STATE EMPLOYMENT RELATIONS BOARD
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STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

IN THE MATTER OF FACT-FINDING BETWEEN:

City of Streetsboro, Ohio	)	Case Nos: 06-MED-04-0457
	)	06-MED-04-0458
and	)	06-MED-04-0459
	)	
Fraternal Order of Police	)	Fact-Finder: Colman R. Lalka
Ohio Labor Council, Inc.	)	

HEARING
Dates of Hearing: December 8 and 21, 2006
Location of Hearing: Streetsboro, Ohio

ATTENDANCE AT HEARING
For the City of Streetsboro:
David M. Benjamin, City Representative
Mark Pavlick, Mayor
Richard Taiclet, Police Chief

For the Union:
Charles Choate, Senior Staff Representative
Charles Wilson, Committeeman
James Wagner, Committeeman
Kathy Smith, Committee Member
Teena McKamey, Committee Member

MEDIATION

During the fact-finding hearing, mediation was requested by the Parties. The Fact-Finder acted as mediator with multiple issues being negotiated, and resolved. The Parties executed Tentative Agreements at the Fact-Finding Hearing, and said Tentative Agreements are noted below.

CRITERIA

After giving thorough consideration to the evidence and argument of the Parties, the criteria used by the Fact-Finder in resolving the disputed issues were those set forth in Rules 4117-9-05(J) and (K) of the State Employment Relations Board, to wit:

> 4117-9-05(J). The fact-finding panel, in making findings of fact, shall take into consideration all reliable information relevant to the issues before the fact-finding panel.
> 4117-9-05(K). The fact finding panel, in making recommendations, shall take into consideration the following factors pursuant to division (C)(4)(e) of section 4117.14 of the Revised Code:
> 4117-9-05(K)(1). Past collectively bargained agreements, if any, between the parties;
> 4117-9-05(K)(2). Comparison of the unresolved issues relative to the employees in the bargaining unit with those issues related to other public and private employees doings comparable work giving consideration to factors peculiar to the area and classification involved;
> 4117-9-05(K)(3). The interests and welfare of the public, the ability of the public employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standard of public service;
> 4117-9-05(K)(4). The lawful authority of the public employer;
> 4117-9-05(K)(5). Any stipulations of the parties;
> 4117-9-05(K)(6). Such other factors, not confined to those listed above, which are normally or traditionally taken into consideration in the determination of the issues submitted to mutually agreed-upon dispute settlement procedures in the public service or in private employment.

BACKGROUND

The City of Streetsboro, Ohio has recognized the Fraternal Order of Police/Ohio Labor Council, Inc., as the bargaining representative for certain employees of the City. The Bargaining Unit is duly certified by the State Employment Relations Board and had a Labor Agreement in effect that expired on June 30, 2006.

Formal bargaining between the Parties has been ongoing. When impasse was reached, the Parties requested the Fact-Finder convene a hearing, attain relevant facts, and prepare a report and recommendation in keeping with ORC 4117 and related Rules and Regulations adopted by SERB. The hearing was convened on the dates and at the place indicated above. At that time the Parties were given the opportunity to present evidence and argument in such a manner that would allow the Fact-Finder to render a report and make recommendations on the issues at impasse.

ISSUES AT IMPASSE AND RECOMMENDATIONS

MEMORANDUM OF UNDERSTANDING

The Parties entered into a Memorandum of Understanding replacing the language of Articles 11, 29, and 36. The Memorandum of Understanding was executed by Union Representatives on March 5, 2004 and by the Mayor on March 11, 2004, and the Memorandum of Understanding is incorporated herein by reference.

The Memorandum of Understanding provides its language regarding Articles 11, 29, and 36 is to replace the language contained in those Articles contained in the Parties' Collective Bargaining Agreement during successor negotiations at the latest. The Union requests the language of the Collective Bargaining Agreement be replaced as indicated. The City voiced no objection. Both Parties did, however, request changes to the language of the Memorandum of Understanding in the successor agreement.

RECOMMENDATION

It is the recommendation of the Fact-Finder the language of the Memorandum of Understanding replace the language of Articles 11, 29, and 36 of the Collective Bargaining Agreement, except where recommendation is made below to modify such language.

ARTICLE 11 OVERTIME ASSIGNMENT AND EQUALIZATION

The Union requests modification of Article 11 to provide 1) a swing shift employee be given five days advance notice prior to any schedule change, 2) no more than three schedule changes in any thirty day period, 3) swing officers maintain two consecutive days off similar to non-swing officers, and 4) the swing sergeant be scheduled from 2000 to 0400 hours unless the swing sergeant is moved to replace a sergeant on extended illness, school, or leave, in which event the swing sergeant shall fill the vacancy of the shift sergeant.

The City argues the modifications requested by the Union would result in an increase in overtime costs to the City, something the City can ill afford at this time. For example, only two days notice need be given for the use of comp time, and, when an employee gives two days notice, and the City is required to provide five days notice to the swing employee, it will be impossible to use the swing employee to cover for the employee on comp time, thus necessitating calling in another employee resulting in additional overtime costs.

The City has offered suggested changes to Article 11 to accommodate the Union's desired modifications while controlling costs, none of which are acceptable to the Union.

RECOMMENDATION

The Fact-Finder is aware of the burden short notice of shift change imposes upon an employee, however, such is the nature of the swing shift, and the City must be given latitude in scheduling employees. Moreover, it is noted that prior to the July 1, 2003 Collective Bargaining Agreement there were no guaranteed shifts, and the swing shift was created to provide for assigned shifts based upon a semi-annual bidding process. It is the recommendation of the Fact-Finder the language of Article 11, as currently found in the Memorandum of Understanding, remain unchanged.

ARTICLE 26 UNIFORM ALLOWANCE

Both Parties request changes in Article 26. The Union requests four modifications. First, an increase in uniform allowance from the current annual amounts of $800.00 for police officers and sergeants and $375.00 for dispatchers to $1,000.00 and $600.00, respectively. The Union points out there was no increase in uniform allowance in the current Collective Bargaining Agreement. Second, the City pay some of the costs of uniform cleanings. No such provision currently exists. The Union argues officers are, at times, ordered to clean a cell after an inmate smears feces therein, or crawl into a vehicle and clean blood or urine. With the virulent pathogens present today, officers are reluctant to go home in those uniforms out of fear of contaminating family members. Third, an increase in the amount of the uniform allowance to be used for the purchase of off-duty/back-up firearms from $250.00 to $450.00. Fourth, removing the limitation of once per an officer's career that the uniform allowance may be used for the purchase of an off-duty/back-up firearm.

The City agrees to increase the uniform allowance to $900.00 and $450.00 for officers and dispatchers, respectively, provided the current quartermaster system is replaced by cash payments to the employees. The Union objects to doing away with the quartermaster system in that cash payments, even though styled as uniform allowance, result in an added income tax obligation to employees. Additionally, from a supervisor's standpoint, cash payments, which the Parties had in effect prior to the quartermaster system, result in not all the funds being spent on

uniforms and uniform maintenance. Employees then report for duty in uniforms that are not serviceable, and shouldn't be worn, requiring the supervisor to enforce the dress code.

The City doesn't believe any added tax obligation will result from cash payments instead of the current quartermaster system. The City believes the same tax obligation will arise whether the employees receive a uniform allowance through cash payments or the through the quartermaster system.

Continuing with Article 26, the City seeks modification to provide for situations of employees activated for military service. The City proposes the following sentence at the end of the first paragraph of Section 1:

> Employees activated for military service leave shall be ineligible for uniform allowance benefits away from duty on such leave (i.e. cannot "roll over" unused uniform allowance from one calendar year away into the next calendar year upon return to duty).

The City also seeks modification of Section 3 which currently provides for City reimbursement to employees who have damaged their uniform while in the performance of their duties up to a limit of $200.00 annually. The City desires the word "For" be addedat the beginning of Section 3, and the following phrase at the end, "provided the damage is not a result of the member's intentional abuse or gross negligence."

Currently, the Collective Bargaining Agreement provides for new members of the Police "Division" to receive an initial uniform allowance of $1,000.00 upon appointment to be used for the purchase of approved uniforms and equipment. The City proposes changing the word "Division" to "Department," and after the language, "New members of the Streetsboro Police Division shall receive an initial allowance of $1,000.00," adding the following, "($500 payable within thirty (30) days of appointment; and $500 payable at six (6) months)".

Regarding the off-duty/back-up firearm, the Union argues such a firearm generally is carried in an ankle holster, subjecting the weapon to snow, salt, etc. This eventually renders the firearm unusable, and the Union requests the increase in uniform allowance to be spent toward such firearms be increased, and the number of such purchases also be increased so off-duty/back-up firearms may be replaced more often.

The City counters that going to a cash payments system would eliminate Section 7, the limitation on the dollar amount and frequency of off-duty/back-up firearms, and the officers could spend the uniform allowance as they see fit. There may be an obligation for supervisors to

enforce the dress code, but, the City continues, that's a supervisory requirement under either system.

RECOMMENDATIONS

Neither Party was able to state tax consequences with certainty. In addition to the income tax issue with a cash payments system, the Union was also concerned with paying sales tax upon the purchase of uniforms. The City countered that it could provide a letter that would exempt the officers from sales tax. There is insufficient information before the Fact-Finder for a decision to be made based upon tax consequences.

The Union argues the City's desire to change to cash payments is to reduce paperwork. The Union points out the cash payment system was in effect previously, and it has no desire to return to that system, and, importantly, no compelling reason was provided to justify a change in the uniform allowance system. It is the recommendation of the Fact-Finder that the current quartermaster system remain in effect.

Additionally, in that there was no increase in the uniform allowance in the last Collective Bargaining Agreement, it is reasonable, given inflation and the costs of police uniforms vis-à-vis comparable "civilian" clothing, that an increase in uniform allowance be provided. The full amount requested by the Union, however, seems out of line with inflationary pressures, even taking into account no increase in uniform allowance in the last contract, while the offer of the City does not. It is, therefore, the recommendation of the Fact-Finder the uniform allowances for officers and sergeants be increased from $800.00 to $900.00 annually, and for dispatchers from $375.00 to $450.00 annually.

Regarding off-duty/back-up firearms, the argument of the Union regarding wear and tear on such firearms is compelling, and no contrary argument was presented by the city. Certainly, an officer hopes to never use a firearm in the line of duty, however, if needed, an officer's life may depend on a serviceable firearm. The same applies to an off-duty/back-up firearm. It is the recommendation of the Fact-Finder that the amount of uniform allowance that may be spent toward an off-duty/back-up firearm be increased from $250.00 to $450.00.

There is no evidence before the Fact-Finder of how often such a weapon needs to be replaced. It appears that with a reasonable amount of cleaning and care, a firearm should last ten years, which, assuming a twenty year career, is in keeping with the current language of the Collective Bargaining Agreement. It is the recommendation of the Fact-Finder the limitation of

the use of $450.00 toward the purchase of an off-duty/back-up firearm remain limited to once per an officer's career.

Regarding the City's desire to replace the word, "Division" with "Department" in Section 5, the Union voiced no objection to the change, and the change is recommended by the Fact-Finder. No compelling reason to change the current manner in providing the $1,000.00 uniform allowance to new members of the police department has been presented, and it appears to the Fact-Finder that the change requested by the City, that is, "($500 payable within thirty (30) days of appointment; and $500 payable at six (6) months)" would adversely impact new members. Absent a compelling reason for the change, the Fact-Finder must recommend the current language regarding the $1,000.00 payment of the uniform allowance to new members remain in effect.

It is also the recommendation of the Fact-Finder the uniform cleaning costs requested by the Union not be implemented. While the Union pointed to the street and fire departments, and their system of uniform maintenance, the procedures of those departments are distinguishable from those of the police department. Additionally, there is no evidence before the Fact-Finder of officers soiling their uniforms with potentially hazardous pathogens on an other that infrequent basis. While the Fact-Finder is not unsympathetic with the officers' concerns in that regard, the requested uniform cleaning requested by the Union would, except in rare exceptions, amount to cleaning of uniforms for routine use.

Regarding suspension of uniform allowance for officers and dispatchers away on military duty, such a request is reasonable and compelling on its face. It is recommended the language requested by the City be implemented.

The City's request for additional language in Section 3 limiting payment for damage to uniforms is not recommended. This is not to say the City should be liable for intentional or grossly negligent damage to uniforms, it is just that, as Union noted, such language may provide for an increase in grievances and arbitrations. There is no evidence before the Fact-Finder a problem of intentional or grossly negligent damage to uniforms exists.

ARTICLE 28 COMPENSATION

The Union requests wage increases in the amount of 4% the first year of the successor agreement, 4¼% the second year, and 4½% in the third, for each step and each Bargaining Unit

Member. The City has offered 1½% for each of the three years, claiming an inability to pay more absent concessions from the Union regarding health care. The City notes the Firefighters accepted 0%, 0%, 3% over the next three years, point out the Firefighters' Union consists of fifteen members, and argues it is a Bell Cow Union setting the pattern for other City unions.

Additionally, the City states, Tentative Agreement was reached with the part-time Firefighters wherein the part-time Firefighters receive payments of 3% of wages earned in 2006 no later than January 31, 2007, a 3% wage increase in 2007, a 3% wage increase in 2008, and a 3% increase in 2009. The City indicates the part-time Firefighters received the payment and wage increases as the result of scheduling concessions by the part-time Firefighters. Thus, the City concludes, there are now two Bell Cow Unions establishing a pattern in Streetsboro.

Finally, regarding the City's argument the two Firefighters' Unions serves as a Bell Cows, the Fact-Finder must respectfully disagree. The agreement between the City and the full-time Firefighters' Union cannot be considered a Key Bargain for purposes of Pattern Bargaining. The City admits that stating the reason for the Firefighters' Union settling for 0%, 0%, and 3% over the next three years is speculation, but argues it was probably the result of a realization the City's finances preclude more generous wage increases.

The Union counters by pointing out most members of the Firefighters Union have less than three years seniority, and will enjoy step increases in wages over the life of their Agreement. Indeed, a review of the Firefighters' Agreement discloses that of the fifteen member unit, twelve members have three years seniority, and one has one year on the job. The remaining two have eight and twelve years.

Current Firefighters are to receive annual step increases in wages during their first five years of employment. Thus, for the next two years, despite having accepted a 0% increase in wages, the majority of Firefighters will still receive increases in their pay checks. Firefighters hired prior to January 1, 2006, receive a step increase from $14.15 to $15.56 from the third to fourth step, and from $15.56 to $17.12 from the fourth to fifth step. This amounts to pay increases of 10% over the first two years of the Contract, followed by the general wage increase of 3% in the third year.

Additionally, two new Lieutenant positions were created, amounting to wage increases for those two Firefighters. Presumable, the two promoted to the new Lieutenant positions are the two with over three years seniority. Thus, over the first two years of the Firefighters' new

Agreement, while there is a 0% general wage increase, in reality, all Firefighters will be enjoying wage increases.

The City, in support of its argument Firefighters accepted 0%, 0%, and 3% as a result of a realization the City's finances prohibited more generous wage increases, points out that for future hires, the Firefighters' Union has agreed to extend step increases from five years at 10% at each step, to ten years at 5% each step. This, however, applies to employees hired after January 1, 2006. All current members of the Firefighters' Union enjoy the pay increases noted above.

Both Firefighters' Unions are new unions, both organized after the City converted to the partial use of full-time Firefighters. As such neither has a bargaining history with the City, as do other City unions, and it would be improper for more seasoned unions to be subject to a pattern established by less seasoned unions. Neither the full-time or part-time Firefighters' 2006 Collective Bargaining Agreements with the City can be considered Key Bargains for purposes of Pattern Bargaining. The Fact-Finder will now consider the City's argument of inability to pay.

The Union's request of 4+% annual wage increases each year for the next three years is based on wage increases to comparable cities. Those comparable cities, the Union states, are the same comparable cities used historically by the Parties. That is, the Union asserts, it did not "cherry pick" and include cities like Pepper Pike, or other well-to-do communities.

According to the Union, it has continued to slide below the comparable communities and is now second last in wages. The Union asserts that with the wage increases offered by the City, it will continue to fall behind. Additionally, the Union noted various Department Heads received wage increases of 3% to 19%, however, the City countered by pointing out the wage increases for the various Department Heads were the first received in several years, and, with one exception, amounted to wage increases of 3% per year. The exception was one Department Head that had been underpaid, and the increase was to bring her salary into line with her responsibilities.

The Union presented newspaper articles indicating the City received a clean bill of health from the State Auditor, along with a quote from the County Auditor indicating, "Streetsboro continues to amaze all of us with its growth," an article discussing a $1.36 million general fund carryover into 2006 when the City had estimated a carryover of $400,000, including dissention between Council and the Administration wherein council members indicated budgeting is better served with more accurate projections, new agreement between the City of Aurora, one of the

cities historically used as a comparable, and its Police Officers and Dispatchers of 4¼%, 4%, and 3¾%, and articles showing business and residential growth in the City.

While newspaper articles cannot be accepted as reliable evidence under numerous circumstances, here the Fact-Finder, in the absence of other evidence, is willing to accept the broad generalities of the articles. That is, the City received a clean bill of health from the State Auditor and the City is experiencing both commercial and residential growth. The City does not really take issue with these points, instead pointing out it is limited to a 1% income tax while other communities are not, that a ¼% tax increase was recently defeated soundly, and contending the business growth, being limited by the 1% tax rate, does not benefit the City to the extent of other cities with 2% tax rates. Additionally, the residential growth puts a drain on city resources, it is contended, costing much more in services rendered than in revenue generated.

The City also contends that when it recently converted to a partial full-time Fire Department, it did so with lower wages than comparable communities, and it is not until the Firefighters reach the last step do they begin to be comparable to like groups. Additionally, the City argues Aurora has been in an austerity program until it received a tax increase, which Streetsboro did not receive. When compared to eight other cities in northeast Ohio with a 1% tax rate, which the Fact-Finder notes do not include those communities historically used by the Parties as comparables, the City argues the Union ranks third in wages.

Regarding the carryover referenced in the newspaper article, the City admits to the underestimated carryover, but questions when having a carryover has turned into something unwholesome. The City emphasizes the entire operation of the Police Department is funded out of the General Fund, with no add-on levies for additional monies, and presented figures from its budgets from 2004 to 2006, and its proposed 2007 budget.

The City' proposed 2007 budget figures show expenditures outpacing receipts by $1,234,962, and does not include any wage increases for City workers whose unions have not yet come to agreement with the City. The City is projecting a carryover of $1,636,378 into the 2007 General Fund, with unencumbered funds in the amount of $401,416. The cost of the wage increases requested by the Union, the City states, is $85,000 for 2007. Finally, the City provided a report from the U.S. Department of Labor indicating a 1.3% increase in the Consumer Price Index from October 2005 to October 2006.

Neither Party contested the evidence presented by the other regarding the City's financial health, and from the evidence of record the Fact-Finder has no way of ascertaining which Party's argument is correct. The Union presented evidence showing glowing reports regarding the City's finances and future prospects, as well as wage comparables showing wage increases of approximately 3% to 3½% from the years 2004 through 2007. The City presented evidence in the form of a projected budget showing a shortfall between revenues and expenditures for 2007 that cannot be covered by the carryover into the General Fund.

What is certain, however, are the step increases in the amount of 10% provided full-time Firefighters in the first two years of their successor Collective Bargaining Agreement, and the addition of two new Lieutenant positions amounting to wage increases for two remaining Firefighters. In the third year of the Firefighter's Collective Bargaining Agreement, a 3% general wage increase is provided. The part-time Firefighters likewise receive 3% wages increases over the term of their Agreement.

The City argues the benefits provided Firefighters are in part based upon the Firefighters' acceptance of the City's health care proposal, and if the Union would accept the same proposal, concessions can be made by the City regarding wage increases.

RECOMMENDATION

The Fact-Finder has no way of ascertaining the value of the concession the Firefighters made by accepting the City's new Health Care Package. Do the concession reduce the 10% step increases in the first two years of the Firefighter's Contract to 3%, after deducting additional expenses to the Firefighters as a result of the new Health Care Package? Some point below 3%? Some point between 3% and 10%? Regarding the part-time Firefighters, what is the value of the scheduling concessions?

Based upon the evidence before the Fact-Finder, particularly the external comparables with communities historically used for that purpose, and the internal comparable with the Firefighters' Contracts, the Fact-Finder recommends a 3% annual wage increase over the three year term of the successor agreement, commencing July 1, 2006.

ARTICLE 29 SHIFT DIFFERENTIAL

SECTION 1. The language found in the July 1, 2003 Collective Bargaining Agreement has been modified by the above noted MOU. The City proposes modifying Section 1 with the

addition of language to reflect the current practice in the Department. The Union voiced no objection to the modification. The City proposes the following sentence be added to the end of Section 1:

> Should the starting/quitting time for the shifts be adjusted at the discretion of the Employer under Article 3 of this Agreement, shift differential shall still apply to the designated afternoon and midnight shift hours.

RECOMMENDATION REGARDING SECTION 1

The language proposed by the City reflects the current practice in the Department, and serves to clarify the practice. It is the recommendation of the Fact-Finder the language be included at the end of Section 1 as proposed by the City.

NEW SECTION. The Union proposes a new section providing for a payment structure in the event of temporary vacancies, requiring a Patrol Officer to act as a Sergeant or a Sergeant to act as a Lieutenant, wherein the Officer is to be paid at the hourly rate of the rank filled during the temporary vacancy.

The City counters by indicating the Union wants to extend the concept of the Officer-in-Charge, wherein a Patrol Officers acts as a Sergeant, to situations of a Sergeant acting as a Lieutenant, however, the City states, the two are not the same. When a Patrol Officer acts as Officer-in-Charge, an assumption and performance of administrative responsibilities and duties is required. That situation, the City notes, does not occur when a Sergeant acts as a Lieutenant. The City believes this is an economic benefit to the Union with no supporting evidence, as, for example, a showing of similar economic benefits or contract language in comparable communities.

RECOMMENDATION REGARDING NEW SECTION

In the absence of the assumption of additional administrative responsibilities when a Sergeant acts as a Lieutenant, no compelling reason for the new section regarding Sergeants exists. Additionally, no justification for the change in Section 2 regarding Patrol Officers acting as Officers in Charge has been advanced, and the Fact-Finder recommends the Union's proposed new Section not be incorporated into Article 29.

SECTION 2. The City proposes changing the word "and" to "as," and new language at the end of Section 2. Under the City's proposal Section 2 will read:

> Section 2 Patrolmen placed in the position of officer-in-charge as determined by the approved chain of command for the Police Department, shall be

entitled to two ($2) dollars per hour additional pay for that period of time in which said officer is in charge of a shift, upon the following condition:

The most senior Patrol Officer on a particular shift shall act as O.I.C. (Officer In Charge), unless said Patrol Officer is deemed by the Sergeant as not being fit for such responsibility due to improper training, incompetence or other such documented deficiency; in such case, that Officer will be suspended from O.I.C. duties for a period of ninety (90) days, subject to reappraisal of his Sergeant. During this suspension period, when such officer would otherwise be eligible to serve as an O.I.C. in the absence of the Sergeant, the next most senior Patrol Officer shall serve as O.I.C.

The Union objects to the proposed language, arguing there currently exists no scheduled Officer review process, and personality conflicts may result in otherwise qualified Patrol Officers being denied the position of OIC.

It is to be noted that the grievance/arbitration process in the Parties' Labor Agreement can be used to rectify a situation of a Patrol Officer being improperly denied the opportunity to serve as OIC, and the language proposed addresses situations of the Employer being otherwise required to place unqualified Patrol Officers in that position. It is the recommendation of the Fact-Finder that the City's proposed modification be incorporated into Section 2.

SECTION 4. The City proposes the following bold face language be added resulting in Section 4 being modified to read as follows:

Section 4. The one Dispatcher assigned to dispatch supervisory responsibility, as determined by the Employer, shall receive seventy-five cents ($.75) an hour over the regular base rate. The parties agree that **the staffing such assignment is at the discretion of the Police Chief or designee, and assignment to, and/or removal from, shall not be subject to the grievance process of this Agreement. The** occasional performance of such duties by other Dispatchers does not entitle those Dispatchers to such additional payment.

RECOMMENDATION REGARDING SECTION 4

The Union objects to removing the assignment or removal of a dispatcher assigned to supervisory responsibility from the grievance process. No justification for such language was presented, and the Fact-Finder recommends the City's proposed language not be included in Section 4.

SECTION 5. The City proposes a modification to Section 5 wherein Officers assigned to FTO duties be compensated at the rate of $1.00 per hour, as opposed to the $20.00 per week up to thirteen weeks.

RECOMMENDATION REGARDING SECTION 5

The City indicates this may or may not result in additional remuneration for Officers assigned to FTO duties, it changes the way compensation is paid. No justification was presented for the change, nor is the Fact-Finder able to determine the ramifications of such a change. The Fact-Finder recommends the City's modification not be incorporated into Section 5.

ARTICLE 36 INSURANCE

Article 36 of the July 30, 2003 Collective Bargaining Agreement had been modified by the Parties in the above noted MOU. The City now proposes an entirely new Article 36 to read as follows:

> The "premium ceilings" for Health Insurance benefits provided to members of the bargaining unit shall be as follows: single coverage: $350.00 per month; single + 1 coverage: $700.00 per month; family coverage: $1,000.00. When the policy/ies for Health Insurance benefits are renewed in 2007 the ceilings shall be re-established by multiplying the 2006 ceilings by 1.05, and when the policy/ies for Health Insurance benefits are renewed in 2008 the ceilings shall be re-established by multiplying the 2007 ceilings by 1.05.
>
> A. To the extent that the premiums do not exceed the premium ceilings indicated above, the City shall provide group insurance for full time employees and pay ninety percent (90%) of the premiums for such coverage.
>
> B. To the extent that the premiums do not exceed the premium ceilings indicated above, the City shall have the right to change health care and life insurance providers as long as coverage is the same or similar to what currently exists. Nothing in this provision shall prevent the city from implementing prescription plan modifications from a two-tier prescription plan to an alternative tiered-prescription plan when the city renews its group insurance plan.
>
> C. To the extent that the premiums do not exceed the premium ceilings indicated above, the employees shall contribute ten percent (10%) towards the City's premium.
>
> D. Where the City of Streetsboro employs both spouses, only one will be eligible for health insurance coverage, that being the family plan.
>
> E. A full time employee eligible for health insurance coverage may elect not to be covered under the City provided health insurance plan and receive a payment of fifty percent (50%) of the premiums that the City would have paid for that employee. An employee electing such payments in lieu of coverage must notify the Finance Department thirty (30) days before the first of the month in which they do not want coverage. The employee will be allowed two (2) changes during a two- (2) year period that begins with the policy term (currently May 1st) where an election not to be covered or an election to return coverage is considered a change. A return to coverage will also require a thirty- (30) day advance notice. Payments to employees not electing coverage shall be made quarterly in accordance with the policy period. Employees who have a spouse employed by the City shall not be eligible for this provision. An employee who drops City provided coverage and subsequently wished to re-enroll for City provided coverage shall

be subject to the pre-existing condition policy and the physical exam policy of the City's health insurance carrier at no cost or liability to the City.

F. To the extent that the premiums do not exceed the premium ceilings indicated above, the Employer retains the right to change health care and life insurance providers during the term of this contract. Upon changing providers the City agrees that bargaining unit employees shall receive similar coverage to that which existed at the execution of this Agreement. The City shall negotiate with the Union prior to implementing any changes in the insurance. If the parties reach impasse on the City's proposed changes in the insurance the City may implement it's last best offer, which shall be effective for the duration of the contract, notwithstanding SERB's Toledo decision or any related SERB decision regarding mid-term bargaining. The City also agrees that any voluntary changes made in the insurance shall be applied to all the other City bargaining unit employees.

G. To the extent that the premiums do exceed the premium ceilings indicated above, the Employer retains the right to change health care and life insurance providers during the term of this contract eliminating such coverages as would cause the premiums to exceed the premium ceilings. Alternatively, the Employer may retain coverages similar to which existed at the execution of this Agreement. In the event that the Employer chooses to do this, the Employees shall contribute fifty percent (50%) of the amount by which the monthly premium for the coverage they choose exceeds the premium ceilings (the extended premium contribution), in addition to the other employee contributions called for in this provision.

Prior to imposing an extended premium contribution on any bargaining unit member, the City shall provide the bargaining unit the opportunity to discuss through one of its members, the alternatives which exist other than the implementation of coverages which will necessitate the bargaining unit members' payments of extended premium contributions. If the parties cannot agree on the City's proposed changes in the insurance program, the City may implement it's last best offer, which shall be effective for the duration of the contract, notwithstanding SERB's Toledo decision or any related SERB decision regarding mid-term bargaining. The City also agrees that any voluntary changes made in the insurance shall be applied to all the other City bargaining unit employees.

That upon the City negotiating these terms with its other bargaining units for which health care benefits are provided, during the term of this labor agreement, a Citywide Health Care Cost Containment Committee shall be established. This committee shall consist of five (5) members. Three of such members shall be union Representatives, one (1) from each of the City's three (3) bargaining units. These members shall be selected at the sole discretion of each bargaining unit to represent their respective units. The remaining two (2) members of this committee shall consist of the City Mayor and the City Finance Director, or their designees.

This Committee, called the Citywide Health Care Cost Containment Committee, hereinafter referred to as the "Committee," shall meet at least four times per year. These meetings may be scheduled periodically throughout the year, or they may be scheduled in anticipation of the conclusion of the then current health care provision program. The Mayor or the Mayor's designee shall serve as Chairperson of the Committee. The Committee shall, at its first annual meeting, establish rules and regulations for its governance. However, these rules and regulations shall provide that each of the five (5) members shall have one (1) vote, and, that a majority vote will be controlling. These rules and regulations may include provisions providing for the substitution of an alternate representative for any such member who may be unable to attend. Finally, these rules and regulations will provide each representative the opportunity to use any advisor or

consultant it deems necessary, at the cost of that representative or the entity that that representative represents.

The "benefits provision" year ending immediately before the establishment of the Committee (2006) shall be considered the initial base year for the purpose of determining health care cost economic data. The Committee will investigate methods to contain the overall cost of health care. The Committee will investigate methods to contain the overall cost of health care. These methods may include, but not be limited to, reduction of benefits. The scope of the final determination as to the method utilized to contain the overall cost of health care shall be vested in and the sole responsibility of the Committee.

In the event that the overall cost of health care increases despite the Committee's best containment efforts, those increase costs shall be borne as indicated above.

The Union acknowledges that the current "benefits provision" year will conclude June, 2006 when the City's medical benefits provision contracts, including those with Hometown, Humana, Vision Care, Sun Life expire. The continuing provision of these benefits will have to be supplied as a result of successor contracts yet to be concluded by the City, and will necessitate the initial activities of the Citywide Health Care Cost Containment Committee, to produce the most advantageous coverage at the most affordable price. The Union is prepared to begin deliberation on the issue of medical cost containment, participation on the Citywide Health Care Cost Containment Committee and the selection of health care providers to succeed the programs currently in place, as well as be governed by all of the terms of this Article in calendar year 2006, as the City has made its intention to pursue inclusion of this provision into all other effected collective bargaining agreements clear.

The provisions requiring bargaining unit members to share Fifty Per Cent (50%) of the amount by which premiums exceed "premium ceilings", and the Citywide Health Care Cost Containment Committee's selection of the insurance plan to be provided by the City by majority vote of that Committee, shall not be effective until the 2007 acquisition of the insurance plan to be provided.

The City indicates the above language places ceilings on hospitalization premiums, and points out the current ceilings are slightly under the figures provided in the first paragraph of its proposed language. The City's desired language provides for 5% premium increases in the years 2007 and 2008. The City will continue to pay 90% of premiums, with the employee contributing the remaining 10%, provided, however, the 5% ceiling is not surpassed. Any increases over the 5% result in the City having the right to change health care coverage, after negotiations with the Union.

Should impasse be reached during those negotiations, the City's last best offer is to be implemented. Should health care plans be changed, each employee is to be responsible for payment of 50% of the premium over the 5% increase in the figures noted in the first paragraph of the City's proposed language. The remainder of the proposed language, the City indicates, creates a Cost Containment Committee comprised of two City members and one Bargaining Unit Member from each Bargaining Unit, for a total of three Union member on the Committee.

The City concludes by noting the full-time Firefighters Union accepted the proposed language, the language will apply to non-union employees, and that without acceptance of the proposed language by all unions, the City cannot obtain many of the benefits it seeks.

The Union rejects the City's proposed language, indicating it also is concerned about health care, and that it is willing to form a Cost Containment Committee with the City, but not under the requirements mandated by the City's proposed language. The Union points out the Parties had a Cost Containment Committee, and the City changed coverage the last two years, resulting in grievances each year. Notwithstanding the Cost Containment Committee, which, the Union states, the City never used, the City simply told the Union the changes it was implementing two weeks prior to the changes.

The Union points out that according to SERB statistics it is in the top tier of employee contribution toward health care premiums, paying the most out of all employees with Collective Bargaining Agreements. The City's Union employees being responsible for another 50% of premium increases, the Union concludes, is not the current trend in the public sector.

RECOMMENDATION

The City's proposed language is far too sweeping for the Fact-Finder to recommend its implementation. While the Fact-Finder is not unsympathetic with the plight of all employers regarding premium increases, Streetsboro Police Department employees are in the top tier of Ohio public sector employees in terms of contribution toward health care coverage. Moreover, should the City desire to implement new coverage, while the proposed language calls for negotiations, should impasse be reached, the Union would be required to acquiesce to the City's last best offer.

The Fact-Finder recommends the Parties' current Article 36 remain as is, and City's proposed language not be implemented.

NEW ARTICLE MIDTERM DISPUTE RESOLUTION PROCEDURE

The Union proposes the following be added to its Collective Bargaining Agreement:

> Section 1: The procedures contained in this article shall govern mid-contract term disputes arising between the F.O.P. and the City of Streetsboro concerning proposed changes in terms and conditions of employment.
>
> A. In the event the employer makes or proposes to make any changes in wages, hours or terms and conditions of employment before the expiration of this agreement, either party may serve notice upon the other of its desire to negotiate such a change.

B. The parties shall continue in full force and effect all terms and conditions of this existing agreement unless and until a new or modified agreement is agreed upon or established by operation of this Article.

Section 2: At any time after the commencement these mid-term negotiations, if either party believes that negotiations have reached an impasse, the parties shall submit their dispute to an agreed upon fact-finder by selecting from a list of seven (7) arbitrators provided by FMCS in accordance with this section and submit the dispute to fact-finding.

A. The list may be requested from FMCS by either party. Each party has the right to reject one list provided by FMCS in which event the rejecting party shall immediately ask FMCS and pay for a substitute list.

B. The fact-finder shall proceed to hold a hearing to resolve the impasse in accordance with the rules of the Ohio State Employment Relations Board applied to fact-finding procedures. These rules shall apply except as modified by this Article.

C. Each party shall submit a written statement outlining its position on each of the unresolved issues and the language for insertion in the contract by which it proposes to resolve the impasse.

D. The fact-finder shall make a final recommendation as to all of the unresolved issues.

E. The following guidelines shall be applied by the fact-finder:

1. The fact-finder shall establish times and place of the hearing.
2. The fact-finder shall take into consideration the factors listed in Section 3(I) below.
3. The fact-finder may attempt mediation of the dispute at any time until a final recommendation is made.
4. The fact-finder shall transmit his/her recommendations to the employer and the union at the same time via U.S. Mail or by FAX.
5. Each party shall pay one-half the cost of the fact-finding procedure.

F. Not less than fourteen (14) days after the recommendations of the fact-finder are received by the parties, the legislative body by a three-fifths vote of its total membership and, in the case of the union, the membership by a three-fifths vote of the total membership may reject the recommendations. If neither party rejects the recommendations, the recommendations shall be deemed agreed upon as the final resolution of the issues submitted. The existing collective bargaining agreement shall be deemed to be modified by incorporating the recommendations of the fact-finder, and all other issues tentatively agreed upon before the disputed issues were submitted to the fact-finder.

Section 3: If either the legislative body or the membership of the union rejects the recommendations, the parties may again attempt to reach a settlement of the issues still in dispute by further negotiations. Within fourteen (14) days of the vote by either party to reject the recommendations of the fact-finder, the parties shall submit any issues still in dispute to a final offer settlement procedure, binding conciliation in accordance with the procedures provided in this section.

A. The parties shall request a list of seven arbitrators from FMCS.

B. They shall select an arbitrator to serve as a conciliator from the list provided by FMCS.

C. The parties shall submit all unresolved issues to conciliation.

D. The conciliator may attempt mediation at any time until he/she issues his/her report.

E. The conciliator shall establish a time and place for the hearing.

F. Not later than five (5) days before the hearing, each of the parties shall submit to the conciliator and to the opposing party a written report summarizing the unresolved

issues, and the language by which that party proposes to resolve the dispute as of each issue.

G. The conciliator shall be an arbitrator and shall have the power of an arbitrator under O.R.C. Section 2511, to issue subpoenas for the hearing. The conciliator shall take all the evidence and either party may make a record at its own expense.

H. The conciliator shall proceed to hold a hearing to resolve the impasse in accordance with the rules of the Ohio State Employment Relations Board applied to conciliation procedures. These rules shall apply except as modified by this Article.

I. After the hearing the conciliator shall resolve the unresolved issues by selecting on an issue-by-issue basis from between each of the final settlement offers made by the parties taking into consideration the following:

1. Past collectively bargained agreements between the parties.
2. Comparison of the issues submitted to conciliation relative to the employees in the bargaining unit with those issues related to other public and private employees doing comparable work.
3. The interests and welfare of the public; the ability of the public employer to finance and administer the resolution of 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. The stipulations of the parties.

J. The Conciliator shall make written findings of fact and publish a written opinion and order deciding the issues presented to him/her. He/she shall deliver a copy to each of the parties, at the same time via U.S. Mail or by FAX.

K. The parties shall each pay one-half the cost of the conciliation procedure.

Section 4: The issuance of a final offer settlement award constitutes a binding mandate to the employer and the union to take whatever action may be necessary to implement the award. Both parties agree to be bound by the award and order on all issues resolved by the conciliator and all issues previously resolved by agreement of the parties during negotiations. This award, order, and all previously negotiated agreements shall constitute amendments to the collective bargaining agreement without the necessity of either party taking any further action. However, the parties may, if they desire to do so by agreement execute an amended collective bargaining agreement including the award and order of the conciliator and all tentatively agreed upon issues not submitted to the conciliator for resolution.

The impetus behind the Union's proposed language is the result of insurance carriers changing health care plans, resulting in changed coverage for employees, and grievances being filed and pursued through arbitration. This is costly, the Union maintains, and its proposed language promotes dealing with those health care changes outside the grievance and arbitration process.

Moreover, the Union continues, in the mater of *In Re Toledo City School Dist. Bd. of Ed.*, SERB 2001-005 (10-1-01), SERB, noting the decisions of *In Re SERB v. Youngstown City School Dist. Bd. of Ed.*, SERB 95-010 (6-30-95) and *In Re Franklin County Sheriff*, SERB 90-012 (7-18-90), indicated an Employer, in the absence of a settlement procedure, may implement its last best offer when the Parties reach impasse during mid-term bargaining over subjects not

covered by the Collective Bargaining Agreement. SERB also recommended Parties adopt mid-term dispute resolution procedures for such situations in that the statutory dispute procedure do not apply. The Union closed by noting the FOP is attempting to negotiate this language into all its agreements.

The City opposes the proposed language, arguing is overly arduous and unnecessary. If the language is implemented, the City states, the Parties may never leave the bargaining table. Moreover, this language was proposed during negotiations for the current Agreement, and rejected by the Fact-Finder, and another Fact-Finder rejected this language in another city. The City points to the MOU entered into mid-term during the current Agreement without the Union's proposed language as an indication the proposed Mid-Term Dispute Resolution Procedure is not needed.

RECOMMENDATION

It is initially noted the Parties' Labor Agreement, through the mid-term MOU, provides changes in coverage must be to a plan similar to, or better than, the plan currently in effect, and prohibits substantial changes in coverage absent mutual agreement of the Parties. Deviations from this contractual mandate are subject to the grievance and arbitration process. Thus, employees have protection from being compelled to accept plans that are otherwise unacceptable. While the Union argues grievances and arbitration are costly, its proposed language appears to be just as costly.

The Union's proposed language, however, goes beyond health insurance, to all issues of proposals that affect terms and conditions of employment that may arise mid-term and are not covered by the Parties' Labor Agreement. SERB recommends such a procedure, however, what the Fact-Finder finds troubling, given the City's below objections to the Union's proposed Alternative Dispute Resolution Procedures, is the fact that the Union's language compels the City to agree to a Mid-Term Resolution Procedure that, in effect, takes the matter from SERB into an Alternative Dispute Resolution Procedure involving the FMCS.

The Fact-Finder recommends the language of the Union's proposed Mid-Term Resolution Procedure not be incorporated into the Parties' Labor Agreement.

NEW ARTICLE ALTERNATIVE DISPUTE RESOLUTION PROCEDURES

The Union proposes the following Alternative Dispute Resolution Procedures:

Section 1: The procedures contained in this section shall govern disputes between the F.O.P. and the City of Streetsboro concerning the termination of this agreement, the modification of this agreement or the negotiation of a successor agreement.

A. One hundred twenty (120) days before the expiration date of this agreement either party may serve notice upon the other that it desires to terminate, modify or negotiate a successor collective bargaining agreement.

B. Both parties shall bargain collectively with the other party for the purpose of modifying this agreement or negotiating a successor agreement.

C. The parties shall continue in full force and effect all terms and conditions of this existing agreement until a new agreement is agreed upon or established by operation of this section.

Section 2: Not later than thirty-one (31) days prior to the expiration of this agreement, if the parties have reached an impasse, the parties shall submit their dispute to a fact-finder agreed upon by selecting from a list of arbitrators provided by FMCS in accordance with the following procedure.

A. The list may be requested from FMCS by either party. Each party has the right to reject one list provided by FMCS in which event the rejecting party shall immediately ask FMCS and pay for a substitute list.

B. The fact-finder shall proceed to hold a hearing to resolve the impasse in accordance with the rules of the Ohio State Employment Relations Board applied to fact-finding procedures. These rules shall apply except as modified by this Article.

C. Each party shall submit a written statement outlining its position on each of the unresolved issues and the language for insertion in the contract by which it proposes to resolve the impasse.

D. The fact-finder shall make a final recommendation as to all of the unresolved issues.

E. The following guidelines shall be applied by the fact-finder:

1. The fact-finder shall establish times and place of the hearing.

2. The fact-finder shall take into consideration the factors listed in Section 3(I) below.

3. The fact-finder may attempt mediation of the dispute at any time until a final recommendation is made.

4. The fact-finder shall transmit his/her recommendations to the employer and the union, at the same time via U.S. Mail or by Fax.

5. Each party shall pay one-half the cost of the fact-finding procedure.

F. Not less than fourteen (14) days after the recommendations of the fact-finder are received by the parties, the legislative body by a three-fifths vote of its total membership and, in the case of the union, the membership by a three-fifths vote of the total membership may reject the recommendations. If neither party rejects the recommendations, the recommendations shall be deemed agreed upon as the final resolution of the issues submitted. A collective bargaining agreement shall be executed between the parties including the recommendations of the fact-finder, and all other issues tentatively agreed upon before the disputed issues were submitted to the fact-finder.

Section 3: If either the legislative body or the membership of the union rejects the recommendations, the parties may again attempt to reach a settlement of the issues still in dispute by further negotiations. Within fourteen (14) days of the vote by either

party to reject the recommendations of the fact-finder, the parties shall submit any issues still in dispute to a final offer settlement procedure, binding conciliation in accordance with the procedures provided in this section.

A. The parties shall request a list of seven arbitrators from FMCS.

B. They shall select an arbitrator to serve as a conciliator from the list provided by FMCS.

C. The parties shall submit all unresolved issues to conciliation.

D. The conciliator may attempt mediation at any time until he/she issues his/her report.

E. The conciliator shall establish a time and place for the hearing.

F. Not later than five (5) days before the hearing, each of the parties shall submit to the conciliator and to the opposing party a written report summarizing the unresolved issues, and the language by which that party proposes to resolve the dispute as of each issue.

G. The conciliator shall be an arbitrator and shall have the power of an arbitrator under O.R.C. Section 2511. to issue subpoenas for the hearing. The conciliator shall take all the evidence and either party may make a record at its own expense.

H. The conciliator shall proceed to hold a hearing to resolve the impasse in accordance with the rules of the Ohio State Employment Relations Board applied to conciliation procedures. These rules shall apply except as modified by this Article.

After the hearing the conciliator shall resolve the unresolved issues by selecting on an issue-by-issue basis from between each of the final settlement offers made by the parties taking into consideration the following:

1. Past collectively bargained agreements between the parties.

2. Comparison of the issues submitted to conciliation relative to the employees in the bargaining unit with those issues related to other public and private employees doing comparable work.

3. The interests and welfare of the public; the ability of the public employer to finance and administer the resolution of 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. The stipulations of the parties.

J. The Conciliator shall make written findings of fact and publish a written opinion and order deciding the issues presented to him/her. He/she shall deliver a copy to each of the parties, at the same time via U.S. Mail or by Fax.

K. The parties shall each pay one-half the cost of the conciliation procedure.

Section 4: The issuance of a final offer settlement award constitutes a binding mandate to the employer and the union to take whatever action may be necessary to implement the award. Both parties agree to be bound by the award and order on all issues resolved by the conciliator and all issues previously resolved by agreement of the parties during negotiations. This award, order and all tentatively agreed upon issues, shall constitute the new collective bargaining agreement without the necessity of either party taking any further action. However, the parties may, if they desire to do so by agreement execute a new collective bargaining agreement including the award and order of the conciliator and all tentatively agreed upon issues not submitted to the conciliator for resolution.

The Union requests the proposed language, pointing to the length of time under SERB guidelines the within matter has been ongoing. With its proposed language, the Union believes final determination regarding new Agreements will be made more expeditiously.

The City opposes the language, indicating it will subject the Parties to additional costs, is unnecessary, and mirrors ORC 4117, with the substitution of FMCS for SERB as the place to obtain neutrals. The City's preference is to remain entirely within ORC 4117. Regarding the within matter, the City points out the Parties' first negotiating session did not take place until August due to the inability of the Parties to find available dates on their calendars to meet.

RECOMMENDATION

There is no compelling reason for recommending the Union's proposed language, and the Fact-Finder recommends the Union's proposed language not be incorporated into the Parties' Labor Agreement.

ADDITIONAL PROPOSALS NOT CONTAINED IN POSITION STATEMENT

The City proposed language for the first time at the second day of the fact-finding hearing, which it desired to have incorporated into the Collective Bargaining Agreement. Said proposals were not presented in the City's Position Statement, and the Union objects to consideration of the City's proposed language. The objection is sustained. The City's proposed language, presented for the first time on day two of the fact-finding hearing, entitled Accrual, Reasonable Notice, Undue Disruption, and Voluntary Overtime/Alternative Coverage, will not be considered.

ISSUES OF TENTATIVE AGREEMENT

In addition to the issues at impasse, the Parties have made proposals, concessions, and withdrawal of proposals in the course of bargaining. Tentative Agreements have been reached on numerous issues as follows:

ISSUE NO. 8 VACATIONS (City and Union Resolution)
Current Article No. 22
The parties agree to modify this Article to read as follows:
Section 3 Vacation may be taken off in minimum segments of four (4) hours, not to exceed twenty-five (25) days annually. Requests for individual days off are subject to the minimum staffing needs of the department. Such requests must be made to and approved by the employee's scheduled shift OIC, or the duty OIC if the shift OIC is unavailable. Thereafter, only forty (40) hour segments of vacation may be taken as time

off from work. An employee may request a one day selection of vacation or more although another bargaining unit member is approved for a 40 hour block or is presently on vacation. However, for both pre-scheduled vacation requests, and non pre-scheduled vacation requests, as outlined in this Article, forty (40) hour blocks or more of vacation supersede any request for individual days off when such requests cover the same time period. Requests covering two (2), three (3), or four (4) consecutive workdays shall be treated as separate requests for leave covering individual workdays which irrelevantly fall consecutively.

Section 9 Pre-Scheduled Vacation Request: Seniority will govern during this selection process, with selection slots based upon Streetsboro Police Department full-time service. Each employee is provided with his/her allotted vacation hours for the upcoming year, and a designated time frame to post his/her vacation time requests. Patrol & Sergeants select and post as one group for the Patrol schedule. Dispatch selects and posts as a separate group for the Dispatcher schedule.

All such requests shall be in blocks of five or more workdays (40+ hour blocks), or, the member may select individual day(s), pursuant to the individual day numerical restrictions of Section 3 of this Article during vacation selection, with the understanding that 40+ hour blocks will supersede requests for individual days (i.e. if other less senior members select the same date as your individual day(s) as part of 40+ hour blocks, the 40+hour block may supersede (or "bump") the individual date request). Three (3) officers and one (1) Dispatcher may pre-schedule the same time period, regardless of shift assignment. Upon completion, the Employer will post all pre-scheduled vacation time for employees to coincide with the posting of the new work schedule which then goes into effect. The new work schedule shall reflect all pre-scheduled vacation leave.

The Police Chief or designee reserves the right to modify such vacation requests in order to maintain effective departmental operations and services to the community. Such requests shall not be unreasonably denied. Should such circumstance arise, the Police Chief or designee will provide the union a minimum of thirty (30) days notice of such operational change, or in the case of exigent circumstances, as much notice as is practicable under such circumstance.

~~*Section 10 For the purpose of vacation selections among the bargaining unit members, selection slots will be based on Streetsboro Police Department full-time seniority, with three (3) officers and one (1) dispatcher being permitted on vacation at a given time.*~~

Section 10 Non Pre-Scheduled Vacation Request: For the purposes of vacation selection among the bargaining unit members as outlined in Section 9 of this Article, the Employer will allow three (3) officers and (1) dispatcher to pre-schedule vacation time off at a given time during the department's designated vacation selection period, regardless of shift assignment. Thereafter, the Employer will continue to allow vacation time to be requested throughout the succeeding work schedule (this shall be considered "*non pre-scheduled requests*"), without numerical restrictions, with the understanding that all such non pre-scheduled vacation time requests shall be approved for times that do not create overtime. All non pre-scheduled vacation requests of 40+ hour blocks shall require thirty (30) days advance written notice to the Police Chief or designee.

New Section Officers in specialty assignments, when not assigned to patrol duties, shall not be included in the maximum number of officers permitted off by the Employer.

New Section Any vacation leave approved by the Police Chief or designee under this Article may be cancelled upon a declaration of emergency. In the event any vacation leave is cancelled by the Employer, the employee shall: 1) be given as much

advance notice as is practicable under the circumstance, 2) shall not lose such vacation time, and 3) shall be permitted to carry over such vacation time into the succeeding year if not re-scheduled.

ISSUE NO. 13 SICK LEAVE (City and Union Resolution)

The parties agree to modify the following Sections in this Article to read as follows:

Current Article No. 31

Section 1. Sick leave shall be defined as an absence with pay necessitated by : 1) illness, pregnancy, or injury to the bargaining unit member; 2) exposure by the bargaining unit member to a contagious disease communicable to other employees; and/or 3) illness, injury or death in the bargaining unit member's immediate family. Sick leave will be approved for an immediate family member only where the presence of the employee is required to care for such immediate family member. Time off for doctor and dental appointments shall be charged to sick leave.

Section 8 Bargaining unit members shall have the right to trade one (1) sick day for one (1) personal day with a limit of three (3) per calendar year. The use of personal time will be taken in either four (4) or eight (8) hour segments as approved by the Police Chief, and approval will be granted so long as the request would not interfere with efficient operations of the police department, or, take the requesting member's shift below minimum staffing levels as determined by the Police Chief. In emergency situations, short notice approval will not be unreasonably withheld. The Police Chief or designee reserves the option at his discretion to request such member provide sufficient proof of the "emergency situation" before personal time is actually paid.

Section 9 When the use of sick leave is due to illness or injury in the immediate family, "immediate" family shall be construed to mean: husband, wife, son, ~~*or daughter, or a grandchild, mother or father residing with the employee*~~ daughter, grandchild, brother, sister, mother, father, grandmother, grandfather. When the use of sick leave is due to death in the immediate family, "immediate family" shall be defined to include the bargaining unit member's parents, grandparents, spouse, spouse's grandparents, spouse's parents, child, grandchild, brother, sister, or person in loco parentis. In addition to chargeable sick leave referred to herein, the responsible administrative officer shall grant three (3) days paid leave for absence due to death in the immediate family of such employee. This time granted shall not be chargeable to sick leave.

ISSUE NO. 15 INJURY DUTY LEAVE (City and Union Resolution)

Current Article No. 34

The parties agree to modify this Article to read as follows:

ARTICLE 36

INJURY DUTY LEAVE

Section 1 In the event of an occupational injury, or illness incurred as a direct result of performing his or her sworn duties as a police officer and dispatcher, said employee will be entitled to up to~~, but not~~ more than ninety (90) work days of injury leave. The mayor may extend such injury duty leave on a case by case basis taking into consideration the nature of the injury the prognosis for return and actions that resulted in the injury.

Section 2 No Changes

Section 3 No Changes

Section 4 No Changes

Section 5 There shall be no loss of benefits under this Labor Agreement while a bargaining unit member is on injury leave. Employees utilizing approved paid Injury Leave benefits shall be considered day shift employees while on such approved

paid leave, and shall not accumulate overtime. Further, employees utilizing the provisions under this Article are prohibited from working for any outside employer during the approved paid Injury Leave period, as well as departmental approved extra job details.

The Parties request the Fact-Finder incorporate the Tentative Agreements into the final Fact-Finding Report, subject to the three-fifths voting standards of the statute. The Fact-Finder agrees to the Parties' request. It is recommended that the above identified issues of Tentative Agreement be incorporated into the Parties' Contract.

MISCELLANEOUS ISSUES AND DISPUTED TENTATIVE AGREEMENTS

During the second day of the Fact-Finding Hearing, the City raised Issue 2 Schedules, Issue 3 Expenses, Issue 4 Jury and Witness Duty Court Time, Issue 5 School Cost Reimbursement, Issue 6 Sick Leave Retirement Pay, Issue 8 Show-Up, and Issue 12 Longevity/Classifications, which were discussed, and Tentative Agreements reached, in addition to those quoted above, on some of those issues. The City was to prepare the Tentative Agreements and distribute same to the Fact-Finder and the Union. Disagreement arose between the Parties regarding the language of the Tentative Agreements as prepared by the City, with the Union indicating they did not accurately reflect the agreements reached at the Fact-Finding Hearing. Copies of those Tentative Agreements have not been provided to the Fact-Finder.

With the exception of the Tentative Agreements reached at the second day of the Hearing, which are now in dispute and repudiated, the Union rejects the remainder of the City's day two proposals. The Union agrees to the City's proposed language regarding Issues 5, 6, and 12, and are discussed below.

RECOMMENDATIONS

ARTICLE 20 SCHOOL COST REIMBURSEMENT

The Fact-Finder recommends the following language be added to the beginning of Article 20:

Upon presentation of receipt/proof of payment

ARTICLE 21 SICK LEAVE RETIREMENT PAY

There is a typographical error wherein a written and numerical expression of the benefit provided do not coincide, that is, the phrase currently reads, ". . . multiplied by one-third ('/2) . .

." The Fact-Finder recommends the typographical error be corrected to read, ". . . multiplied by one-third (1/3) . . ."

ARTICLE 28 COMPENSATION and ARTICLE 30 LONGEVITY

The City indicates Section 4 of Article 30 should be moved to Article 28, as it addresses a Bargaining Unit Member's placement in pay grade, not longevity. The Fact-Finder agrees and recommends Section 4 of Article 30 be moved to Article 28 as Section 4 therein.

Other than the above Issues 5, 6, and 12, no compelling reasons were established for the inclusion of the City's proposed language. It is the recommendation of the Fact-Finder those additional City proposals not be incorporated into the Parties' Collective Bargaining Agreement.

Colman R. Lalka, Fact-Finder

Dated: February 28, 2007
Madison, Lake County, Ohio

Colman R. Lalka

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February 28, 2007

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STATE EMPLOYMENT RELATIONS BOARD
2007 MAR -2 A 11: 20

In Re: City of Streetsboro, Ohio and FOP
SERB Case No: 06-MED-04-0457, -0458, -0459

Dear Sirs:

Enclosed herewith for each of you please find one copy of the Fact-Finder's Report and Recommendations in the captioned matter, together with a copy of an invoice for services rendered. An IRS Form W-9 is also enclosed to Mr. Benjamin.

Please review the invoice, provide any necessary approvals, and forward same to the appropriate officer for processing and payment.

Thank you for your kind cooperation in this, and throughout these proceedings. It was a pleasure to work with you.

Very truly yours,

Colman R. Lalka

Enclosures: Report and Recommendations
Invoice
W-9 to Mr. Benjamin