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IN THE MATTER OF FACT FINDING

BETWEEN

**THE FRATERNAL ORDER OF POLICE
OHIO LABOR COUNCIL, INC.**

AND

CITY OF ELYRIA

SERB CASE NO. 2006-MED-02-0133
Unit: Sergeants, Lieutenants, NA Captains

ADVOCATE FOR THE EMPLOYER:

Howard D. Heffelfinger, Executive VP
Robin L. Bell, Esq.
CLEMANS, NELSON AND ASSOCIATES, INC.
2351 South Arlington Road, Suite A
Akron OH 44319

ADVOCATE FOR THE UNION:

Lucy DiNardo, Staff Representative
FRATERNAL ORDER OF POLICE, OLC, INC.
7560 West 130TH Street
Middleburg Hts., OH 44130

INTRODUCTION

The issues in dispute before the fact-finder are wages (rank differential) and education supplement. The parties to this dispute are the City of Elyria and the Fraternal Order of Police. The City of Elyria has a population of approximately 55,000 residents and is located in Lorain County Ohio. The bargaining unit consists of approximately nineteen (19) employees who are employed by the City of Elyria Police Department ("Department", "Employer" or "City") in the classifications of Sergeant, Lieutenant, and Non-Administrative Captain. The bargaining unit is one of several bargaining units in the City represented by several unions.

A mediation/fact-finding hearing was held on February 28, 2007 and was continued on March 1, 2007. Through the concerted efforts of the professional advocates and their bargaining teams several issues were resolved, and the scope of the dispute was narrowed to two issues: rank differential (wages), and education supplement. On March 1, 2007, the parties executed tentative agreements and after deliberation they mutually agreed to submit their arguments and exhibits to the fact-finder via brief. The professional demeanor and conduct of the advocates from both bargaining teams demonstrated their commitment to law enforcement and the employees who serve the City.

CRITERIA

OHIO REVISED CODE

In the finding of fact, the Ohio Revised Code, Section 4117.14 (C) (4) (E) establishes the criteria to be considered for fact-finders. For the purposes of review, the criteria are as follows:

1. Past collective bargaining agreements
2. Comparisons
3. The interest and welfare of the public and the ability of the employer to finance the settlement.
4. The lawful authority of the employer
5. Any stipulations of the parties
6. Any other factors not itemized above, which are normally or traditionally used in disputes of this nature.

These criteria are limited in their utility, given the lack of statutory direction in assigning each relative weight. Nevertheless, they provide the basis upon which the following recommendations are made.

OVERALL RATIONALE FOR DETERMINATIONS

Although perceptively better than in the earlier part of the decade, Ohio's economy remains uncertain as does the financial outlook for many Ohio public employers, including many of its cities. The state of Ohio continues to struggle to find ways to fund the many obligations it shoulders such as Medicaid costs, K-12 education, higher education, job growth, and a myriad of other pressing economic demands. Although somewhat improved in the last several months, the state's economy has struggled with the shortfall between revenue and expenses fueled by substantial and likely permanent losses of relatively high paying manufacturing jobs in particular sectors of the state. On February 20, 2007 a report from Moody's Investor's Service reduced Ohio's economic outlook from stable to negative, citing Ohio's declining manufacturing base, changes in tax structure, investment losses, and the need to spend more on health care and education (See Associated Press Release by John McCarthy). Between the second quarter of 2000 and the second quarter of 2005 Ohio lost some 200,000 jobs (See "Economic Indicators" Job Growth in Ohio Counties, April 2006 produced by The Center for Community Solutions, Cleveland, Ohio, www.communitySolutions.com). As the report states, "The overwhelming majority of economic activity within regions is generated through job earnings...There is no more fundamental measure of economic activity in a

local jurisdiction than trends in jobs and aggregate paycheck earnings from those jobs" (p. 1 "Economic Indicators"). Unfortunately, many of the jobs lost have not been replaced by new jobs and new income. There continues to be a marked movement of manufacturing jobs out of the country and reluctance by companies remaining to restore manufacturing jobs even when the economy turns more favorable. During this same period the federal government is reducing aid to the states and, in turn, the states are reducing aid to municipalities and other local government entities. The City of Elyria is one of the public entities that has been impacted by changes in manufacturing which has affected its revenue and has presented new challenges to its political leaders. Although well managed by many standards, the economic realities facing the City are challenging and the limitations they create are not lost on the analysis of this fact finder.

The well-researched and professionally presented data submitted by the Union's bargaining team provided a compelling argument to recommend measured economic improvements. However, the equally compelling submission by the City's bargaining team signaled caution in the implementation of any economic improvements. The business of the Department is to serve and protect the citizens of Elyria, yet there is a bottom line to watch in all business, and government is no exception.

The system of pay for the bargaining unit based upon rank differential has been part of the parties' bargaining history since July of 2000 and it means that

all salary increases are based upon what the patrol unit receives in terms of an across-the-board wage increase. It is noted that the patrol unit is represented by another union, the EPPA. The current rank differential between the rank of patrol officer and Sergeant, Sergeant and Lieutenant, and Lieutenant and Non Administrative Captain is 14%. The issue of education deals with the Union's desire to increase in the supplement paid to officers who achieve certain education levels. Under the current collective bargaining agreement, bargaining unit members receive supplemental pay at the rate of \$1.00 per credit hour of approved criminal justice/crime courses completed (See Article 23).

The Union argues that during the past three years the bargaining unit has received less than 2% increases per year, while at the same time taking on more duties and responsibilities. In addition, the bargaining unit, unlike the patrol unit, does not have numerous opportunities to earn overtime for such things as court appearances. The Union asserts that in 2006 court overtime averaged 62.5 hours per patrol officer, while the bargaining unit only averaged 13.5 hours of overtime (See Union Exh. 4). When compared to other like cities, the wages of the bargaining unit are low, argues the Union. However, the Union conceded that this statement is based upon its comparables and that the parties during the instant round of negotiations did not agree upon a set of comparables. The Union's comparables are the Lorain County Sheriff, the City of Lakewood, Avon, Avon Lake, North Ridgeville, and the City of Euclid. The Union's comparables,

with the exception of Euclid represent nearby employers who could readily compete with the City for the recruitment and retention of qualified police officers. However, these comparables, with the exception of Euclid and Lakewood vary widely in terms of population, tax base and per capita income, as well as in other areas. The Employer contends that the cities it used as comparables, i.e., Cleveland Heights, Cuyahoga Falls, Euclid, Lakewood, Lorain, Mansfield, and Mentor, have been traditionally used by the parties and are comparable in terms of population and geographic proximity. The Employer's comparables carry weight on the basis of several indicators (see Employer Exh. B), yet because of their relative location, it is far less certain that they would readily compete for bargaining unit members in the Elyria Police Department. The Employer also rejects the inclusion of the Lorain County Sheriff as a comparable, due to his differing tax base, command structure, geographic area, and employee duties.

The Union strongly contends that the low wages of the bargaining unit have affected recruitment and retention (See Union Exh. 10). The Union's arguments to raise the education stipend is in part an attempt to offset what it believes to be a salary inequity of \$3,000 to \$10,000 per bargaining unit member. The Union also contends the fire fighter bargaining unit is paid disproportionately when compared to police bargaining units.

The Employer asserts there is no justification to increase the rank differential or the education supplemental. Among what the City contends are

comparable public entities, the City of Elyria ranks sixth in per capita income, sixth in median family income, fourth in Municipal Income Tax, sixth in General Fund Revenues, and eighth out of eight in General Fund Expenditures. The Employer argues that the Lorain County Sheriff should not be used as a comparable because, as opposed to the bargaining unit, it is a county funded organization and has a different command structure with different duties. The Employer also noted that no one in the rank of Sergeant has less than ten years of service, making all of them eligible to receive longevity pay in addition to other forms of compensation.

The fact finder in the patrol officers' bargaining unit ("EPPA") case, upon which the rank differential is based for Sergeants, Lieutenants, and Captains, recommended annual salary adjustments of 3.75%, 3.75%, and 3.5%. The EPPA voted to accept the fact finder's report and the City rejected it. The AFSCME bargaining unit settled on wages of 2%, 2.5%, and 3%. The Employer also argues that the bargaining unit is paid a competitive wage based upon the Employer's financial resources (See Employer Exhs. B and F). While recognizing the value of an educated police force, the City opposes any change in the educational stipend (supplement) based upon the fact that it believes it already provides competitive rewards for educational advancement.

The bargaining unit's education supplement is an important benefit, especially for employees with supervisory responsibilities. Educational advancement is normally associated with the development of critical thinking

skills that aid supervisors in performing their tasks. I find this benefit to be reasonably competitive with other police departments; however, the benefit has not been adjusted for inflation since it was last agreed upon in 2003 (According to the BLS, from 2003 through 2006 the national inflation rate increased 9.3% CPI-U). A modest adjustment is justified in order to preserve its relative value when last agreed upon in 2003.

It is recognized that an across-the-board increase in rank differential compounds in terms of cost when it is uniformly applied through the ranks from Sergeant to Captain. However, it is also noted that ranking officers in the bargaining unit appear to have considerable responsibilities in a city with an active crime presence. The value and dependability of these supervisors was readily acknowledged by the Department during the mediation process. An important factor in considering issues of comparability among employers is what employees pay for their health care coverage. It is clear from the evidence presented by both parties that the wages of the bargaining unit are diminished by the substantial health care premiums that employees pay.

The current monthly employee premium for those employees with family coverage is \$152.40 per month. In the City of Euclid, which was cited by both parties as a valid comparable and which has a 12% differential between supervisory ranks, the employees with family coverage contribute \$25 per month or over \$1500 (.72 cents per hour) less per year than similarly situated employees in the bargaining unit (See Employer Exh. F). By comparison, a sergeant in

Euclid, the classification which comprises the largest number of employees in the bargaining unit in Elyria, is paid fifty-four cents (.54) more per hour than sergeants in Elyria. When healthcare cost differences are considered, this disparity grows by an additional seventy-two cents (.72) per hour. Lieutenants in Elyria are paid fifty-eight cents (.58) more per hour than their counterparts in Euclid, but when employee health care costs in both cities are subtracted from the total compensation, the Lieutenants in Elyria who have a 14% differential between ranks, make approximately fourteen cents (.14) per hour less than their counterparts in Euclid.

Citing SERB data, the Union points out that the average employee's contribution for family health care coverage in cities with a population of between 25,000 and 99,999 is \$46.68, over one-hundred dollars (\$100) less per month than what is paid by employees in Elyria (Union Exh. 12). Given the cost of health care to employees in the bargaining unit, a modest and progressive adjustment in differential is warranted in order to make them more competitive with other comparable cities in northern Ohio. However, the City's finances must be considered in making any adjustment in rank differential. A prudent approach, phased-in over the life of the Agreement that minimizes initial compounding is recommended.

After carefully considering the facts and evidence presented in this case the following determinations are made:

Determination:

Section 14.1: Effective the first pay period of **July 2006**, all employees within the bargaining unit shall receive a base pay in accordance with the following schedule:

- a.) Sergeants shall be compensated at a base rate of fourteen percent (14%) above Patrolman, Step A.
- b.) Lieutenants shall be compensated at a base rate of fourteen percent (14%) above Sergeant.
- c.) Captains shall be compensated at a base rate of fourteen and one-half percent (14.5%) above Lieutenant.**

Section 14.1: Effective the first pay period of **July 2007**, all employees within the bargaining unit shall receive a base pay in accordance with the following schedule:

- a.) Sergeants shall be compensated at a base rate of fourteen percent (14%) above Patrolman, Step A.
- b.) Lieutenants shall be compensated at a base rate of fourteen and one-half percent (14.5%) above Sergeant.**
- d.) Captains shall be compensated at a base rate of fourteen and one-half percent (14.5%) above Lieutenant.**

Section 14.1: Effective the first pay period of **July 2008**, all employees within the bargaining unit shall receive a base pay in accordance with the following schedule:

- a.) Sergeants shall be compensated at a base rate of fourteen and one-half percent (14.5%) above Patrolman, Step A.**
- b.) Lieutenants shall be compensated at a base rate of fourteen and one-half percent (14.5%) above Sergeant.**
- c.) Captains shall be compensated at a base rate of fourteen and one-half percent (14.5%) above Lieutenant.**

Determination:

Article 23.2 A college incentive program is hereby adopted for Police Officers as follows:

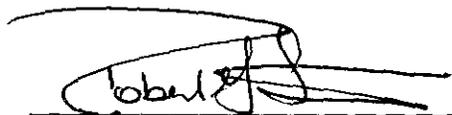
1.) **Effective July 1, 2007** the base pay of a Police Officer shall be increased **one-dollar and ten cents (\$1.10)** for each credit hour of approved criminal justice/crime related courses successfully completed.

Remainder of the article shall remain current language.

TENTATIVE AGREEMENT

During negotiations, mediation, and fact-finding the parties reached tentative agreements on several issues. These tentative agreements and any unchanged current language are part of the recommendations contained in this report.

The Fact-finder respectfully submits the above recommendations to the parties this 3rd day of May 2007 in Portage County, Ohio.



Robert G. Stein, Fact-finder