

**IN THE MATTER OF FACT FINDING**

2600 OCT 17 P 1:19

**BETWEEN**

**THE CITY OF CUYAHOGA FALLS**

**AND**

**FRATERNAL ORDER OF POLICE, OLC (Dispatchers)**

**SERB CASE # 08-MED-03-0236**

**ADVOCATE FOR THE CITY:**

**Virgil Arrington Jr.  
Director of Law  
City of Cuyahoga Falls  
2310 Second Street  
Cuyahoga Falls OH 44223**

**ADVOCATE FOR THE UNION:**

**Chuck Choate, Staff Representative  
Fraternal Order of Police, OLC, Inc.  
2721 Manchester Road  
Akron OH 44319-1020**

## INTRODUCTION

The bargaining unit is represented by the Fraternal Order of Police, OLC. (hereinafter "Union" or "FOP") and the Employer is the City of Cuyahoga Falls (hereinafter "Employer" or "City"). The bargaining unit is comprised of approximately twelve (12) employees (the Union lists seven (7) employees) who provide dispatching services for the citizens of Cuyahoga Falls, and more recently Silver Lake and Munroe Falls, Ohio. The previous contract between the parties expired June 30, 2008. The parties held four (4) negotiation sessions prior to reaching impasse and were able to resolve several issues. Sessions were held from May through July, 2008. A mediation/fact-finding hearing was held on September 9, 2008 over the following unresolved issues:

### **Listing Of Unresolved Issue(s):**

**Health and Life Insurance**  
**Wages**  
**Contract Term**

Prior and subsequent to a formal submission of evidence, the fact-finder made a concerted effort to reconcile the differences between the parties over the unresolved issues listed above. Settlement possibilities were explored with the parties in an effort to find common ground upon which to construct a settlement. The parties were able to reach a tentative agreement on the critical issue of health care. Both Advocates represented their respective parties well and clearly articulated the position of their clients on the issues in dispute.

## **CRITERIA**

### OHIO REVISED CODE

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

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

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

## **OVERALL RATIONALE FOR RECOMMENDATIONS**

In recent weeks the national economy has become a daily concern. Ohio's economy remains uncertain at best, as does the financial outlook for many Ohio public employers. Approximately 225,000 jobs have been lost during the past ten years, many of them to outsourcing. Compounding the problem of high paying job loss is the recent credit crunch and its impact upon housing values, the severity of which few could have predicted. However, the overall extent to which these matters impact the City of Cuyahoga Falls is not clear. Various public entities in the state are fairing differently. Yet, to ignore the economic jitters that employees and employers are having during these times is to ignore the elephant in the room. All parties are concerned about their bottom lines. However, it is axiomatic that the delivery of quality service depends on recruiting and retaining quality employees, which includes bargaining unit, non-bargaining unit, and managerial employees. Central to maintaining a quality workforce is the maintenance of a competitive wage structure that provides a fair wage for skills, along with quality benefits, and a reasonable working environment.

<b>ISSUE 1</b>	<b>Health and Life Insurance (Article 21)</b>
----------------	-----------------------------------------------

### **Union's Position**

The Union initially proposed current language

## **Employer's Position**

See Attachment A for Employer proposal on a new health care plan.

## **Discussion**

Through mediation efforts of the parties and the fact-finder, the parties were able to reach tentative agreement on the health care plan. The Firefighters contract settlement preceded this fact-finding and the language agreed upon is contained in Attachment A. The Union agreed to the plan submitted by the Employer. However, the Union stipulated to the Employer's plan with a "me too" understanding that all bargaining units in the City would be covered by the same plan as they negotiate successor contracts.

## **FACTFINDER'S DETERMINATION**

**Parties reached tentative Agreement on this issue, which entails the Union's acceptance of the Employer's plan contained in Attachment A of this report, accompanied by an explicit "me too" understanding that all bargaining units will be converting to this plan.**

<b>ISSUE 2 and 3</b>	<b>Wages and Duration</b>
----------------------	---------------------------

## **Union's Position**

The Union proposes to increase wages by 5% for each year of the Agreement (for a three year agreement).

## **Employer's Position**

The Employer proposes to increase wages by 2% for each year of the Agreement (for a two and one-half year agreement)

## **Discussion**

The Employer's wage offer is based several factors. The City cites its declining financial position due to flat revenue collections coupled with rising costs. Over the past few years the City states it has been cutting costs and not filling jobs in order to respond to the continuing decline in its revenue to cost ratio. (Employer Exh. G). If this trend continues, the City asserts it "will hit a financial brick wall." The City says that it is concerned that layoffs may result if the City's finances continue to worsen. All things considered, the City believes it is making a very reasonable offer particularly given the current competitive wages being paid to Dispatchers (Employer Exh. C). The City also argues that its proposal, as opposed to the Union's, is closer to the settlement reached with the Firefighters' bargaining unit.

The Union argues that at the heart of its wage proposal is the fact that Dispatchers have had their duties expanded. The increase in workload has mainly come from dispatching services being performed for the additional entities of Silver Lake and Munroe Falls. The Union argues this has represented an increase in work load of approximately 13%. Union witness, Angela Hawsman, provided detailed testimony in support of the Union's proposal for a wage increase that is considerably above a static wage increase. In particular,

she cited the complexity of acquiring additional knowledge and training as well as the added workload of providing coverage for three different municipalities. The City provided data and arguments to counter the Union's Claim. While acknowledging that the Dispatcher's workload has increased, it asserts, by comparing partial 2007 data with partial 2008 data, that on average calls for service have increased by approximately 5.01% and not 13%. The City also points out that during one month (May) overall calls decreased from 2007 to 2008 despite of the increase in coverage.

The three-year wage settlement with the Firefighters, who also accepted the City's revised health care plan, resulted in wage increases of 2.5%, 2.25%, and 2.25% over a thirty month period. The Firefighters agreed to change the ending date of their contract from June 30, 2011 to December 31, 2010, in effect shortening the duration of their contract to two and one-half years, instead of the typical three years. The City's interest in proposing this change is its attempt to have negotiated contracts that conform to the City's fiscal calendar year. The Union proposes a three year contract wishing to maintain the historical ending date of June 30.

After reviewing all of the evidence and testimony and applying the statutory criteria it is clear that the bargaining unit members have taken on additional responsibilities regarding the added municipalities of Silver Lake and Munroe Falls. The evidence and testimony indicates an increased demand on bargaining unit employees for a greater working knowledge of the geography,

operational procedures, and personnel for three distinct areas of coverage. These knowledge requirements support a modest structural increase in wages. However, it is unclear whether the Dispatcher's workload is substantially more challenging. Dispatchers have only been required to provide coverage of all three municipalities for a few months. It is difficult to state with any certainty how much additional work the bargaining unit is expected to perform until more of a normal routine is established and the learning curve has leveled out. A valid comparable assessment of actual work performed (e.g. calls for service), that compares complete years of pre-multiple city coverage with complete years of post multiple-city coverage, needs to be conducted over a meaningful period of time in order to produce reliable data. An example of this may be a comparison of 2006 and 2007 calls for service with those for 2009 and 2010. This data would then provide the parties with a common base of information to assess whether the execution of the job has materially changed with the expanded area of service.

In addition to the Union's forceful presentation, the City did an effective job of presenting its financial condition. Over the past several years it appears the City has attempted to be prudent and to minimize adverse affects on its work force of some five hundred employees. The data also indicates the current salary level for Dispatchers is very competitive when compared to other comparable districts, although it takes a considerable period of time to get to the top pay step. (Employer Exh. C) And, it is unclear whether there are valid

comparables where dispatchers have to cover at least three distinct communities. The current state of the economy and the City's declining financial position are factors that call for fiscal caution in these troubling times. Moreover, the contract settlement in the Fire Department must be given considerable weight in this matter because it represents a significant internal comparable. It is also important to note that the shorter length of the contract (2.5 years vs. 3 years) magnifies the annual value of wage increases (7% divided by 2.5 years).

#### **FACTFINDER'S DETERMINATION**

**It is recommended that all steps of the bargaining unit's wage schedule be increased by one half of one percent (.5%) to account for the additional knowledge required of Dispatchers who are now providing service to three distinct municipalities (retroactive to July 1, 2008). Following said equity adjustment; the bargaining unit shall receive the following wage increases:**

#### **Article 28**

**Effective July 1, 2008** all bargaining unit members in all steps shall receive a **2.5%** wage increase. **Effective July 1, 2009 and July 1, 2010** all bargaining unit members in all steps shall receive a **2.25% wage** increase.

#### **Article 36**

**This Agreement shall be in effect from July 1, 2008 to December 31, 2010.** To initiate negotiations for a successor agreement, either party shall give written notice to the other at least ninety (90) days prior to **December 31, 2010.**

## TENTATIVE AGREEMENTS

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

The Fact-finder respectfully submits the above recommendations to the parties this 16<sup>th</sup> day of October 2008 in Portage County, Ohio.

A handwritten signature in black ink, appearing to read "Robert G. Stein", written over a horizontal line.

Robert G. Stein, Fact-finder

**Issue 1: Health Care**

**City's Position:** The City proposes the following changes to health care coverage. Language to be deleted is in ~~strikeout~~, new language is in **boldface**:

<b>ARTICLE 21</b>	
<b><u>HEALTH INSURANCE</u></b>	
<p><u>Section 1</u> The City shall make available to all full-time bargaining unit employees comprehensive major medical/hospitalization health care insurance, as set forth in Section 2. The participating employee may elect either single or family coverage.</p>	
<p><u>Section 2.</u> The following summary of medical benefits will be effective April 1, <del>2007</del> <b>2009</b>, <b>except as otherwise noted.</b></p>	
<u>Network:</u>	<u>Non Network:</u>
Percentage Payable after deductible is met	
90%/10%	70%/30%
Maximum Out of Pocket (excluding deductibles and co-pays)	
<del>\$750/\$1,500</del> <b>\$1,000/2,000</b>	<del>\$2,000/\$4,000</del> <b>\$2,500/5,000</b>
Deductible	
<del>\$100/\$200</del> <b>\$150/300</b> except office visit <del>\$200/\$400</del> <b>\$400/\$800</b> except office visit (eff. 1/1/10)	\$200/\$400 <b>\$400/\$800</b> (eff. 1/1/10)
Office Visits/Urgent Care	
<del>\$10</del> <b>\$15</b> co-pay	70%/30%
<p>The <del>\$10.00</del> <b>\$15.00</b> co-pay for office visits applies to all office visits including those for follow-up treatment for a single medical condition.</p>	

Surgery (eliminate surgical schedule)	
90%/10%	70%/30%
Anesthesiology (eliminate 100% billed)	
90%/10%	70%/30%
Emergency Room Deductible:	
<p>\$50 per visit (exclusive of other deductibles). The Emergency Room Deductible shall be waived if, as a result of the condition requiring the Emergency Room visit, the covered person is admitted to an area of the hospital other than the Emergency Room.</p>	
Member Co-pay for Prescription Drugs	
Retail Purchases	Mail Order Purchases (90 day supply)
\$5 generic \$20 formulary name brand \$30 non-formulary name brand	\$10 generic \$40 formulary name brand \$60 non-formulary name brand
<p>If a name brand drug is dispensed, the co-pay for name brand drugs applies regardless of whether a generic equivalent is available. Members needing to take medication for at least 90 days shall, after obtaining two 30 day prescriptions of the drug at retail, obtain further refills through the City's mail order prescription drug service. Members needing to take medication for less than 90 days may purchase said medication by mail order with the co-pay prorated at the rate of the mail order co-pay.</p>	
MM Lifetime Maximum: \$2,000,000	
Spousal Eligibility:	
<p>When the spouse of a member is employed on a full-time basis (defined as 32 or more hours of work per week) or retired and the spouse's employer or retirement plan makes health care coverage available to the spouse – regardless of the cost – the City's coverage of the spouse shall be limited to being secondary to the coverage that is available from the spouse's employer or retirement plan.</p>	
<p>As an alternative to obtaining health care coverage from their primary employers,</p>	

employed spouses may elect to enroll in the City's health care plan by paying a monthly premium equal to the greater of ~~one~~ two-sevenths (~~1/7~~ 2/7) the established COBRA rate for single coverage or any sum received by the employed spouse from his/her employer to decline health care coverage from said employer.

In the event a husband and wife are both employed by the City of Cuyahoga Falls, each will be enrolled with single coverage; provided that if they have dependent children, the husband and wife shall be enrolled together under a single enrollment for family coverage.

A member seeking health care coverage from the City for his/her spouse shall be required to provide to the Department of Human Resources a statement indicating the spouse's employment status along with a statement from the spouse's employer or retirement plan administrator or other appropriate agency that health care coverage is not available to the spouse as a result of the spouse's employment status. The member shall promptly notify the Department of Human Resources of any change in the employment or insurance status of his/her spouse. If a member provides false information concerning his/her spouse, or fails to notify the Department of Human Resources of any required information, the member shall be required to reimburse the City for any medical expenses paid by the City on behalf of the spouse that would not have been paid had the City had accurate information concerning the spouse's employment or insurance status. Said reimbursement may take the form of a payroll deduction in an amount not greater than 5% of the employee's gross pay until full reimbursement is made.

Sections 3, 4 and 5 [no change]

#### **Additional Items of Health Coverage**

To clarify and/or provide additional health care coverage, the following services will be covered as noted herein effective April 1, 2009. All levels of coverage are after exhaustion of applicable deductibles:

	<b>Network (member pays)</b>	<b>Non/Network (member pays)</b>
Office Exam with Pap Test	\$15.00	30% after deductible
Routine Pap Test	\$15.00	30%
Routine Mammogram	\$15.00	30%
Well Child Exam Inc.	\$15.00	30%
<b>Immunizations ( to age 11)</b>		
Routine Physical Exam	\$15.00	30%
HPV Vaccination	10% after deductible	30%
Childhood Immunizations (to age 11)	10% after deductible	30%

Robert Stein  
September 5, 2008  
Page 6

Diagnostic Testing	10% after deductible	30%
--------------------	----------------------	-----

Oral Contraceptives prescribed for any purpose shall be covered at the same co-pay levels as any other covered prescription drug.