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**STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD  
FACT FINDER'S REPORT**

In the Matter of Fact Finding	)	SERB No. 06 MED-12-1400
	)	
-between-	)	
	)	
City of Vermilion	)	Daniel L. Merritt Esq.
	)	
The Employer	)	Fact Finder
	)	
-and-	)	
	)	
Ohio Patrolman's Benevolent Association	)	17 August 2007
	)	
The Union	)	
	)	

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Pursuant to the Ohio Revised Code Section 4117.14 (c)(3) The State Employment Relations Board appointed Daniel L. Merritt, Esq. as Fact Finder in the above referenced matter. In their negotiations for a successor contract to replace one that expired on 31 December 2006 the parties were unable to reach agreement on all of the issues in dispute. Accordingly a fact finding hearing was scheduled for 10 August 2007.

## APPEARANCES

### For the Employer

Patrick Hire                      Regional Manager  
    Clemans-Nelson Associate

Wayne Hamilton                 Director of Finance  
    City of Vermilion

### For the Union

Kevin Powers                     Attorney-Ohio Patrolmen's Benevolent Association

Stephen Davis                    Sergeant-Police Department, City of Vermilion

Dean Mayer                        Corporal-Police Department, City of Vermilion

## BACKGROUND

The City of Vermilion (herein called the "City" or "Employer") and the Ohio Patrolmen's Benevolent Association (herein called the "Union") are the parties involved in the current labor dispute. The bargaining unit consists of patrolmen and sergeants with about eighteen employees.

The parties negotiated a previous contract which expired on 31 December 2006. The parties met for negotiations on 18 January 2007, 26 January 2007, 19 April 2007 and 3 May 2007. The parties failed to reach agreement on all issues. Approximately thirteen issues remained unresolved. On 23 May 2007 the State Employment Relations Board appointed Daniel L. Merritt Esq. as the impartial Fact Finder in compliance with Ohio Revised Code § 4117.14 (c)(3).

A Fact Finding hearing was scheduled for 10 August 2007 at the City of Vermilion Municipal Court Building. Mediation was offered to the parties and was accepted. Some of the unresolved issues were resolved by the parties during the mediation phase. The issues resolved by the parties included ARTICLE 18 College Incentive, ARTICLE 21 Uniform Allowance, ARTICLE 3.1 Funeral Leave and ARTICLE 33 Sick Leave Conversion. The language of the above cited Articles will remain the same in the new contract. The parties also agree to not include proposed new Articles dealing with Fitness Incentive and Staffing Levels. Thus immediate agreement was reached by the parties concerning six Articles at issue.

The parties continued discussions concerning four additional Articles including ARTICLE 25.01 Hospitalization and Medical insurance Optical and Dental Care. ARTICLE 30.01 Holidays , ARTICLE 39.01 Duration of Agreement and New ARTICLE Work Rules. The discussion resulted in agreement about each of the Articles. The agreed upon modified Articles are listed below.

#### ARTICLE 25.01

#### HOSPITALIZATION AND MEDICAL INSURANCE OPTICAL AND DENTAL CARE

25.01. Hospital and Medical Insurance. The Employer agrees to provide the eligible bargaining unit employees the same hospitalization and medical insurance plan(s) as currently in effect except as expressly modified in 25.02 and will continue unless modified in accordance with 25.03.

Section 25.02. Prescriptions and Premium Cost. Notwithstanding the above, and effective upon execution of the labor agreement, the Employer agrees to the following employee caps: \$10.00 co-payment for generic prescriptions; \$20.00 co-payment for preferred prescriptions; \$30.00 co-payment for non-preferred prescriptions; and a 5% premium cost not to exceed \$40.00 per month, unless modified in accordance with Section 25.03

Section 25.03. Health Insurance Committee. The Employer agrees to establish a joint advisory committee on healthcare benefits which shall include a representative from each bargaining unit. The joint committee will evaluate, periodically, the benefits and costs and make recommendations to the City for cost containment measures. The Employer agrees to present any suggested changes to the Health Insurance Committee at least three days prior to the effective date of any such changes.

The current article will be deleted.

#### ARTICLE 30.01

##### HOLIDAYS

All bargaining unit members shall be paid their regular rate of pay for 96 holiday hours per year. The holidays are as follows:

New Years Day	Labor Day
Martin Luther King Day	Columbus Day
Presidents Day	Thanksgiving Day
½ day Good Friday	Veterans Day
Easter	½ day Christmas Eve
Memorial Day	Christmas Day
Independence Day	

All bargaining unit members that work during the following holidays, shall also receive an additional payment at time and one-half (1 ½) for the hours worked during the calendar date of the holiday:

New Years Day	Labor Day
Memorial Day	Thanksgiving Day
Independence Day	Christmas Day

Employees who retire shall be eligible for all 96 hours of holiday pay in the year retirement. Employees entering the bargaining unit shall be entitled only to the holidays remaining in the year.

## NEW ARTICLE

### WORK RULES

Section .1. Employer's Right to Promulgate. The Union recognizes that the Employer, in order to carry out its statutory mandates and goals, has the right to promulgate work rules consistent with the Employer's statutory authority to regulate the personal conduct of employees, and the conduct of the Employer's operations, services, programs and business. Work rules shall not be applied in violation of the express terms of this Agreement.

Section .2. Prior to implementing new or changed work rules, policies, procedures, job descriptions, or standard operating procedures or other changes that materially affect the terms or conditions of employment of bargaining unit employees, the Employer will notify the union at least seven (7) calendar days in advance of the effective date. If the union requests to bargain over such a change within that notice period, the Employer and the Union will negotiate in good faith. Such negotiations shall be conducted in accordance with O.R.C. § 4117.14, provided the notice to negotiate is filed within the *seven (7) day notification requirement discussed above*. However, the parties agree that the dispute resolution process shall end with fact-finding. Any fact-finding award shall be final and binding upon the parties. Notwithstanding the previous paragraph, if the change is not a mandatory topic of bargaining under O.R.C. § 4117, or in any case if the change is necessary due to exigent circumstances or a state or federal directive or regulation, the Employer is not required to give the seven (7) calendar day notice to

bargain over it; however, the Employer may elect to do so, if time permits, without waiving his rights.

Section .3. Newly written work rules, regulations, policies, procedures, job descriptions, or standard operating procedures applicable to bargaining unit employees will be posted or otherwise communicated to the affected employees in advance; provided the parties recognize that certain situations, for example, an emergency or state or federal directive, may require that the Employer implement a change immediately.

#### ARTICLE 39.01

#### DURATION OF AGREEMENT

(a) This Agreement shall be effective upon signing and shall remain in full force and effect until December 31, 2009

(b) Current Language.

(c) Current Language.

ISSUES  
AND  
RECOMMENDATIONS

Three main issues remained to be resolved and include: ARTICLE 16 Economic Package, ARTICLE 19 Longevity. The parties presented testimony and documentation to support their respective positions on each of the three issues.

The Fact Finder considered all testimony of witnesses and all of the detailed documentary evidence submitted by the parties to reach the conclusions and recommendations listed below. The Fact Finder considered the criteria listed in Rule 4117-9-05 (k) of the State Employment Relations Board

1. ARTICLE 16 Economic Package

Union Position

The Union initially proposed that a six percent (6%) raise be given to the members of the bargaining unit for each year of a three year contract. The Union asserted that the members of the police bargaining unit are among the lowest paid in the area. The Union noted the high educational level and training of the Police Department members. The Union at the fact finding hearing reduced the proposed raise to four percent (4%) increase for each year of a three year contract. The Union further asserted that the City has the ability to fund the proposed increases. The Union

submitted documentation to support the claims noted above. The Union asked that wages be retroactive to 1 January 2007.

### Employer Position

The Employer was concerned about past practice language in Section 16.01. Indeed, because of alleged political differences city records in the Mayor's office were removed and some are still missing. The City asserted they could not identify past practices.

The Employer asserted that the Union's comparables were incomplete and that the current wages paid to the bargaining unit members actually place them at the middle of area wage scales.

The Employer also asserted that the City of Vermilion has suffered poor economic conditions and continues to have financial problems. Residents of the City have voted down attempts to increase income tax revenues. The City has attempted to "live within its means" and has taken steps to reduce expenditures. The City did not claim an "inability to pay." The Employer offered 1.5%, 2% and 2% pay increases.

### Recommendation

The Fact Finder has received the extensive documentation provided by the parties regarding the financial condition of the City and related economic data. The City



2.

## ARTICLE 17 PARITY

### Union Position

The Union wants to retain this provision of the contract as protection for their bargaining unit members.

### Employer Position

The Employer wants to eliminate this ARTICLE which was, according to the Employer, originally approved to implement one health insurance plan. The City asserts that provision is no longer viable and the elimination would take no benefit from any bargaining unit member.

### Recommendation

The Fact Finder could discern no strong reason or evidence as to why the provision should be eliminated. The Fact Finder recommends that current contract *language be maintained*.

3.

ARTICLE 19 LONGEVITY

Union Position

The Union considers the longevity provision comparable to other longevity provisions contained in other local police department contracts. The provision aids in the retention of excellent officers by rewarding officers who remain as experienced officers in Vermilion. The provision helps to create a positive career environment. The Union would retain current contract language adjusted to reflect a change in base pay. City leaders need to show leadership to support public safety forces.

Employer Position

The Employer cited the dismal economic picture that has affected the City of Vermilion. The Employer seeks to cap the longevity increases in order to control expenditures. The Employer also asserted that the switch to a lump sum payment would reduce the expenditures but not harm full time employees. The Employer cited the difficulty it had with City voters who refused to increase the income tax and refused to reduce the City resident's exemptions from paying the City income tax.

Recommendation

The Fact Finder reviewed the extensive economic data related to this issue. The arguments for this Article and Article 16 Economic Package are interrelated. The Fact Finder after careful review of all evidence believes that the City has the ability to pay for the reasonable costs associated with the present longevity Article. Residents may be reluctant to pay for essential services and that is why we elect leaders to lead. The economic provisions of the longevity section are not unreasonable.

The Fact Finder recommends that the current contract language of ARTICLE 19 be retained and adjusted to reflect changes in the base pay.

ARTICLE 19

LONGEVITY

Retain current contract language adjusted to reflect changes in the base pay.

Entered this day  
17 August 2007  
Sylvania, Ohio

Respectfully submitted



Daniel L. Merritt Esq.  
Fact Finder

## CERTIFICATE OF SERVICE

This is to certify that a true copy of the Fact Finding Report for the City of Vermilion and the Ohio Patrolmen's Benevolent Association was sent to Edward E. Turner Administrator, Bureau of Mediation, SERB by regular mail and to the parties representatives by Express Mail on the day 17 August 2007. The report was served upon:

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