

STATE EMPLOYMENT RELATIONS BOARD  
STATE OF OHIO

2008 AUG 18 P 2: 23

In the matter of Fact Finding between: )  
)  
CITY OF SPRINGDALE, OHIO )  
)  
and )  
)  
FRATERNAL ORDER OF POLICE, )  
OHIO LABOR COUNCIL, INC. )

SERB No. 07-MED-09-0947

Hearing: June 13, 2008  
at Springdale, Ohio

Date of Report:  
August 15, 2008

**FACT FINDING REPORT**

Appearances:

Mitchell B. Goldberg,

Appointed Fact Finder

For the City:

Paul Berninger, Esq.,  
Michael Laage,  
Derrick Parham,  
Jeff Williams,

Attorney  
Police Chief  
Assistant City Administrator  
Finance Officer/Tax Commissioner

For the FOP:

Thomas Fehr,  
Josef Ture,  
David Buschmann,  
Barrie Norris,

OLC Staff Representative  
Police Officer  
Police Officer  
Police Officer

## I. Introduction and Background.

The State Employment Relations Board ("SERB") appointed the undersigned as the Fact Finder for this public employment labor dispute on November 26, 2007. The parties entered into a written agreement extending the date for the issuance of this Report to July 31, 2008. They agreed at the hearing held on June 13, 2008 that the Report shall be issued on August 15, 2008, and mailed to SERB by U.S. Mail, first class, on that date.

The hearing was held at the City's offices in Springdale, Ohio. The parties complied with their statutory obligations by timely submitting pre-hearing statements to the Fact Finder before the commencement of the hearing. They presented their respective positions on the unresolved issues, and each party submitted documentary exhibits.

The bargaining unit consists of approximately 28 sworn police officers and excludes those employed above the rank of sergeant and civilian employees. The unit was deemed certified in 1984. The collective bargaining agreement expired on December 31, 2007. The parties negotiated in seven sessions from September 2007 through March 26, 2008.

The Fact Finder considered all of the required factors set forth in the Ohio Revised Code, the Administrative Code, and the SERB guidelines in issuing the following recommendations on the unresolved issues. All unchanged language in the expired collective bargaining agreement, and all items and issues tentatively agreed upon between the parties are hereby adopted for purposes of this Report, and are hereby

incorporated herein. The following issues remain unresolved: Article 11, Wages; Article 19, Acting Supervisor; Article 29, Insurance; and Article 39, Duration of Agreement.

## II. Economic Evidence.

The City does not contend that it is unable to pay the monetary obligations contained in the FOP's proposals. It does, however, contend that certain economic facts and circumstances require it to take a conservative approach to paying wages and economic benefits to its employees, since these expenditures compose the greatest part of its budgeted resources. The questionable state of the economy has required the City to defer purchases of capital equipment costing over \$5,000, and expenditures for capital projects until after the first quarter of 2008.

Historically, the City has budgeted for a 2% increase in its earnings tax collections each year. For 2008, this was a \$2,000,000 increase. As of June 13, collections have fallen below budget by \$16,000,000. The estimated collections for 2008 will fall below 2007 collections, and substantially below the amount budgeted for 2008.

Demographic information provided by the City shows that population has declined since 1998. Estimated personal income has declined in that period. Per capita income has remained constant. School enrollment has declined substantially and unemployment is now at 5%, up from 2.90% in 1998. Police income has increased by 31% over the period, but the income of citizens has only increased by 3%. The estimated

average annual income of all residents who had taxable income in 2007 was approximately \$43,630, compared to \$35,770 in 1996. Income taxes are paid at 1%-1.5%. Public employee wages and benefits must be monitored and controlled in these difficult economic times.

In terms of expenses, health insurance costs continue to escalate at rates far beyond inflation. The City is a self-insurer with excellent plans, but costs continue to increase beyond premium receipts. In 2007, fund receipts were \$1,486,059; expenditures were \$1,421,187, with a balance of \$137,656. Employee contributions for 2007 were only \$65,513 toward the rising premiums. Claims expenditures have increased from \$393,716 in 1996 to \$1,417,815 in 2007.

The FOP believes that its economic proposals are reasonable considering wages and benefits paid to comparable departments in the area, and to internal employees, including the fire fighters. The cost of living has increased dramatically in terms of core family expenditures, including fuel for homes and vehicles, food, education and all of the other living expenses impacted by the high gasoline and fuel prices.

The FOP believes that the City is in a healthy financial condition despite the recent poor economic news. It will have anywhere from 2.5 million to 4 million in its ending fund balance for 2008, a substantial reserve.

## II. Unresolved Issues.

### ARTICLE 11 – WAGES

The FOP proposes the following across the board wage increases for a three-year contract retroactive to January 1, 2008: 5% for 2008, 4% for 2009 and 4% for 2010.

This package is similar to the agreement reached with the firefighters, 12.5% over three years. The firefighters in consideration for the wage payments agreed to increase their insurance premium contribution to \$100 per month for the family plan and \$50 for single coverage. The FOP was willing to accept the insurance increase, but wants the same wage increase.

Presently for 2008, Springdale is in the lower one-half of a group of comparable departments in terms of wages. The top rates are as follows: Blue Ash, \$66,354; Sharonville, \$65,000; Montgomery, \$64,834; Fairfield, \$63,752 (for 2007); Forest Park, \$62,461; Norwood, \$61,657; and Miami Township, \$58,490. The top rate for Springdale for 2007 is \$61,903. The 2008 rate with the proposed increase will be \$64,998, bringing Springdale back to the top half of the group.

The City received an earnings tax increase in 2004 raising the income tax rate from 1% to 1.5%. It believes that there are more important priorities for spending the additional revenue than increasing police wages. The citizens did not intend to direct the additional revenue for this purpose when they voted for the increase. The City proposes across the board increases of 3% for each year of a three-year agreement.

Matching pay increases between police and fire employees is not always necessary or warranted. The lockstep approach results in a continuous pattern of pay increases that ignores the reality of the underlying economic circumstances. If the City accepts the FOP proposal, it will result in much higher pay for the police. The disparity between the two safety forces was part of the underlying reason for the fire increase when the top rate for firefighters was \$58,000. Police officers were at more than \$62,000. Creating the disparity again will only fuel further requests for comparability when the fire contract expires. This pattern of escalation and spiraling of wage increases must be curtailed as a matter of economic prudence.

Recommendation. After considering all of the evidence and arguments of the parties, I recommend a package of across the board wage increases of 4% for 2008, 4% for 2009 and 3.5% for 2010. This recommendation is based more upon the comparison with wages paid in nearby departments than with any principle of internal comparability with the pay to firefighters. It also is based upon the recent spike in the cost of living due to energy prices, which many believe will remain high for some time. For 2008, the top rate will be \$64, 379.12, a rate that is comparable with nearby Sharonville and Fairfield.

#### ARTICLE 19 – ACTING SUPERVISOR

The present language permits the Chief to select an officer to be the acting supervisor when necessary due to the absence or unavailability of a supervisor. When this is done, the acting supervisor receives a premium payment of 10%. The FOP objects to the principle that one may be ordered to assume this duty; they prefer this to be a

voluntary assignment that may be rejected because certain officers do not want to assume this added duty and responsibility.

The Chief has persuaded this Fact Finder that he ordinarily would not choose someone to assume this position if that officer stated his or her preference not to do so. However, it is necessary in emergency situations for the selection to be mandatory in order that the Chief may fill the position with an experienced and capable officer.

Recommendation. I recommend the following language change to Article 19:

During the first week in January each year, all officers who are not on probation and are interested in serving as acting supervisors under this section shall indicate their preference to the Chief. All officers who appear on this list shall be ready, willing and able to serve as acting supervisors on any shift where an acting supervisor is needed as determined by the Chief or the Chief's designee. When, due to the absence or unavailability of a supervisor, it becomes necessary for a patrol officer to assume the duties and responsibilities of a supervisor during his/her tour of duty, such acting supervisor shall be paid at a rate 10% higher than the patrol officer's base rate for that period of time for which he/she has assumed those duties. The acting supervisor shall be the most senior officer on duty with prior approval of the Police Chief to serve in that capacity. No officer on probation shall be assigned this position. The Chief or his designee shall select an officer to fill this position from the above list of officers willing to serve, unless the Chief or his designee determines that another selection is necessary and more appropriate to accomplish the needs and objectives of the department under the existing circumstances.

ARTICLE 29 - INSURANCE

The City has proposed increasing the present contribution rate for medical insurance from \$50 per month under the family plan and \$25 for single coverage to \$100/\$50. This is due to the increasing costs for coverage. All other employees pay \$100/\$50. The firefighters agreed to this increase in their contract.

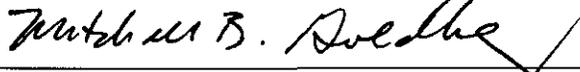
The FOP opposes the increase because the real cost to its members will be 1% to 1.5% of their wages; thereby reducing their actual wage increases during these hard economic times. It agrees that the present plan is an excellent plan in terms of coverage and benefits in today's market.

Recommendation. I find that the proposed increase to bring the police in line with the other City employees is reasonable and will not be out of line with contributions made by officers in comparable departments. Sharonville and Fairfield officers contribute 10% of their premiums. Forest Park officers pay 12.5% in 2008 and 15% in 2009. The FOP has not offered persuasive evidence as to why their contributions should be less than the other City employees who are paid lower wages. It appears that the increase in premium contributions will produce a net decrease in the wage increases for all employees. Accordingly, I recommend that the officers be required to increase their medical insurance premium contributions to \$100 per month for family plans and to \$50 per month for single plans. The increases, however, shall not be assessed and implemented until August 1, 2008.

ARTICLE 39 – DURATION OF AGREEMENT

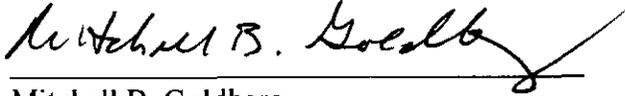
Recommendation. I recommend a three-year agreement in accordance with the past history between the parties. It shall become effective at 12:01 a.m. on January 1, 2008 and shall expire on midnight, December 31, 2010. The above recommendation regarding wages shall become effective on January 1, 2008. The acting supervisor list shall be submitted by all officers within the next thirty days, and shall remain in effect for the remainder of 2008. The list shall be renewed again in January 2009 for 2009 and January 2010 for 2010. The increased health/medical insurance premiums, as stated above, will become effective August 1, 2008.

Date of Report: August 15, 2008

  
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Mitchell B. Goldberg, Appointed Fact Finder

CERTIFICATE OF SERVICE

This Report was served upon Edward E. Turner, Administrator, Bureau of Mediation, SERB, by U.S. Mail, First Class on this 15th day of August 2008. Copies were served upon Thomas J. Fehr, Staff Representative, FOP-OLC, 5752 Cheviot Rd., Suite D, Cincinnati, Ohio 45247, and Paul R. Berninger, Esq., Wood & Lamping LLP, 600 Vine St., Suite 2500, Cincinnati, Ohio 45202.

  
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Mitchell B. Goldberg