

**IN THE MATTER
OF
INTEREST ARBITRATION
FACT FINDING
AWARD**

<p>BETWEEN</p> <p style="padding-left: 40px;">The</p> <p style="padding-left: 40px;">Ohio Patrolmen's Benevolent Association</p> <p style="padding-left: 40px;">And the</p> <p style="padding-left: 40px;">City of Findlay, Ohio</p>	<p>CASE NO: SERB 50-MED-06-0679</p> <p style="padding-left: 40px;">0680</p> <p style="padding-left: 40px;">0681</p> <p style="padding-left: 40px;">0682</p> <p>FACT FINDER: JOHN S. WEISHEIT</p> <p>HEARING DATE(S): October 18, 2005</p> <p>AWARD ISSUED: November 14, 2005</p>
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**REPRESENTATION
by**

Employer Representatives	Union Representatives
<p>Eileen W. Bensen, Safety Dir. Anthony P. Irriti, Mayor James D. Staschiak II, Service Dir. William H. Spaw, Police Chief Gergory R. Harne, Police Captain</p>	<p>Michelle Sullivan, OPBA Counsel David P. Hill, Local Pres. Chuck Wilson, Lt., Union Rep. Randall Digby, Sgt., Union Rep. William L. Dommc, Det., Union Rep. John Schimmoelles, Pat.67 Off., Union Rep</p>

AUTHORITY

This matter was brought before Fact Finder John S. Weisheit, in keeping with applicable provisions of ORC 4117 and related rules and regulations of the Ohio State Employment Relations Board. The parties have complied in a timely manner with all procedural filings. The matters before the Fact Finder are for consideration and recommendation based on merit and fact according to the provisions of ORC 4117, particularly those applicable to safety forces.

BACKGROUND

The City of Findlay, Ohio, hereinafter called the "Employer" and/or the "City", recognizes the Ohio Patrolmen's Benevolent Association, hereinafter called the "Union" and/or "OPBA", for all full-time Patrol Officers (61 members), Sergeants (9 members), Lieutenants (2 members) and Dispatchers (11 members) employed by the Employer. Each above named classification of employees constitute a separate bargaining unit. All four (4) are represented by OPBA for the purpose of collective bargaining of successor Agreements of which each unit's current agreement expires December 31, 2005. The OPBA engaged in multi-unit bargaining with the City, and engaged in interest-based bargaining in their effort to attain agreement on successor agreement.

Negotiations on a successor Agreement commenced July 12, 2005, with additional bargaining sessions held July 15, 26, and August 2, 12, and August 29, 2005. The parties mutually agreed to engage in interest-based bargaining attaining the facilitation service of Craig Young, Mediator, through the State Employment Relations Board, on September 7, 2005.

In the course of good faith bargaining, a number of issues reached tentative agreement, were withdrawn or otherwise resolved. Impasse was declared, when a few issues remained unresolved. The issues were submitted to Fact-Finding. This Fact-Finder was called upon by the parties to assist in attaining resolution of the remaining issues at impasse.

While there are four (4) Contracts involved in this proceeding, in the course of negotiations the parties used the Lieutenant's Contract format for template language. Issues remaining unresolved apply to all four bargaining contracts unless identified as a unit-specific provision.

The Fact Finding Hearing was convened on October 18, 2005, at the Findlay City Administration Building, Findlay, Ohio. The parties timely submitted pre-hearing briefs and presented additional testimony and documentation at the Hearing. The Hearing was adjourned after the parties had indicated they had nothing additional to submit on behalf of their bargaining position and acknowledged that they had sufficient opportunity to present such facts and documentation to support their respective positions.

In compliance with ORC 4117.14(C)(4)(e), and related rules and regulations of the State Employment Relations Board, the following criteria were given consideration in making this Award:

1. Past collectively bargained agreements 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 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;
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 issues submitted to mutually agreed-upon dispute settlement procedures in public service or in private employment. Said issues were given statutory consideration as set forth above.

This Report is based on facts provided in document and testimony introduced at the Fact-Finding Hearing. Generally accepted principles in interest arbitration are applied in making determinations and recommendations in this instant case..

ISSUES OF TENTATIVE AGREEMENT

The following issues are tentatively agreed to . The article numbers reflect that used in the Lieutenant's. Agreement. Issues listed in regular type were brought forward to the respective Agreements without change. Items in bold face indicate issues tentatively agreed to or withdrawn in the course of negotiations.

Article	Title	Article	Title
1	Preamble	25	Operator's Insurance
2	Purpose and Intent	26	Life Insurance
3	Recognition	28	Uniforms
4	Management Rights	29	Clean Up Time
5	Employee Rights	30	Overtime Pay & Compensatory Time
6	No Strike; No Lockouts	31	Call-in Pay
7	Dues Deduction and Fair Share Fees	32	Longevity
8	Credit Union Deductions	33	Educational Stipend
9	Nondiscrimination	34	Substance Abuse Testing & Assistance
10	Rules and Regulations	35	Headings
11	Promotions	36	Gender-Neutral Pronouns & Plurals
12	Shift Differential	37	Discipline
13	Labor Management Committee	38	Grievance Procedure
14	Safety & Health	39	Arbitration Procedure
15	Bulleting Boards	40	Delayed Retirement Option Program
16	Ballot Boxes	41	Training
17	Annual Evaluation	(New)	Residency Requirement
18	Personnel Files	(New)	Employee Assistance Program
19	Copies of Bargaining Agreement	42	Conformity to Law

Article	Title	Article	Title
20	Office Equipment	43	Appendices and Amendments
21	Sick Leave	44	Total Agreement
22	Family Medical Leave Act	45	Duration
23	Funeral Leave	46	Execution Page
24	Holivac Overage (Dispatchers only)		

It is noted that the following issues were withdrawn or attained tentative agreement at the Fact-Finding Hearing. These issues are:

Dispatcher- Holivac Accural
Dispatcher- Staffing
Shift Differential
Tuition Reimbursement
Education Stipend
Longevity

ISSUES AT IMPASSE

The following Articles remain at impasse at time of the Fact Finding Hearing and are properly before the Fact-Finder for consideration and recommendation for resolution pursuant to terms set forth in ORC 4117 and SERB Rules and Regulations:

Article	Topic
PO-29; D-28 * S-29; L-27	Medical Insurance
PO-36; D-35 S-36; L-33	Wages and rate of Pay
S-36; L-33	Rank Differential

* Bargaining Unit Contract Article Reference:
 PO= Patrol Officers; D=Dispatcher; S=Sergeant L=Lieutenant

SUMMARY of PARTY POSITION

ISSUES AT IMPASSE

The following Articles remain, in part, unresolved at Fact Finding. Only the terms specifically stated below remain at impasse.

Employer	Issue	Union
Retain current coverage and rates pending the employee insurance committee.	PO-29; D-28; S-29; L-27* Medical Ins.	Retain current language with the addition of coverage for pap tests for annual exam for female employees. Said coverage subject to recommendation of changes by the employee insurance committee.
Propose a 2% increase 1/1/06, increased by 2% effective 1/1/07. Reopen negotiations for 1/1/08, in no case less than 2% increase. The increase is based on the current wage schedule.	PO-36; D-35; S-36; L-33 Wages and Rates of Pay	Propose a 4% increase 1/1/06, increased by 3% effective 1/1/07. Reopen negotiations for 1/1/08, in no case less than 3% increase.
Retain current language without a percentage factor	S-36; L-33 Rank Differential	The Union proposes to increase the percentage factor of the rank differential for Sergeants and Lieutenants.
* Bargaining Unit Contract Article Reference: PO= Patrol Officers; D=Dispatcher; S=Sergeant L=Lieutenant		

DISCUSSION & DETERMINATION

General

The issues before the Fact-Finder carry a direct economic implication. Therefore it is considered appropriate to first examine the general economic condition of the City and then consider each item on an issue by issue basis.

Economic Considerations

Data of the City's General Fund revenues reflects a moderate rate of increase over the last several years; however, while the dollar amount has increased from year to year, recently, the trend reflects a declining percent of the increase. Fiscal year 2002 General Fund Receipts amounted to \$19,987,499, a 7.2% increase over the fund receipts of 2001. In FY 2003 General Fund revenues was \$21,439,205, a decline of 2.39%, and in 2004 said revenues were \$20,106,689, a decline of 4.78%. (The last year of actual income figures available.) The City projects a similar pattern to continue. For FY 2005, the City anticipates general fund revenues of \$21,777,200, with a carryover balance of \$5,740,00, providing a total general fund of \$27,517,200. FY 2006 is projected to attain new revenues in the amount of \$21,296,100 with a year-end carryover of \$4,500,000, for a total operating fund amounting to about \$25,796,100. The City projects this revenue pattern to continue through FY 2007 and FY 2008.

At the same time, the City projects operating costs to increase at a rate greater than anticipated revenue. Of particular note, the estimated base rate of pay for the employees in the four (4) OPBA bargaining units for the current year, is \$3,731,000. Using this estimate, for each 1% increase in pay of these employees would amount to an estimated additional cost \$37,300 per in the initial year. This is a base cost and does not include other costs including pension fund, worker's compensation, compounding factors, overtime, etc.

“Ability to Pay”

The City contends it is faced with an inability to pay more than what it has proposed . While there is no challenge to the projected financial picture in the coming years, the City is likely to incur financial difficulties if income tax rates, service fees, and other external funding sources remain fairly constant. Ability to pay, or more appropriately inability to pay, as applied in the collective bargaining setting, refers to economic conditions in terms of the present conditions, not based upon future projection or speculation. Such is not the matter in this instant case. The fiscal condition, as described by the City, does present a situation in which limited funds are available to increase wages and expand City service and staffing levels.

Comparables

The City and Union have mutually agreed to a listing of cities for comparison purposes. In consideration of the ranking of comparable police bargaining unit employees, the City uniformed officers and staff tend to fall in the mid-range to lower end of the city forces making up the control group.

It is recognized that a number of the economic issues applicable, for comparison, have already been resolved. Cost implication of Medical insurance, in the Union's respective bargaining units, has been agreed to be reopened upon the completion of the City-Employee medical insurance study. The Employer and employee cost share of such recommendation that is anticipated to be forthcoming is not before this Fact-Finder,

Taking the previous matters into consideration in context with all evidence and testimony introduced at the Fact-Finding hearing, the following opinion and recommendation is made regarding the remaining three issues at impasse.

Fact Finder's Determination

Issue by Issue

Issue	Discussion/Determination
<p>Medical Insurance PO-29; D-28; S-29; L-27</p>	<p>As noted previously, the parties have tentatively agreed to reopen negotiations on this matter upon receiving the City-Employee Medical Insurance Committee recommendations on this issue. The only issue of substance to be addressed is the Union proposal to include the City's payment for the female bargaining unit's annual pap test.</p>

Issue	Discussion/Determination
<p data-bbox="232 275 373 342">Medical Insurance</p> <p data-bbox="232 380 407 447">PO-29; D-28 S-29; L-27</p> <p data-bbox="232 701 431 726">Recommendation</p>	<p data-bbox="483 348 1528 604">To insure continuity and the totality of this issue in the Contracts, it is considered appropriate to address that the language, as set forth in the expiring contracts, be included in the Contracts. The recommendation is limited to the issues properly before this Fact-Finder to render.</p> <p data-bbox="483 726 1572 1056">It is hereby determined and recommended that the terms governing Medical Insurance be included in the respective Agreements and Articles as set forth under the topic entitled “Medical Insurance” and include the provision that the annual pap test for female members of the bargaining unit will be covered at no cost to the employee.</p>

Issue	Discussion/Determination
<p data-bbox="235 315 446 462">Wages and Rates of Pay PO-36; D-35</p>	<p data-bbox="479 273 1575 903">It is recognized that the respective parties have made a major effort to modify their respective position on the economic benefits remaining unresolved. Such action is viewed as a recognition of the City's limited financial resources in the next few years. It is determined, even with the efforts exercised to date, that further concessions by each party is appropriate to attain resolution in this round of bargaining at this time. The parties have both expressed interest in making its final position applicable to all parties involved in these negotiations. Based on the review and considerations as set forth in this Opinion, the following recommendation is issued.</p>
<p data-bbox="235 1018 446 1060">Recommendation</p>	<p data-bbox="479 1018 1575 1291">It is recommended that the respective Article addressing Wages and Rates of Pay be increased by 3 percent (3%) effective January 1, 2006. Effective January 1, 2007, said wages be increased by three percent (3%), and effective January 1, 2008, the wage and rate of pay will be increased three percent (3%).</p>

Issue	Discussion/Determination
<p data-bbox="230 277 375 310">S-36; L-33</p> <p data-bbox="230 352 391 422">Rank Differential</p>	<p data-bbox="479 277 1588 611">Rank Differential is the driving factor in the determination of the base pay rate for ranking officers. In keeping with the findings and determination in the previous issue governing wages and rate of pay provisions for Dispatchers and Patrol Officers, the following is determined proper and appropriate regarding wages and the rate of pay for Sergeants and Lieutenants. Said action is considered fair and reasonable .</p>
<p data-bbox="230 724 431 751">Recommendation</p>	<p data-bbox="479 724 1588 1136">It is recommended that the respective language addressing the matter of Rank Differential for Sergeants and Lieutenants be increased by a dollar amount that is an increase of three percent (3%) effective January 1, 2006. Effective January 1, 2007, said wages be increased by a dollar amount that is three percent (3%), and effective January 1, 2008, the wage and rate of pay will be increased by a dollar amount that is three percent (3%).</p>

TOTALITY OF AGREEMENT

- It is recommended that all items of tentative agreement prior to Fact Finding be included in the Agreement. If not otherwise agreed to by the parties, it is recommended all provisions of the expiring agreements be included in the respective Agreement as stated in the expiring agreement, unless recommended otherwise by the Fact-Finder in the Award.

- This will affirm the foregoing report, consisting of **14 pages**, includes the findings and recommendations set forth in this Award by the below signed Fact Finder.

To the best of my knowledge, said Report and its included recommendations complies with applicable provisions of ORC 4117 and related Rules and Regulations adopted by the State Employment Relations Board.

I therefore affix my signature at the City of Galion, in the County of Crawford, in the State of Ohio, this date of **November 14, 2005**

A handwritten signature in cursive script, reading "John S. Weisheit", written over a horizontal line.

John S. Weisheit, Fact Finder