

**IN THE MATTER OF FACT-FINDING
BETWEEN**

CITY OF BROADVIEW HEIGHTS)	CASE NOS . 05-MED-09-1013 ✓
)	05-MED-09-1014
AND)	
)	
FRATERNAL ORDER OF POLICE)	<u>FINDINGS</u>
LODGE NO. 15)	AND
)	<u>RECOMMENDATIONS</u>

JAMES M. MANCINI, FACT-FINDER

APPEARANCES:

FOR THE CITY

James A. Budzik, Esq.

FOR THE UNION

Robert M. Phillips, Esq.

SUBMISSION

This matter concerns fact-finding proceedings between the City of Broadview Heights (hereinafter referred to as the Employer or City) and the Fraternal Order of Police, Lodge No. 15 (hereinafter referred to as the Union or FOP). The State Employment Relations Board (SERB) duly appointed the undersigned as fact-finder in this matter. The fact-finding hearing was held on September 8, 2006.

The fact-finding proceeding was conducted pursuant to the Ohio Collective Bargaining Law as well as the rules and regulations of SERB. During the fact-finding proceeding, this fact-finder attempted mediation of the issues at impasse. The issues remaining for this fact-finder's consideration are more fully set forth in this report.

There are two bargaining units involved consisting of all full-time patrolmen and sergeants. There are approximately twenty-two patrolmen and six sergeants in the separate bargaining units.

This fact-finder in rendering the following findings of fact and recommendation on the issues at impasse has taken into consideration the criteria set forth in Ohio Revised Code Section 4117-14(G)(6)(7). Further, this fact-finder has taken into consideration all reliable evidence presented relevant to the outstanding issues before him.

1. COMPENSATION

The City proposes wage increases of 3% for each year of the Contract. The Union proposes increases of 4% in each year of the Agreement. The parties are in agreement that the first year wages are to be retroactive to January 1, 2006.

In addition, the Union has proposed that patrol officers as well as sergeants be provided with annual specialist premium pay in the amount of \$2,300 effective January 1, 2006. The City proposed to phase in the annual specialist premium pay for the patrol unit in the amount of \$1,200 effective January 1, 2006; \$1,750 for 2007; and then the full annual specialist premium pay of \$2,300 for 2008. With respect to the sergeants' unit, the City proposes that the specialist premium pay be provided at \$2,000 effective January 1, 2006; \$2,300 for 2007; and \$2,300 for 2008. Both parties as part of their proposals would delete the current multiple stipends for rotational shift pay, D.A.R.E. premium pay, and duty detective pay and replace those with the specialist premium pay for all employees.

The City submits that the 3% wage increases as well as the premium specialist pay which it proposes would allow the bargaining units to remain competitive with those in neighboring jurisdictions. The City's Finance Director testified that the City has a limited ability to pay for the wage increases which it has proposed. The Employer noted that it has had to pay for clean up caused by massive flooding which recently occurred in the City. Due to its limited ability to pay, the City submits that it would be appropriate to phase in the specialist premium pay for bargaining unit members as it has proposed. The

City points out that the firefighters as well as all non-bargaining unit employees will be receiving 3% wage increases for the current year. The City cites SERB's report indicating that statewide police units wage increases have averaged about 3%. The City emphasizes that bargaining unit members will be receiving additional compensation beyond the 3% increases in the form of premium specialist pay.

The Union maintains that Broadview Heights is considerably behind in base wage compensation for its police units. The wages here fall below the average for the area. It is also evident that the wage settlements for the region for police units for current year 2006 have averaged about 3.5%. The Union submits that the City has the ability to fund its 4% wage proposals. With respect to the premium specialist pay issue, the FOP maintains that its proposal that the full \$2,300 be implemented in 2006 is reasonable under the circumstances.

ANALYSIS - This fact-finder has determined after a careful review of the evidence submitted that the base wages should be increased by 3% in each year of the Agreement beginning on January 1, 2006. In addition, this fact-finder would recommend that the specialist premium pay for patrol officers be provided in the amount of \$1,600 effective January 1, 2006; \$2,000 in 2007; and \$2,300 for 2008. For sergeants, the specialist premium pay should be established at \$2,000 effective January 1, 2006; and \$2,300 for both 2007 and 2008. With the recommended wage increases and specialist premium pay, the total compensation provided to the bargaining unit employees in

Broadview Heights would be in line with the average provided to other police units in the area.

The evidence indicated that for a ten year patrolman, a 3% wage increase would provide for an annual wage of \$57,239. When the \$1,600 specialist premium pay recommended herein as well as longevity and uniform allowance are also considered, the total amount of compensation for such a patrolman would be approximately \$61,000 in 2006. It was shown that the average total compensation provided to ten year patrolmen in neighboring cities is \$61,168. Moreover with the 3% wage increase and the additional specialist premium pay recommended herein for 2006, the Broadview Heights ten year patrolmen will receive total compensation greater than that provided to similarly situated patrolmen in several of the other neighboring communities including North Royalton, Strongsville, Brook Park and Berea.

In recommending a phase-in of the specialist premium pay, this fact-finder has taken into consideration some financial concerns raised by the City. As indicated by the Finance Director, the City has been impacted by the recent flooding of homes in the area. The City has agreed to assist those residents who were affected by the flooding. Moreover, the City has lost some revenue sources due to the closing of a landfill and the discontinuance of a charge for trash pickup. As the Finance Director indicated, the City is facing some financial challenges to makeup for the loss of such income. It is mainly for this reason that this fact-finder would recommend a phase-in of the specialist premium pay. It should be noted that both parties agreed to delete the current multiple

premiums provided to various bargaining unit members and to replace those with the specialist premium pay.

This fact-finder recognizes the prior discussions which the parties had with respect to providing specialist premium pay to bargaining unit members. In recommending that there should be a more rapid phase-in of the \$2,300 annual specialist premium pay than that proposed by the City, this fact-finder has taken into consideration the FOP's contention that there is a need to improve the Broadview Heights police officers' total compensation so as to bring it more into line with the average paid in the area. It was shown that currently the total compensation paid to patrolmen here falls below the average of that provided to officers in neighboring jurisdictions. With the 3% wage increase and the \$1,600 specialist premium pay to be provided to all employees in 2006, the bargaining unit's total compensation will fall more into line with the average provided in the region.

RECOMMENDATION

It is the recommendation of this fact-finder that the following Compensation Provision be included in the parties' Agreement as more fully set forth below.

ARTICLE 27, COMPENSATION

27.1 – 27.3	2006 – Three Percent (3%) increase.
	2007 – Three Percent (3%) increase.
	2008 – Three Percent (3%) increase.

27.7 Duty detective pay is deleted.

27.8 D.A.R.E. officer pay is deleted.

27.9 Shift rotation pay is deleted.

27.7 (Patrol) Effective January 1, 2006 each bargaining unit employee who has completed their probationary period of eighteen (18) months shall be entitled to a specialist premium of \$1,600. The specialist premium shall be an entitlement for those skill sets of members including but not limited to radar operations, BAC certification, AED use, basic computer/LEADS training, firearm proficiency and CPR/AED. The premium shall be paid annually in the first pay period in December each year.

27.8 The specialist premium shall be \$2,000 for 2007.

27.9 The specialist premium shall be \$2,300 for 2008.

27.7 (Sergeants) Effective January 1, 2006 each bargaining unit employee who has completed their probationary period of eighteen (18) months shall be entitled to a specialist premium of \$2,000. The specialist premiums shall be an entitlement for those skill sets of members including but not limited to radar operations, BAC certification, AED use, basic computer/LEADS training, firearm proficiency and CPR/AED. The premium shall be paid annually in the first pay period in December each year.

27.7 The specialist premium amount is \$2,300 for 2007.

27.8 The specialist premium amount is \$2,300 for 2008.

2. HOLIDAYS/PERSONAL LEAVE

The Union proposes to provide an increase in holidays to 120 hours or fifteen holidays. The City proposes to modify Article 30 and thereby provide bargaining unit employees with an additional two personal days.

The Union argues that Broadview Heights provides for fewer holiday hours than others receive in the area. With the exception of Brecksville, others in the area provide their police officers with holiday hours ranging between 88 and 132 hours per year. The Union presented comparable data in support of its position.

The City points out that its proposal will provide an additional two days of personal leave for all bargaining unit members. Currently for patrol officers, only those hired prior to January 1, 1988 receive two personal days per year. In addition, the City proposes that for sergeants, it would provide by separate letter an understanding that any sergeant who received two personal days would retain those days in addition to the new contract provision.

ANALYSIS – This fact-finder recommends that Article 30, pertaining to personal leave, be modified so as to in effect provide nearly all employees in the bargaining unit with two additional personal days per year. With the additional sixteen hours of personal leave per year, the total holiday/personal hours provided to the bargaining unit here would be in line with that granted to other officers in the area. The evidence indicates that with the exception of Brecksville, all other neighboring jurisdictions provide their police officers with holiday/personal leave time between 88

and 132 hours per year. With the recommended two additional personal days, the bargaining unit here would see their holiday/personal leave hours fall within that range. This fact-finder further notes that the parties previously discussed modification to the Personal Leave Provision which is being recommended herein. There is every indication that the parties were in agreement that instead of increasing the holidays as proposed by the Union, the Personal Leave Provision would be modified to in effect provide all employees with two personal days per year. As indicated, a separate letter stating that any sergeant hired before January 1, 1988 would retain the two personal days for the duration of the contract. This would be in addition to the contract language on personal days applicable to all employees.

RECOMMENDATION

With respect to Holidays/Personal Leave, this fact-finder makes the following recommendation.

ARTICLE 30, HOLIDAYS/PERSONAL LEAVE

30.1 Delete reference to "hired before January 1, 1988." Thus, all employees receive two (2) personal days per year.

Note: Memorandum of Understanding (Separate Letter) that any sergeant hired before January 1, 1988 will retain the two personal days for the duration of the contract. This is in addition to contract language on personal days applicable to all employees.

3. VACATIONS

The Union proposes a faster accrual schedule as well as a sixth week of vacation leave after twenty years of service. The City agrees to modify the accrual schedule and to provide for a one week buy back provision per year.

The Union contends that vacation allotment provided to the police unit here falls behind that provided to similarly situated employees in the area. The Union cites comparables in support of its position. It points out that all of the geographically similar departments enjoy a sixth week of vacation with the exception of Broadview Heights.

The City contends that the Union's proposal which includes a request for a sixth week of vacation leave would be extremely costly. Given the current generous compensatory time accrual, no more vacation leave is necessary. The City does agree to modify the Vacation Provision so as to provide a faster accrual schedule as well as a one week buy back provision per year.

ANALYSIS – This fact-finder recommends the faster accrual schedule for vacations which for several reasons appears to be warranted. First, comparables support a modification to the Vacation Provision to bring it more into line with that found in neighboring jurisdictions. For example, the change would include that employees would receive 120 hours of vacation after five years of service, and 160 hours after ten years of service. Moreover, the parties have basically agreed upon the modification of the accrual schedule including the new language which would permit bargaining unit members to

convert forty hours of accumulated vacation time to a lump sum cash payment once per year.

This fact-finder would further recommend that a sixth week of vacation leave be provided after twenty-five years of service. The comparables submitted by both the City and Union support such a recommendation. The evidence clearly establishes that providing six weeks of vacation for long term officers is the norm in the area. The cities of Middleburgh Heights, Independence, Brecksville, Strongsville, North Royalton, Berea, Parma and Parma Heights all provide their police officers with six weeks of vacation. The recommendation to provide six weeks of vacation for officers in Broadview Heights after twenty-five years of service would be the same as that currently provided to officers in Independence.

RECOMMENDATION

With respect to Vacations, this fact-finder recommends the following:

ARTICLE 24, VACATIONS

24.1 Modify accrual schedule as follows:

<u>Years of Service</u>	<u>Hours of Vacation</u>
After 1 year	80 hours
After 5 years	120 hours
After 10 years	160 hours
After 15 years	200 hours
After 25 years	240 hours

24.5 (New) Unit members may, one time per year with at least two week notice to the Employer, convert forty (40) hours of accumulated vacation time to a lump sum cash payment.

4. HEALTH INSURANCE

The Employer proposes that prescription drug co-pays be increased to \$10 for generic drugs, \$20 for name brand, and mail order increased to \$20 for generic (pay for two months/receive three months supply) and \$40 for name brand (pay for two months/receive three months supply). Further, the City proposes to increase office visits from the current \$10 co-pay to \$20 for each office visit. The Union opposes any change in the current drug and office co-pay provisions.

The City contends that there is a need for modifications to the current healthcare plan due to increased costs. While the health insurance broker has done well in maintaining relatively low rate increases in recent years, he did testify that prescription drug expenses have risen substantially and will continue to do so. The City notes that with the two changes proposed, it will achieve savings for 2007 which would offset premium increases.

The Union contends that no changes in co-pays are justified because over the last ten years bargaining unit employees have been required to pay 5% towards premiums. With the exception of Strongsville, none of the other neighboring communities require their officers to contribute towards premiums. In addition, the Union points out that the other comparables have a vision plan and a significantly better dental plan than here.

ANALYSIS – This fact-finder recommends that the office co-pay be increased to \$15 from the current \$10 for each office visit. In addition, this fact-finder finds that it

would be appropriate to recommend that the prescription drug co-pay be increased to \$10 for generic drug and \$15 for name brand.

The testimony of Tony Labella, the City's health insurance broker, was persuasive in convincing this fact-finder that there is a need for a modification to the current healthcare plan. He stated that although he has been successful in holding rate increases down for the City, he has seen a significant increase in prescription drug costs in recent years. He indicated that prescription drug costs are trending upward by about 18% per year. Mr. Labella further indicated that the modification in the office visit and the prescription drug co-pays recommended herein would achieve significant cost savings for the City.

Moreover, this fact-finder finds that the recommended changes in co-pays for office visits and prescription drugs would fall in line with that provided in health plans in neighboring jurisdictions. For example, the \$15 office visit co-pay would be the same as that found in Independence, North Royalton and Strongsville. Likewise, the \$10/\$15 drug co-pay is similar to that found in the cities of Independence, Strongsville and Middleburgh Heights.

This fact-finder recognizes that over the past ten to twelve years employees in the police department have been required to contribute 5% towards premium costs in addition to other co-pays and deductibles. There is also no vision benefit plan provided to the bargaining unit. It is suggested that the City possibly review the proposal which was made with respect to providing vision insurance coverage for the bargaining unit.

The FOP however has raised several legitimate points regarding health insurance and it is for that reason that this fact-finder deems it appropriate to modify the City's proposal with respect to office visits and drug co-pays. However, it should be reiterated that both the testimony of the City's health insurance broker as well as comparables support a finding that a change in the drug and office co-pays is warranted. Therefore, the recommendation is that beginning in the year 2007, the prescription drug co-pay is to be increased to \$10 for generic drugs, \$15 for name brand, and mail order increased to \$20 for generic (pay for two months/receive three months supply) and \$40 for name brand (pay for two months/receive three months supply). Likewise, the increase in office visits from the current \$10 to \$15 co-pay is to take effect next year.

RECOMMENDATION

With respect to Health Insurance, this fact-finder makes the following recommendations.

ARTICLE 20, MEDICAL INSURANCE

20.1 Appendix 1 is modified to reflect effective February 1, 2007, the prescription coverage is increased to \$10 (generic) and \$15 (name brand); mail order for maintenance drugs increased to \$20 (generic) and \$40 (name brand). Note: Mail order-pay for two months and receive a three month supply.

Also, effective February 1, 2007-office visit co-pay increased to \$15.

5. HOURS OF WORK

The City proposes to modify Section 16.5 by lowering the maximum amount of compensatory time hours from the current 480 hours to 240-300 hours. The Union opposes any change in this provision.

ANALYSIS – This fact-finder finds that there was insufficient basis established for making any change in the current Compensatory Time Provision. Currently, this section permits 480 hours of accrual or a maximum allowable by the Fair Labor Standards Act. It was not established that this provision has created any undue burden or disruption to the operation of the police department. There simply was no basis shown for modifying Section 16.5 as proposed by the City.

RECOMMENDATION

With respect to Hours of Work, Article 16, this fact-finder recommends that there be no change in the maximum amount of compensatory time allowed to be accrued.

ARTICLE 16, HOURS OF WORK – Current language, no change.

6. SICK LEAVE

The FOP has proposed to delete the requirement that an immediate family member needs to reside with the employee before sick leave can be used. The City also proposes a modification to language found under the Sick Leave Provision which would state when sick leave can be used and define immediate family.

ANALYSIS – This fact-finder finds that the Sick Leave Provision should be modified to clearly set forth the time when sick leave can be used because of illness, injury, disease, exposure to contagious disease, or attendance upon members of the immediate family whose illness requires the care of such employee. Moreover, the definition set forth for immediate family proposed by the City should also be incorporated into the parties' Agreement. There is every indication that the modified language for sick leave usage as well as for the definition of immediate family is fairly standard and found in other police contracts. Moreover, the parties indicated during their prior discussions concerning a possible tentative agreement that these particular changes recommended herein to the Sick Leave Provision were to be made.

RECOMMENDATION

It is the recommendation of this fact-finder that the Sick Leave Provision, Article 17, be modified to read as follows:

ARTICLE 17, SICK LEAVE

17.8 Modify to read:

Sick leave shall be granted for the absence from duty because of illness, injury, disease, exposure to contagious disease, or attendance upon members of the immediate family whose illness required the case of such employee. "Immediate family" shall mean father, mother, child, sister, brother, wife or husband related by blood or marriage to the employee and who are residing with the employee. In the case of children only, the employee is eligible for sick leave to care for such child even though the child may not reside with the employee, where the employee has custodial or legal parental rights pursuant to a court decree.

CONCLUSION

In conclusion, this fact-finder hereby submits the above referred to recommendations on the outstanding issue presented to him for his consideration. Further, this fact-finder would recommend that all of the other additions, deletions, or modifications to the parties' Collective Bargaining Agreement which were referenced in their proposed tentative agreement also be incorporated into their new Contract.

SEPTEMBER 28, 2006


JAMES M. MANCINI, FACT-FINDER