

STATE OF OHIO  
BEFORE THE STATE EMPLOYMENT RELATIONS BOARD

STATE EMPLOYMENT  
RELATIONS BOARD  
2006 SEP 11 A 10:12

In the Matter of the Fact-Finding Between

The Fraternal Order of Police,  
Ohio Labor Council, Inc.  
Lodge 161

Employee Organization

Case Nos. 05-MED-09-0933

and

City of Riverside  
Division of Police (Sergeants)

Fact-Finder: Jerry B. Sellman  
Date of Report: September 8, 2006

The Employer

APPEARANCES:

FOR THE EMPLOYEE ORGANIZATION:

Mr. Ross Rader - Staff Representative for the Fraternal Order of Police, Ohio Labor  
Council, Inc., Lodge 161

FOR THE EMPLOYER:

Richard J. Holzer, Esq. - Representing the City of Riverside Division of Police

## I. INTRODUCTION

This matter concerns a fact-finding proceeding between the City of Riverside Division of Police (hereinafter referred to as the Employer) and the Fraternal Order of Police, Ohio Labor Council, Inc., Lodge 161 (hereinafter referred to as the “FOP” or “Union”). The State Employment Relations Board (SERB) duly appointed the undersigned as Fact-finder in this matter. A Fact-finding hearing was held on August 22, 2006. The parties engaged in mediation to attempt to find consensus on all remaining disputed provisions of the new Collective Bargaining Agreement, but not reaching a consensus moved forward with their respective presentations.

The fact-finding proceeding was conducted pursuant to the Ohio Collective Bargaining Law as well as the rules and regulations of the State Employment Relations Board, as amended. During the Fact-finding proceeding, this Fact-finder provided the parties the opportunity to present arguments and evidence in support of their respective positions on the issues remaining for this Fact-finder’s consideration.

In making the recommendations in this report, consideration was given to all reliable evidence presented relevant to the outstanding issues before him and consideration was given to the following criteria listed in Rule 4117-9-05 (K) of the State Employment Relations Board:

- (1) Past collectively bargaining 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 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.

## **II. BACKGROUND**

The FOP represents employees holding the rank of Sergeant in the City of Riverside's Police Division. Excluded from current consideration are all full-time sworn police officers with the rank of Police Officer, all sworn part-time and auxiliary police officers, Lieutenants, and the Chief of Police.

The City of Riverside is a recently incorporated municipality in Montgomery County, Ohio that has a population of approximately 23,545. It has a bargaining relationship with the Fraternal Order of Police, Ohio Labor Council, Inc. which represents five (5) Sergeants in the Police Department. Riverside has a bargaining relationship with the Communications Workers of America, AFL-CIO/CLC which represents eleven (11) employees in its Street Department. It also has a bargaining relationship with the Riverside Professional Firefighters Association, Local 2938, LAFF, which represents twelve (12) employees of the Fire Department and it has a bargaining relationship with the Fraternal Order of Police, Ohio Labor Council, Inc., which represents Police Officers and Detectives. All Employee Organizations representing employees in the City of Riverside, Ohio are "certified" employee organizations, i.e., certified by the State Employment Relations Board. There are no "historically recognized" units in the

City. Bargaining has concluded with the representatives of CWA and bargaining is under way with Police Officers and Detectives and with the representatives of the IAFF.

There were a number of negotiating sessions between the parties, including two (2) sessions before Commissioner Steve C. Anderson, FMCS. Sessions took place on December 19, 2005, January 12, 2006, February 1, 2006, February 20, 2006, June 6, 2006 and June 28, 2006.

The current Collective Bargaining Agreement expired on December 31, 2005 and Extension Agreements have been executed by the parties to allow for Fact-finding on unresolved issues pertaining to a new Collective Bargaining Agreement. The parties tentatively agreed to language in all but six (6) negotiated articles in the new proposed Collective Bargaining Agreement prior to the Fact-finding Hearing. Issues concerning compensation, vacation days, holidays, Health Insurance, and Duration remained unresolved.

### **III. UNRESOLVED ISSUES**

#### **1. ARTICLE 20, COMPENSATION, SECTION 20.1, WAGES**

##### **The Union's Position**

Under the current contract between the parties there are three compensation steps for Sergeants: starting, one year of experience and two years of experience. The Union proposes to add an additional compensation step for Sergeants with three years of experience.

The Union proposes a wage increase for each year of a three year contract. For the first year, it proposes to increase the base hourly rate of starting Sergeants and Sergeants with one

and two years of experience in the amount of five percent (5%). For the first year, it proposes a wage rate for the new three year experience level equal to approximately nine and two-tenths percent (9.2%) above the 2005 contract year, two year experience step. In the second and third years of the new contract, it proposes a four percent (4%) increase to the base rate of all steps. It argues that its proposal is necessary in order to compensate the Sergeants at a wage rate comparable to their counterparts in other similarly situated communities. Since the City is not claiming an inability to pay, but an unwillingness to pay the proposed wage level, the Fact-finder should adopt the proposal.

The City's economic base is currently stable due to recently passed tax levies.

The Sergeants are currently paid less at both the starting level as well as at the top level when compared to other comparable communities.<sup>1</sup> Comparables submitted by the Union show that the current \$27.06 per hour entry level wage for a Riverside Sergeant is the lowest hourly rate of any comparable community. All of the eight cities deemed comparable to Riverside paid their starting Sergeants, as well as their most experienced Sergeants, more than Riverside. See attached *Appendix 1*, Chart of Wage Comparables.

In regard to future wage increases in comparable communities, the Union incorporated data in its chart of comparable wages reflecting wage increases that went into effect during 2006. The data indicates that comparable communities increased their Sergeants hourly rates by a minimum of 3% per year. Some communities had larger increases to bring them up to

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<sup>1</sup> A Chart of Wage Comparables, attached as *Appendix 1*, was prepared from information supplied by the Union and the Employer. The Union submitted a graph showing the average hourly rates for a starting Sergeant to be \$30.07, but these calculations included increases received by Sergeants in other cities during 2006. For a fair comparison, the Fact-finder compared hourly rates at the beginning of the year for all communities. Because hourly rates changed during the year, the data on *Appendix 1* "Wage Comparables" shows rates either as they were on January 1, 2006 or where they would be in the next year based upon contract increases.

the average, as was the case with West Carrollton, but evidence submitted by the Employer, which was not disputed by the Union, indicated an approximate average of three percent (3%) increases in the new contracts.

### The Employer's Position

The Employer is in agreement with an additional compensation step for Sergeants with three or more years experience. In earlier negotiations, it had considered a formula for wage increases proposed by the Union, which was reflected in a stated percentage above the top officer's step at each of the four proposed compensation steps. It stated it was in agreement with a ten percent (10%) increase above the top officer's step for starting Sergeants, a twelve percent (12%) increase above the top officer's step for Sergeants with one (1) year of service, a fourteen percent (14%) increase above the top officer's step for Sergeants with two (2) years service and an eighteen percent (18%) increase above the top officer's step for Sergeants with three (3) years experience. That was the proposal of the Employer at the hearing. This formula results in a proposed wage increase of 3.6% for the starting, one year and two year experience levels. It reflects a proposed wage increase for the new three year experience step equal to approximately four and nine tenths percent (4.9%). It recognizes that increases are necessary to remain competitive with other comparable communities, but insists that the 5% to 9.2% increase proposed by the Union in the first year will create compensation at a rate higher those comparable communities of comparable size. It argues that the Sergeants in the Riverside Police Department have received increases in salary every six months under the last three year Collective Bargaining Agreement in order to bring them up to comparable communities. This was the equivalent of an approximate four percent (4%) wage increase per year over the last

three years. In addition to the above stated wage increases for 2006, it proposes a three percent (3%) increase in wages at all levels in the next two years, which is sufficient to keep its Sergeants compensated at comparable levels throughout the life of the Collective Bargaining Agreement.

In regard to comparable wage rates, the Employer maintains that the Sergeants are competitively paid when longevity pay is calculated in the base rate. The City of Riverside, as well as many other like-sized cities, pays either a fixed amount or an additional percentage of base wages to its employees for each year of continuous service with the City. In Riverside, Sergeants with a continuous employment history of 5 to 9 years receive longevity pay in the amount of \$.10 per hour, in addition to their base salary; Sergeants with 10 to 14 years of continuous service receive longevity pay in the amount of an additional \$.20 per hour; Sergeants with 15 to 19 years of continuous service receive longevity pay in the amount of an additional \$.30 per hour; and, Sergeants with 20 or more years of continuous service receive longevity pay in the amount of an additional \$.40 per hour. Some cities, such as Huber Heights, Miamisburg, Trotwood, West Carrollton and Xenia, do not have a longevity rate, and other cities, such as Beavercreek and Fairborn, have a different system based upon additional compensation for years worked. The Employer argues that when considering comparable wages, longevity pay must be taken into consideration. When longevity pay is factored into the actual rate of pay received, Sergeants in the Riverside Police Department earn a comparable wage with all other the comparable cities.

### **RECOMMENDATION**

**It is recommended that ARTICLE 20, SECTION 20.1, of the contract be**

**amended to increase wages as follows: the base hourly rate of starting Sergeants and Sergeants with one and two years of experience should be increased by 4% in year one of the contract; the base hourly rate for the new three year experience level should be increased by 6.5% above the 2005, Two Year Experience Step in year one of the contract; the base hourly rate of all steps should be increased by 3% in year two and 3% in year three of the new contract. See RECOMMENDED CONTRACT LANGUAGE FOR WAGES, attached hereto as *Appendix 2*.**

Rationale

In assessing what is a fair recommendation on wages for employees in this bargaining unit, the Fact-finder considered the wages of public employees doing comparable work, the level of any wage increases over the past several years given to the bargaining unit, and the Employer's ability to pay, among other factors.

The Sergeants' bargaining unit has received the benefit of wage increases totaling approximately 4% in each year of the last wage agreement. These increases have brought the Sergeants up to more comparable levels with communities of equal size in their region, but the wages continue to be the lowest of comparable communities.

Attached hereto as *Appendix 1* is a chart summarizing comparable salaries with that of the Riverside Sergeants and the recommended wage increases. This summary was prepared from the graphs and exhibits presented at the hearing by the parties. Wages for 2006 were reflected as they existed on January 1, 2006 for all comparable cities. To the extent a wage increase occurred in a comparable community during the year, it was reflected as an increase in 2007. This seemed to be the fairest comparison of wages, because reflecting higher rates,

which in some cases did not go into effect until June, would have increased the average of the rates compared. Since some of the other cities' Collective Bargaining Agreements have terms commencing in the middle of the calendar year, the Fact-finder used whole year comparisons even though some of the comparisons may occur six months earlier or six months later.

Commencing in 2006, the City of Riverside's entry level and top salary for Sergeants was lower than all other cities, except for the City of Xenia. As noted previously, some of the other cities effected a wage increase at the beginning of the year and Riverside, not having resolved the issue of wages by the end of the current Collective Bargaining Agreement, quickly fell behind the others. The Fact-Finder adjusted the comparative salaries with the inclusion of longevity pay, but the comparative difference was not significant. Information provided by the Employer and the Union shows that the longevity pay of most of the cities (that have longevity pay) used in the comparison increased pay at fairly comparable levels.

The Fact-finder analyzed the wages paid by Riverside on a city by city basis and on an average basis. Based upon demographic information, Riverside seems to be more comparable in size and operation to Trotwood, Moraine, Xenia, West Carrollton and Fairborn, than the larger communities of Huber Heights, Beavercreek and Miamisburg. The Fact-finder examined average wage rates in four groupings: the average of (1) all of the cities; (2) all of the cities without Beaver Creek and Huber Heights; (3) the cities of Moraine, Xenia, West Carrollton and Fairborn; and (4) the cities of Trotwood, Moraine, Xenia, West Carrollton and Fairborn. See, *Appendix 1*. The wages currently received by Riverside Sergeants fell behind every average.

By increasing the wages by 4% and 6.5% in the first year for the experience levels as

stated above, 3% in the second year, and 3% in the third year, the Sergeants will remain competitive with employees doing comparable work in similar communities in Ohio. There is no justification for the higher 4% increases in year two and three sought by the Union.

Services provided by the police department are essential to the public safety and wages must remain competitive to retain well-trained employees, particularly when an ability to pay has not been made an issue.

## **2. ARTICLE 20, COMPENSATION, SECTION 20.2, LONGEVITY**

### **The Union's Position**

The Union proposes to increase longevity pay by \$.05 per hour for each of the currently defined years of experience. It considers longevity pay as part of the overall compensation package, which must be increased along with wages to keep the Sergeants financial package competitive. It recognizes that many of comparable communities in the region do not have longevity pay, but four out of seven of communities compared receive shift or weekend pay in addition to the base wage rate. Because the Sergeants are behind in earning power, an increase in longevity pay is necessary in addition to a wage increase.

### **The Employer's Position**

The Employer proposes to retain the status quo. Currently the Sergeants are receiving \$.10 per hour above the base wage rate upon the completion of five years of service, but less than ten years service; \$.20 per hour above the base wage rate upon the completion of ten years of service, but less than fifteen years service; \$.30 per hour above the base wage rate upon the completion of fifteen years of service, but less than twenty years service; and \$.40

per hour above the base wage rate upon the completion of twenty years or more of service. Most of the communities of comparable size to Riverside, such as Trotwood, Moraine, Xenia, and West Carrollton do not have longevity pay. Even Huber Heights and Miamisburg, considered larger communities, do not have longevity pay.

The parties have not considered shift differential and weekend pay as an issue and the Fact-finder should not factor that into the equation. When considering longevity pay, along with a wage increase, the facts support a finding that that Riverside Sergeants are not underpaid.

### **RECOMMENDATION**

**It is recommended that ARTICLE 20, SECTION 20.2, of the contract remain the same for each year in the new three year agreement. See RECOMMENDED CONTRACT LANGUAGE FOR WAGES, attached hereto as *Appendix 2*.**

### **Rationale**

Longevity pay must be considered as part of a wage package. When the current longevity pay is factored into the recommended wage increase, the wage package of the Riverside Sergeants is sufficiently increased to keep them in line with comparable communities and no further increases are recommended.

3. **ARTICLE 20, COMPENSATION, SECTION 20.8, SUCCESSOR NEGOTIATIONS**

The Employer's Position

The language in Section 20.8 currently provides that if negotiations proceed to fact-finding and/or conciliation, the parties agree that the fact-finder and/or conciliator shall have the option to determine that rates of compensation and matters with cost implications are retroactive to January 1, 2006. The Employer proposes that the language be changed to reflect that rates of compensation and matters with cost implications “may be” retroactive to January 1, 2006. It believes this most accurately reflects the intent of the parties.

The Union's Position

The Union proposes to modify the current language by adding “other” before matters and changing a specific date to “the contract expiration date.” It does not believe that the word “are” should be changed to “may be”, because it does not change the meaning or intent of the Section. It believes these changes most accurately reflect the intent of the parties.

**RECOMMENDATION**

**It is recommended that ARTICLE 20, SECTION 20.8, of the contract remain the same, with the exception that the word “other” precede “matters” in the last sentence of the section. See RECOMMENDED CONTRACT LANGUAGE FOR WAGES, attached hereto as *Appendix 2*.**

Rationale

The parties are making a distinction without a difference in the selected language of

the “Successor Negotiations” section. It is clear that the parties want a fact-finder to consider retroactive application of matters relating to compensation. The current language provides that the fact-finder shall have the option to determine if the rates of compensation and other matters with cost implications are to be applied retroactively. If one were to modify the language to reflect that the rates of compensation and matters with cost implications “may be” retroactive, the meaning of the Section would not change. As a result, there is no reason to change the current language.

It is probably more explanatory to modify the word “matters” with the word “other,” but it does not technically change the meaning or intent of the language in Section 20.8. Nonetheless, the additional proposed word does make the language more precise and it is recommended that it be included.

**4. ARTICLE 21, VACATION, SECTION 2.1, SCHEDULE OF EARNED VACATION**

**The Union’s Position**

The Union proposes to change the current language in the collective bargaining agreement concerning entitlement to vacation time by decreasing the number of years of service to achieve a level of entitlement, and increasing the number of vacation days earned after completion of fifteen years of service. It proposes the following schedule:

Completed years of service	Vacation Time
Six (6) months through five (5) years	2 weeks
Five (5) years through ten (10) years	3 weeks
Ten (10) years through fifteen (15) years	4 weeks
Fifteen (15) years through twenty (20) years	5 weeks

Twenty (20) years through twenty-five (25) years	6 weeks
Twenty-five (25) years and up	Plus one (1) day of vacation each completed year of Service over twenty-five (25) years

The Union prepared an analysis of vacation days available in other comparable communities. See *Appendix 3*. Based upon that data, it determined that the Riverside Sergeants had fewer vacation days at all benchmark completed years of service. It argues that, as part of an overall financial package, the Sergeants are entitled to these increases.

The Employer’s Position

The Employer proposes to retain the current contract language. It does not dispute the comparison of vacation days with other communities, but indicates that it is not necessarily fair to use “average” vacation days taken, when the chart demonstrates many different variables in regard to years of service and days of entitlement. Even using an average of vacation days at ten year increments of completed years of service, Riverside is not that far from the norm or average.

**RECOMMENDATION**

**It is recommended that the language contained in ARTICLE 21, SECTION 21.1, of the contract be retained in regard to years of service through fourteen (14) years. It is recommended that the contract language be modified to provide that entitlement to vacation for completion of service for years fifteen (15) through twenty (20) years be four (4) weeks and entitlement to vacation for each completed year of service over twenty-one (21) years be an additional day. See RECOMMENDED CONTRACT**

**LANGUAGE FOR VACATION, attached hereto as *Appendix 2*.**

Rationale

Based upon the Union's comparables, there is little difference in vacation day entitlement for many of the levels of service, except for Sergeants with twenty or more years of service with the City. It is difficult to merely compare averages, but by analyzing the average and the actual vacation days for employees with more than twenty years of service in comparable communities, the Riverside employees do fall behind. As such, the addition of one vacation day for each year of completed service beyond twenty years will bring Riverside up to a more comparable level with little financial impact on the City. Sergeants with less than twenty (20) years of experience receive entitlement to vacation days in close proximity to their peers in other communities.

**5. ARTICLE 22, HOLIDAYS, SECTION 22.1, PAID HOLIDAYS**

The Union's Position

The Union proposes to add two (2) new holidays to the contract, Christmas Eve Day and the employee's birthday. While it admits that the other comparable cities provide only ten holidays, it asserts that part of a fair compensation package should include these two additional holidays.

The Employer's Position

The Employer proposes to retain the current contract language. The Employer submitted evidence to demonstrate that all of the comparable communities give their employees ten (10) days of paid holidays, which is the same number of days in Riverside's

current contract. While the specific holiday chosen as a paid holiday may vary in each community, the number remains the same. There is no justification for any increase in paid holidays.

### **RECOMMENDATION**

**It is recommended that the language contained in ARTICLE 22, SECTION 22.1, of the contract be retained. See RECOMMENDED CONTRACT LANGUAGE FOR HOLIDAYS, attached hereto as *Appendix 2*.**

#### **Rationale**

There exists no basis for increasing the number of paid holidays for the Sergeants in Riverside. Sergeants in other comparable cities are given the same number of paid holidays, which is ten (10).

### **6. ARTICLE 24, INSURANCE**

#### **The Employer's Position**

The Employer proposes to eliminate the language in Section 24.1, which requires it to maintain all existing insurance benefits throughout the duration of the agreement. It proposes to replace the language with language that requires it to maintain a plan of health insurance and hospitalization, but not maintain benefit levels. It proposes to submit any coverage or benefit level changes to a committee comprised of four employee labor units and management personnel for review and recommendation. The city will review the recommendation of the committee, but will retain the right to set benefit levels.

The Employer proposes to revise the employee premium sharing levels from the

current 90/10% level to 90/10% in year one of the contract, 88/12% in the second year of the contract and 87/13% in the third year of the contract.

The current contract provides that the Employer is obligated to continue to maintain all existing insurance benefits in effect on the date of the agreement. In April 2003 Riverside was informed that it could no longer receive its health insurance from Montgomery County at the benefit levels in existence when the contract was negotiated. Riverside approached the open insurance market and found that it could not receive the same benefits that were in effect on the date of the agreement within the same premium levels. When it tried to offer fewer benefits to its employees, the issue was arbitrated. The Arbitrator held that under the current contract, in which the Employer agreed to maintain all existing insurance benefits in effect on the date of the contract, it could not change the benefit level. To the extent that a higher premium was charged for the same benefit, the city had to pay the difference.

Today Riverside, with a limited number of employees, cannot agree to maintain, for a long period of time, the exact benefits that exist at the inception of a labor agreement. As a small community, it is at the whim of the insurance companies and it is a certainty that premiums will increase on an annual basis. As premiums increase, it must have the flexibility to set benefit levels that the city can afford, having negotiated a financial package in a prior year.

The Employer provided evidence of the level of premium sharing in other comparable communities. In Riverside itself, the CWA-Service Department agreed to the level of premium sharing proposed herein. Miamisburg and Trotwood currently have a 90/10% premium sharing agreement; Fairborn is 85/15%, West Carrollton is 87/13% and Huber

Heights is 85/15% for employees hired after 8/15/03. It is inevitable that as premiums go up and benefits are reduced, the employee must share in the premium cost. The Employer's proposal is fair in light of the cost sharing in other comparable communities.

### The Union's Position

The Union proposes that the Employer be required to maintain the same or similar insurance benefits in effect on July 1, 2006. It recognizes that benefit levels may change, but the employees should not suffer a loss in the level of benefits for which they bargained.

It proposes to retain the current contract language on premium sharing, which provides for a 90/10% cost sharing. It provided evidence to demonstrate that Beavercreek currently has two plans, one that is 100% paid and another that is a 90/10%. The City of Moraine pays 100% of the premium costs. The City of Xenia requires its employees to pay 85/15%. It believes that a 90/10% premium cost sharing is fair in light of the other communities.

The Union is opposed to a committee. The cities of Beavercreek, Fairborn, Huber Heights, Miamisburg and Xenia do not have committees to review any changes in insurance benefits. If a committee is established, it should be able to determine the level of benefits, rather than just recommend a position.

### RECOMMENDATION

**It is recommended that the language of Section 24.1 of the agreement be changed by deleting the language requiring the Employer to maintain insurance benefits in effect on the date of the Agreement; that the language in Section 24.2 be changed to require the Employer to maintain a plan of health and hospitalization insurance with the**

**Employer and the Employee sharing the cost of premiums in the amount of 90/10% in year one of the contract, 88/12% in year two of the contract, and 87/13% in year three of the contract; and that Section 24.4 be changed by replacing subsection (B) and (C) with language establishing a committee comprised of the union and management to make recommendations to the Employer on benefit changes. All other language should remain the same. See RECOMMENDED CONTRACT LANGUAGE FOR INSURANCE attached hereto as *Appendix 1*.**

Rationale

The cost of health insurance will continue to escalate during the next several years. In order to cope with the rising cost of healthcare, all employees will be faced with either paying higher premiums or receiving fewer benefits, or both. It is impossible for an employer to agree to continue to maintain the same level of benefits over a three year period, particularly in a time when benefits and premiums change annually, if not more often. This is true, *a fortiori*, in the public sector, which has constrained budgets. While the Union is agreeable to language that would require the employer to provide the same *or similar* benefits, it is impossible to determine what similar benefits are. As a result, it is reasonable for an employer of a smaller community the size of Riverside to be required to provide health insurance, but not at levels the same or similar to those in effect on the date of the inception of a three year contract.

The Union recognizes the need of employees to contribute toward the health insurance premium. Currently the employees are contributing to the cost of their insurance premiums. The cost sharing by Riverside employees, when compared to other communities the size of Riverside, is fairly comparable with other police departments in those communities. As shown

by both the Employer and the Union, the cost sharing ranges from 85/15% to 90/10%; few pay 100%. Those that do are generally larger communities. The Fact-finder believes it to be in the best interest of all employees and the city to modestly increase the level of cost sharing in order to maximize benefit levels. If the level of cost sharing remains the same, it is more likely than not that the benefits will decrease over the life of the contract. It is in the best interest of both parties to maximize these benefits.

The idea of a committee to review proposed health insurance changes is a good idea. It fosters a greater level of understanding among all parties from which an informed decision can be made. While the Union is opposed to a committee that merely recommends, it is a big step in the right direction. Much to the Union's credit, it does not consider the establishment of a committee to be a deal breaker. Nonetheless, as stated before, with revenues generated from local levies and the state, local communities do not have many opportunities to increase their budgets without taxpayer support. They could not afford to allow a committee to make decisions in the stead of the elected public officials.

## **7. ARTICLE 32, DURATIOIN, SECTION 32.1, DURATION**

### **Union's Position**

The Union proposes to retain the current contract language, which would provide for an effective date from January 1, 2006 through December 31, 2008.

### **The Employer's Position**

The Employer proposes to replace the current language in Section 32.1 with the following:

“This agreement, for those employees employed on *(insert date of FOP*

*ratification or date of Conciliator's award whichever shall first occur), shall be effective from (insert date of FOP ratification or date of Conciliator's award whichever shall first occur) through 11:59 P.M., December 31, 2008. If a new Agreement has not been entered into prior to that time, this Agreement shall remain in effect until replaced. Notwithstanding the above, Article 19 shall not become effective until settlement is reached in SERB Case. No. 05-MED-09-0932."*

At the time of the fact-finding hearing, there existed a pending disciplinary proceeding with an employee. If the employment relationship of this employee is severed, a question will arise as to payment for any back pay. By incorporating the requested change in the contract, this issue will be resolved. In addition, the parties have been negotiating a change in the hours of a work week under Article 19. The parties have agreed to establish a new work period and there is a tentative agreement to go to 8.5 hour days. The purpose of the negotiation is to establish a work cycle that is the same for two units. By incorporating the proposed language, a provision will be made for a different "effective date" in the event the issue is not resolved.

#### The Union's Position

The Union proposes retaining the language in the contract to provide for a three year agreement.

#### **RECOMMENDATION**

**It is recommended that the language contained in ARTICLE 32, SECTION 32.1, of the contract be retained with language reflecting the three year period commencing January 1, 2006. See RECOMMENDED CONTRACT LANGUAGE FOR DURATION, attached hereto as *Appendix 2*.**

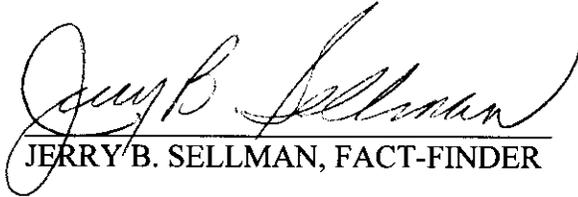
Rationale

The Employer wants to restrict the application of the duration of the three year contract to take into consideration a disciplinary proceeding under advisement and current negotiations concerning the length of the work week under Article 19. The Fact-finder does not consider these issues to be the proper subject of negotiation in regard to the duration provisions of a new proposed contract. The Fact-finder cannot determine the outcome of either separately independent circumstances and thus must recommend a position based upon the known facts before him. For that reason it is recommended that the position of the Union to retain the language of the current contract is adopted.

CONCLUSION

In conclusion, this Fact-finder hereby submits the above referenced recommendation on the outstanding issues presented to him for his consideration. Further, the Fact-finder incorporates all tentative agreements previously reached by the parties and recommends that they be included in the Parties' Final Agreement.

September 8, 2006

  
JERRY B. SELLMAN, FACT-FINDER

## Wage Comparables - Appendix 1

City	Start 2006	Top 2006	Start 2007	Top 2007	Start 2008	Top 2008	Steps Extras	K-end
Beavercreek	30.16	31.53					2	12/31/06
Fairborn	28.38	30.76	29.38	33.62			3	6/1/2008
Huber Heights	30.95	30.95					all	8/6/2006
Miamisburg	28.66	31.61	29.52	32.57			4	12/31/2007
West Carrollton	28.28	31.22	29.13	32.16			3	12/31/2007
Xenia	26.66	28.94	29.81	32.23			3	9/30/2009
Moraine	29.64	31.47					3	8/31/2007
Trotwood	27.28	29.66					4	
Average	28.75	30.77						
Avg w/out Beaver and Huber	28.15	30.61						
Avg Moraine, Xenia, West Carrollton and Fairborn	28.24	30.60						
Avg Trotwood, Moraine, Xenia, West Carrollton and Fairborn	28.05	30.41						
<b>Riverside 01/01/2006</b>	<b>27.06</b>	<b>28.67</b>					<b>4</b>	
Riverside Emp Proposed (approximate)	28.03	30.07	28.88	30.98	29.74	31.91		
Riverside Union Proposed	28.41	31.31	29.55	32.56	30.73	33.86		
<b>Recommended Rates</b>	<b>4% Increase</b>	<b>6.5% Increase</b>	<b>3% Increase</b>	<b>3% Increase</b>	<b>3% Increase</b>	<b>3% Increase</b>		
	28.14	30.53	28.99	31.45	29.86	32.39		

*22A*

**RECOMMENDED CONTRACT LANGUAGE**

**ARTICLE 20: REPLACE CURRENT LANGUAGE WITH THE FOLLOWING:**

**COMPENSATION**

**Section 20.1. Wages.** Effective on the dates set forth herein Sergeants shall receive the following hourly wage rates:

Sergeants	<u>Start</u>	<u>1Year</u>	<u>2Years</u>	<u>3Years</u>
01-01-06	28.14	28.82	29.82	30.53
01-01-07	28.99	29.68	30.71	31.45
01-01-08	29.86	30.57	31.63	32.39

**Section 20.2 Longevity.** In addition to the wages indicated, all bargaining unit members shall receive the following longevity pay:

<u>Years of service</u>	<u>Payment</u>
Completion of 5 years-less than 10 years	\$ .10 per hour
Completion of 10 years-less than 15 years	\$ .20 per hour
Completion of 15 years-less than 20 years	\$ .30 per hour
Completion of 20 years or more	\$ .40 per hour

Longevity pay shall be added to the employee’s base rate.

**Section 20.8 Successor Negotiations.** If future negotiations proceed to fact-finding and/or conciliation, the parties agree that notwithstanding any contrary provision in R.C. 4117.14 (G) (11), the fact-finder and/or conciliator shall have the option to determine that rates of compensation and other matters with cost implications are retroactive to January 1, 2009.

**ARTICLE 21, VACATIONS: REPLACE CURRENT LANGUAGE WITH THE FOLLOWING:**

**VACATION**

**Section 21.1 Schedule of Earned Vacation.** All Sergeants of the Department shall be entitled to vacation leave with full pay in accordance with the following schedule:

Completed years of service	Vacation Time
Six (6) months through six (6) years	2 weeks
Seven (7) years through fourteen (14) years	3 weeks
Fifteen (15) years through twenty (20) years	4 weeks
Twenty-one (21) years and up	Plus one (1) additional; day of vacation each completed year of

After six (6) months of service during an employee's first (1<sup>st</sup>) year of employment with the Department each employee shall be entitled to take two (2) weeks of vacation provided, however, that in the event the employee does not retain employment for a one (1) year period the employee shall lose all vacation eligibility and reimburse the Employer for any vacation taken prior to termination.

**ARTICLE 22, HOLIDAYS: RETAIN CURRENT LANGUAGE**

**HOLIDAYS**

**Section 22.1 Paid Holidays.** All employees shall receive the following paid holidays:

- |     |                        |  |
|-----|------------------------|--|
| 1)  | New Years Day          | (1 <sup>st</sup> day of January)       |
| 2)  | Martin Luther King Day | (3 <sup>rd</sup> Monday of January)    |
| 3)  | Presidents Day         | (3 <sup>rd</sup> Monday of February)   |
| 4)  | Memorial Day           | (Last Monday in May)                   |
| 5)  | Independence Day       | (4 <sup>th</sup> day of July)          |
| 6)  | Labor Day              | (1 <sup>st</sup> Monday in September)  |
| 7)  | Columbus Day           | (2 <sup>nd</sup> Monday in October)    |
| 8)  | Veteran's Day          | (11 <sup>th</sup> day of November)     |
| 9)  | Thanksgiving Day       | (4 <sup>th</sup> Thursday of November) |
| 10) | Christmas Day          | (25 <sup>th</sup> day of December)     |

All employees shall receive one (1) day pay, based on their assignment for the above holidays.

**ARTICLE 24, INSURANCE: REPLACE CURRENT LANGUAGE  
WITH THE FOLLOWING:**

**INSURANCE**

**Section 24.1. Insurance** The Employer shall maintain a plan of health and hospitalization insurance. The Employer shall continue to maintain existing liability insurance in the combined single limit of one million dollars (\$1,000,000.00) provided, in the judgment of the Employer, the premium cost is not excessive,

**Section 24.2. Premium Sharing** The Employer and employee shall continue sharing the medical insurance premiums. The co-payment schedule shall be as follows:

<u>Effective Period</u>	<u>Employer Contribution</u>	<u>Employee Contribution</u>
Through 12/31/06	Employer pays 90% of Total premium	Employee pays 10% of total premium
1/1/07 through 12/31/07	Employer pays 88% of Total premium cost	Employee pays 12% of total premium cost
1/1/08 through 12/31/08	Employer pays 87% of Total premium cost	Employee pays 13% of total premium cost

**Section 24.3 Life Insurance** Effective the first of the month following execution of this Agreement the City shall provide for each employee under the age 60 term life insurance in the amount of thirty thousand dollars (\$30,000.00) and accidental death and dismemberment insurance in the amount of thirty thousand dollars (\$30,000.00). Employees over age 60 will receive the life insurance and accidental death or dismemberment benefits, if, and to the extent, provided by the insurance policies.

**Section 24.4 Administrative issues**

- A. When both spouses are employed by the City they will be eligible for either two (2) single plans or one (1) applicable family plan.
- B. A committee shall be appointed by the City Manager and the Presidents of the City's four (4) Unions, CWA, FOP (Sergeants), FOP (below the rank of Sergeant) & IAFF (limited to a maximum of two (2) persons per Union). The committee shall be chaired by the Director of Finance and shall be charged to study possible coverage and/or benefit level revisions in the City's health and hospitalization insurance and attempt to reach a consensus. The committee will complete its report and present it to the City Manager, Council and the respective memberships no later than July 31 in any year. Subject to the above, the Employer shall have the right to change insurance carriers, coverages and/or benefit levels. In the event the Employer anticipates a change in insurance carriers, it will consult with representatives of the Union to obtain its input and recommendation(s). Final choice, however, will be the Employer's.

**Section 24.5 Insurance Opt-out** Any employee may "opt-out" of the city health insurance plan provided they show proof of insurance coverage under a plan not financed by the City. Any employee who meets the qualifications and "opts-out" shall receive one hundred dollars (\$100.00) per month to be paid in the first (1st) pay period each month.

**Section 24.6 Extended Coverage** Employees shall continue to be eligible for health insurance coverage as follows:

- A. After resignation or quit - as determined by COBRA;
- B. During layoff for a period of one (1) month then as determined by COBRA;
- C. During military leave in excess of thirty-one (31) days - as determined by COBRA and USERRA;
- D. During absence from work (resulting from City work-related injury or illness compensated by Worker's Compensation) for a maximum of twelve (12) months and after exhaustion of FMLA leave.
- E. Absence from work (resulting from non-City work related injury or illness or FMLA approved reason) for a maximum of active pay status plus FMLA leave.
- F. Active Pay Status is defined as any hours for which a full-time employee is being compensated.

**ARTICLE 32, DURATION: RETAIN CURRENT LANGUAGE**

**DURATION**

**Section 32.1 Duration** This Agreement shall be effective from January 1, 2006 through 11:59 P.M. December 31, 2008. If a new Agreement has not been entered into prior to that time, this Agreement shall remain in effect until replaced.

Appendix 3  
VACATION

City	SERVICE YEARS	DAYS
Beavercreek	0-5	10
	6-10	15
	11-19	20
	20 - up	25
Fairborn	0-5	12
	6-9	14
	10-15	17
	16-20	20
	21-24	22
	25 - up	24
Huber Heights	0-4	10
	5-9	16
	10-14	20
	15-19	24
	20-24	28
	25-up	32
Miamisburg	0-1	9
	1-3	10
	4	11
	5-7	17
	8-10	18
	11-15	19
	16-20	20
	21 -up	24
Moraine	1-4	10
	5-7	16
	8-11	17
	12-13	19
	14-15	20
	16-19	26
	20-up	28
W. Carrollton	0-4	10
	5	11
	6-9	17
	10-14	18
	15-19	20
	20 - up	23
Xenia	0-9	12
	10-19	18
	20-up	24

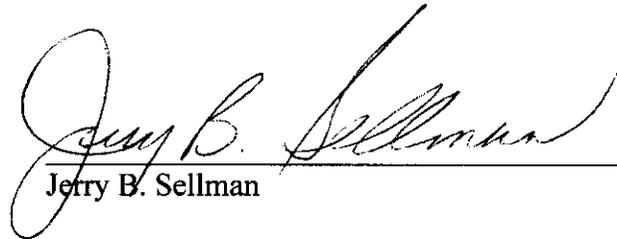
## CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of the Fact Finder's Report was sent by First Class Mail on September 8, 2006 to:

SERB  
65 E. State Street  
Columbus, OH 43215

Mr. Ross Rader  
Staff Representative  
Fraternal Order of Police  
Ohio Labor Council  
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Jerry B. Sellman