comparison of Vacation Leave with contiguous and west side communities.
4. Seven Hills Administrative Code provisions re paid vacation for Police Lieutenant and vacation provisions from collective bargaining agreements between City and service workers and City and clerical-technical chapter.
5. Comparison of Benefits for ten (10) year employee with contiguous, west side, and Cuyahoga County communities.
- 5A. 2005 Cuyahoga County Rank Differential (Patrol and Sergeants) with contiguous, west side, and Cuyahoga County communities.
6. Comparison of Median Family Income, Per Capita Income, and Median Household with contiguous, west side, and Cuyahoga County communities.
7. Health Care comparison.
8. Seven Hills Amended Certificates of Estimated Resources 2003, 2004, 2005, and 2006.
9. Proposed Seven Hills Ordinances re City employee positions and salary, and newspaper article re fire levy.

10. Newspaper articles re City finances and minutes of October 24, 2005 City Council meeting.
11. Newspaper articles re proposed development within the City.

City Exhibits

1. Survey of Salaries for Selected Positions in Cuyahoga County communities.
2. Cash Analysis.
3. Provisions of collective bargaining agreement between the City and service workers bargaining unit.
4. Provisions of collective bargaining agreement between the City and clerical-technical chapter bargaining unit.
5. Provisions of 2004 13th Annual Report on the Cost of Health Insurance in the Public Sector, SERB.

The issues remaining at impasse for fact-finding included:

1. Court Time.
2. Vacations.
3. Sick Leave.
4. Compensation Schedule.
5. Longevity.
6. Uniform Allowance and Maintenance.
7. Insurances.

The Ohio public employee bargaining statute provides that SERB shall establish criteria the Fact Finder is to consider in making recommendations. The criteria are set forth in Rule 4117-9-05(K) and are:

- (1) Past collectively bargained agreements, if any, between the parties;
- (2) Comparison 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 interests 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;

(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 the issues submitted to mutually agreed-upon dispute settlement procedures in the public service or in private employment.

The Fact Finder hopes the discussion of the issues is sufficiently clear to the parties. Should either or both parties have any questions regarding this Report, the Fact Finder would be glad to meet with the parties to discuss any remaining questions.

III. ISSUES AND RECOMMENDATIONS

The parties have agreed to retroactivity. All of the issues presented to the Fact Finder are proposals of the Union, save one (1). All are economic. The Union contends that the bargaining unit has traditionally lagged somewhat the comparable units from the contiguous communities. These are Brecksville, Broadview Heights, Independence, North Royalton, and Parma. There are historical reasons for this lag. First, these other communities developed earlier than Seven Hills. As they were closer to developed areas and along major interstates, it was only natural that they were developed sooner than Seven Hills. Second, the parties have traditionally negotiated and resolved their differences without resorting to SERB's dispute resolution procedure. While this

contributed to good relations between the parties, the bargaining unit has been left with a contract that is inferior to the contiguous comparables. The Union further asserts that these historical reasons for lagging behind no longer exist. As southern Cuyahoga County has become almost completely developed, the Employer has recently developed its available land or has proposals to do so. Additionally, the Employer has acknowledged there is room for improvement in the contract. The most recent collective bargaining agreement was better than average. However, there is still room before the unit is on par with those of the contiguous communities.

The City acknowledges that the unit has traditionally lagged those of the surrounding communities. It points out, though, that there are sound economic reasons for this. Brecksville, Broadview Heights, Independence, North Royalton, and Parma all have a broader economic base than the City. Independence in particular contains a stretch of Rockside Road that is highly developed commercially. Approximately thirty thousand (30,000) employees work in office buildings along or off of Rockside Road, providing Independence with tremendous income. The City has one (1) very small stretch of Rockside Road within its borders, which has a handful of office buildings. One (1) of these buildings has been vacant for some time. Although it is almost one-half ($\frac{1}{2}$) the population of Seven Hills, Independence is much more sound financially. Parma is the ninth largest city in Ohio. Brecksville, Broadview Heights, and North Royalton also have a broader economic base than the City. The City should not be compared with these communities in terms of financial condition. Ability to pay is an issue with the City. No new industry has come into the City or office buildings built in many years. Real estate values dropped from 2004 to 2005. They are higher, however, compared to 2000. Tax collections

have declined since 2000. While there are several development projects in the works, there is no guarantee these will be completed. Even if they are, the income from them will not be realized for at least a year or two (2). If these projects are developed, there will be more money for the City to pay in the next round of negotiations.

Issues Resolved during the Hearing

The parties agreed to the Union's proposal regarding Uniform Allowance and Maintenance. They also agreed to adding dismemberment to life insurance policies and raising the policy limit, as well as establishing an IRS 125 Plan, if possible. The Fact Finder recommends that the following changes be made to the collective bargaining agreement.

1. Article XXIX, Uniform Allowance and Maintenance, Section 2 as follows:

Section 2. Effective July 1, 2005, each employee shall be entitled to an annual uniform allowance in the amount of \$900.00. This amount shall increase to \$950.00 on July 1, 2006, and \$1000.00 on July 1, 2007. Members of the Detective Bureau shall be entitled to the annual uniform allowance plus \$155.00.

2. Article XXX, Insurances, as follows:

Section 1. [The following sentence will be added at the end of Section 1]: To the extent possible, the Employer shall establish an Internal Revenue Service Section 125 Plan so that the foregoing employee paid premiums shall be on a pre-tax basis.

Section 3. The Employer will provide and pay the full premium for full-time employees for a group term life insurance and dismemberment policy in the face value of Twenty-Five Thousand Dollars (\$25,000.00) upon completion of probationary period and acceptance by the insurance carrier.

Unresolved Issues

Issue: Article XIX, Court Time

Union Position: The Union seeks to increase the court time benefit from two (2) hours to

three (3) hours.

City Position: The City seeks to retain the current two (2) hour benefit.

Findings: The Union argues that the current court time benefit is low compared to the contiguous and west side communities. While Broadview Heights and North Royalton provide two (2) hours of court time, all of the remaining west side communities pay at least three (3). Furthermore, the Police Chief is in favor of the proposal.

The City contends that this issue is a piece of the larger economic puzzle. All of the Union's proposals are economic and there is only so much money to go around. The City cannot afford to accept all of the proposals.

The Fact Finder concludes that the current benefit is at the low end of the comparables. This is particularly so when one looks at the west side communities. While Broadview Heights and North Royalton provide the same benefit, their patrolmen receive higher wages, greater uniform allowances, and other monetary benefits. Overall, their patrolmen receive greater total monetary packages than do Seven Hills patrolmen. The Fact Finder concludes that the Union has established that an increase is warranted.

Recommendation: The Fact Finder recommends that Article XIX be amended to reflect an increase in court time from two (2) to three (3) hours.

Issue: Article XXI, Vacations

Union Position: The Union seeks to change the schedule so the bargaining unit receives a sixth week of vacation after twenty-six (26) years. It also seeks retroactivity.

City Position: The City has agreed to retroactivity. The City also would like each of its bargaining units to receive the same vacation schedule.

Findings: The Union asserts that the bargaining unit currently receives only five (5) weeks of vacation. It seeks to move the schedule up so that an additional week is earned each five (5) years of service. By City Ordinance, the Police Lieutenant receives essentially the same schedule that the Union proposes. Additionally, the other bargaining units in the City have agreed to the schedule proposed here. In short, the Union asks for the same schedule that virtually all other City employees receive.

The City concedes that the service workers and the clerical-technical staff now receive what the Union requests. It has been trying to get parity among the several bargaining units and prefers that all three (3) units receive the same vacation schedule.

The Fact Finder determines that the other two (2) bargaining units in the City receive the vacation schedule sought by the Union. The City prefers that all three (3) units have parity. Further, most of the comparable bargaining units in the west side communities receive a sixth week of vacation. The only exceptions besides Seven Hills are Broadview Heights and Olmsted Falls. Given these facts, the parties have shown that a change in the vacation schedule is warranted.

Recommendation: The Fact Finder recommends that Section 1 of Article XXI be amended as follows:

Effective July 1, 2005, all full-time employees of the Employer shall be entitled, on the anniversary of each year, to the following paid vacations provided that they have worked at least one thousand forty (1,040) hours in the preceding anniversary year, or if a new employee since date of hire, and have accrued the required years of service as follows:

<u>Years of Service</u>	<u>Number of Weeks</u>
Less than 1 year	1 week
1 year but less than 5 years	2 weeks

5 years but less than 10 years	3 weeks
10 years but less than 15 years	4 weeks
15 years but less than 26 years	5 weeks
26 years and over	6 weeks

Issue: Article XXII, Sick Leave

Union Position: The Union proposes to increase the sick leave retirement cash-out benefit by raising to one-third (1/3) the fraction of the total number of accumulated but unused sick hours earned by an employee and raising the number of hours that can be paid out to a maximum of one hundred twenty (120) days.

City Position: The City seeks parity with its other bargaining units.

Findings: The Union contends that the bargaining unit lags behind the comparables. Compared to the contiguous communities, the unit can cash out the smallest percentage of sick hours earned and the least number of maximum days. Comparing the unit to the west side communities, the unit falls even farther behind. An increase is necessary to bring the contract more in line with the surrounding communities.

The City acknowledges that the bargaining unit is lagging. It prefers consistency with the other two (2) bargaining units within the City.

The Fact Finder concludes that the bargaining unit indeed is behind other comparable units. The City acknowledges this. It also seeks parity within its three (3) bargaining units. Based on this record, the Fact Finder concludes that the Union has proved that an increase is merited.

Recommendation: The Fact Finder recommends that Article XXII, Section 10 be amended to reflect an increase to one-third (1/3) the total number of accumulated but unused sick hours for which an employee is permitted to receive a cash payment, and an increase in

the number of hours that can be paid out to a maximum of one hundred twenty (120) days.

Issue: Article XXVI, Compensation Schedule

Union Position: The Union requests wage increases of five percent (5%) effective July 1, 2005, five and one-half percent (5.5%) effective July 1, 2006, and six percent (6%) effective July 1, 2007. It also desires an increase from ten percent (10%) to twelve percent (12%) in the rank differential from the top paid Patrolman to the lowest paid Sergeant

City Position: The City did not provide the Fact Finder with proposed wage increases. However, the service worker and clerical-technical worker bargaining units negotiated wage increases of three percent (3%) effective July 1, 2005, three percent (3%) effective July 1, 2006, and three and one-half percent (3.5%) effective July 1, 2007. As the City has sought parity on other issues, the Fact Finder believes the City seeks parity as to wage increases. The City seeks to retain the current rank differential.

Findings: The Union argues that the bargaining unit is lagging behind other comparable units and needs increases of at least three and four tenths percent (3.4%) to keep from falling farther behind. Additionally, the rank differential of ten percent (10%) is low. The comparable communities provide greater rank differentials. The Union believes the City's position as to financial condition may have been appropriate years ago, but is not the case now. There are five (5) active new residential developments, the City has hired a number of full-time employees recently, and the City has built a new fire station and recreation center. The City may not have the income of Independence, but it has sufficient funds to pay the increase requested.

The City posits that looking at the comparables does not tell the whole picture. The

City is surrounded by wealthier communities with better tax bases. Housing values in the City increased much less than elsewhere and real estate tax valuations have dropped from 2004 to 2005. Tax collections have dropped since 2000. The City simply does not have the business and commercial properties the surrounding communities have. Further, many of the comparable communities have negotiated increases far less than the Union seeks. For example, Parma negotiated increases of two percent (2%), four percent (4%), and four percent (4%), Independence negotiated three percent (3%) and three percent (3%), Garfield negotiated two percent (2%), two percent (2%), and three percent (3%), and Parma Heights negotiated increases of approximately four percent (4%) for 2004 and four and one-half percent (4.5%) for 2005.¹ Finally, some of the funds the Union claims are available are not. The fire station and recreation center were built as a result of voted levies. These funds did not come from the general fund.

The Fact Finder determines that the bargaining unit does lag behind the wage rates of the surrounding communities. The Fact Finder also determines that the City is not as well off financially as some of the surrounding communities. The City has raised the ability to pay. It does not contend, however, that it cannot pay any increase, only that it cannot afford what the Union proposes. The question then becomes what increase is reasonable on this record.

The Union introduced evidence of pay rates in the City's contiguous communities, the west side communities, and in Cuyahoga County communities. For 2006, the gross

¹ These increases were three percent (3%) effective January, 2004, one percent (1%) effective July, 2004, three percent (3%) effective January, 2005, and one and one-half percent (1.5%) effective July, 2005.

wage increase was three and four tenths percent (3.4%) in the contiguous communities, three and one-half percent (3.5%) in the west side communities, and three percent (3%) in the Cuyahoga County communities. The City has negotiated increases of three percent (3%), three (3%), and three and one-half percent (3.5%) with its other two (2) units. The City has indicated on other issues that it seeks internal parity. These increases, however, will cause the unit to fall slightly farther behind its surrounding communities.

The Fact Finder concludes that the Union's proposed increases are not reasonable on this record. While the City has the ability to pay some increase, the percentages requested are too great. The Fact Finder determines that increases of three and one-half percent (3.5%) each year are reasonable. Such increases will keep the unit from falling any farther behind than it already is compared to the contiguous communities. While they are slightly more than the City negotiated with its other units, there was no evidence presented as to how the service worker and clerical-technical units compared to surrounding communities. Here, the evidence is clear that the unit lags behind the comparables. The Fact Finder believes it would harm the unit and the City's ability to attract potential employees if the unit fell farther behind. Finally, while ability to pay is an issue at this time, the City acknowledges that there are several development projects in the works that could increase its income in the next couple of years. The recommended increases will keep the unit at the status quo. Should the City's financial condition improve as a result of the proposed development projects, the wage rates can be improved at that time.

Regarding the wage differential, the Fact Finder concludes that the current ten percent (10%) differential is low. Brecksville pays a twelve percent (12%) differential,

Broadview Heights fourteen percent (14%), North Royalton fifteen and ninety-nine hundredths percent (15.99%), and Parma fifteen percent (15%). The average of the west side communities is fourteen and six hundredths percent (14.06%), while Cuyahoga County communities average thirteen and twelve hundredths percent (13.12%). Increasing the differential to twelve percent (12%) will still place Seven Hills near the bottom of this ranking. The Union has established that its proposal is warranted.

Recommendation: The Fact Finder recommends that the wage rates in Article XXVI, Section 1 be amended to reflect a three and one-half percent (3.5%) increase each year, effective July 1, 2005, July 1, 2006, and July 1, 2007. Additionally, rather than list the wage rates for Sergeant, a new sentence at the end of Section 1 shall be added as follows:

There shall exist a fixed differential between the Department's top paid Patrol Officer and the lowest paid Sergeant in the amount of twelve percent (12%) effective July 1, 2005.

Issue: Article XXVII, Longevity

Union Position: The Union seeks to change Section 1 as follows:

Effective July 1, 2005, employees who have completed a minimum of five (5) years of service shall be entitled to longevity pay as follows:

After five (5) years	\$625/year
After ten (10) years	\$1000/year
After fifteen (15) years	\$1500/year
After twenty (20) years	\$2000/year

City Position: The City seeks parity as much as possible with its other bargaining units.

Findings: The Union contends that the longevity pay is low compared to other communities. Except for Parma, Seven Hills is the lowest of the contiguous communities and at the low end of west side and Cuyahoga County communities.

The City has negotiated similar scales with its other two (2) units. The service worker unit has negotiated a scale of five (5), ten (10), fifteen (15), twenty (20), and twenty-five (25) years, while the clerical-technical unit has negotiated a scale through thirty (30) years of service. The amounts of longevity pay vary between the units. The service worker unit scale begins at six hundred dollars (\$600.00) and ends at one thousand five hundred seventy-five dollars (\$1,575.00), while the clerical-technical unit begins at six hundred twenty-five dollars (\$625.00) and ends at one thousand six hundred fifty dollars (\$1,650.00).

The Fact Finder finds that the increase is warranted. Longevity pay is low compared to the contiguous, west side, and Cuyahoga County communities. The City has negotiated an increase with its other units. Currently, a five (5) year service or clerical-technical employee receives almost as much as a ten (10) year Patrolmen or Sergeant and the new scales for the service and clerical-technical workers are more generous than the current scale for Patrolmen and Sergeant. It is time for an increase. Additionally, the City does not necessarily dispute that an increase is warranted. It seeks parity as much as possible in the years upon which the longevity pay is based. Finally, longevity pay is a way to attract potential police officers. An increase will assist the City when it is necessary to find replacements or hire new officers. In short, on this record, the Union's proposal is reasonable.

Recommendation: The Fact Finder recommends that Section 1 of Article XXVII be amended as follows:

Effective July 1, 2005, employees who have completed a minimum of five (5) years of service shall be entitled to longevity pay as follows:

After five (5) years	\$625/year
After ten (10) years	\$1000/year
After fifteen (15) years	\$1500/year
After twenty (20) years	\$2000/year

Issue: Article XXX, Insurances

City Position: The City proposes to cap the premium sharing contribution as follows: effective July 1, 2005, one hundred dollars (\$100.00) per month for family coverage and sixty dollars (\$60.00) per month for single coverage; effective July 1, 2006, one hundred five dollars (\$105.00) and sixty-two dollars and fifty cents (\$62.50) per month; effective July 1, 2007, one hundred ten dollars (\$110.00) and sixty-five dollars (\$65.00) per month; and, effective July 1, 2008, one hundred fifteen dollars (\$115.00) and sixty-seven dollars and fifty cents (\$67.50) per month, respectively.

Union Position: The Union proposes to freeze the current premium sharing contributions at one hundred dollars (\$100.00) per month for family coverage and sixty dollars (\$60.00) per month for single coverage.

Findings: The parties have already agreed that the City will establish an IRS Section 125 plan, if possible, and increase the life insurance policy to twenty-five thousand dollars (\$25,000.00) and include dismemberment. The only remaining issue is health care insurance premiums.

The City argues that health care costs continue to rise at double digit percentages. The cost of health care takes more and more money from the City, which has a limited ability to pay. It cannot continue to afford these costs without the officers contributing to the costs and is seeking a greater contribution from the unit. However, given the yearly increases in health costs, the City proposes that the caps increase slightly each year. The

other bargaining units have negotiated the same caps proposed by the City. The City seeks parity with those units.

The Union asserts that this bargaining unit pays one (1) of the largest premium sharing contributions in the county. Looking at the contiguous communities, police officers either have high premiums and low deductibles and co-pays, or they have higher deductibles and co-pays and no or low premiums. Here, the City is asking for a ten percent (10%) premium, which is high. Of the contiguous communities, only Broadview Heights has a premium of five percent (5%).

The Fact Finder is well aware of the dilemma faced by cities and their bargaining units when it comes to health care insurance. Annual double digit percentage increases are the norm. Costs are rising far greater than city incomes and employee wage rates. If incomes and wage rates kept pace, health care costs would present far less of a problem. That is not the case, however. In this Fact Finder's experience, health care costs have become a greater bargaining problem than wages and the biggest stumbling block to an agreement.

In this case, though, the parties are not far apart. They have already agreed on a cap on the premiums. For the new Agreement, they agree on the cap for the first year. The dispute centers on whether the same cap should remain in effect throughout the duration of the Agreement or whether the cap should increase each year. The Union argues that the City has the money and the comparables are not paying a ten percent (10%) premium. The City counters that it can only afford so much and it does not have the money the comparables have.

The Fact Finder concludes that premium sharing by employees has become more

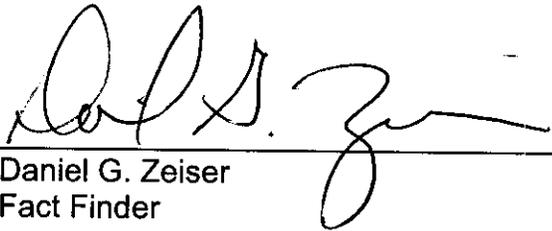
common recently as health care costs rise. Municipalities are increasingly asking employees to share the burden of the costs. The SERB 2004 13th Annual Report on the Cost of Health Insurance in the Public Sector indicates that the state average for employee premium sharing is twelve and three tenths percent (12.3%) for family coverage and eleven and eight tenths percent (11.8%) for single coverage. Ten percent is not unreasonable and the parties have already agreed on it. The City has also provided evidence that it is not as financially sound as most, if not all, of the contiguous communities. Additionally, given the yearly increases in health care costs, the City's proposal to increase the cap each year has merit. The cap will rise less than five percent (5%) per year, much less than health care costs increase. Therefore, over the duration of the Agreement, the bargaining unit will likely pay a lesser total share of the costs each year. Finally, the City has negotiated these same cap increases with its other two (2) bargaining units. The bargaining unit will pay the same amounts as other City workers. In sum, the Fact Finder concludes that, given the evidence presented, increasing the cap each year as proposed by the City is reasonable.

Recommendation: The Fact Finder recommends that the last sentence of Article XXX, Section 1 be amended as follows:

The remaining 10% shall be paid by the employee through automatic payroll deduction, to a maximum of the following amounts:

<u>Effective Date</u>	<u>Family coverage</u>	<u>Single coverage</u>
July 1, 2005	\$100.00	\$60.00
July 1, 1006	\$105.00	\$62.50
July 1, 2007	\$110.00	\$65.00
July 1, 2008	\$115.00	\$67.50

Dated: March 10, 2006


Daniel G. Zeiser
Fact Finder