

**IN THE MATTER OF FACT FINDING**

2009 JUL 15 P 2:35

**BETWEEN**

**THE FRATERNAL ORDER OF POLICE**

**AND**

**THE CITY OF EAST CLEVELAND**

**SERB CASE # 08-MED-09-0973**

(Patrol Officers)

**ADVOCATE FOR THE UNION:**

**Otto J. Holm, Jr., Staff Representative  
FOP/OLC Inc.  
14819 Triskett Rd.  
West Park OH 44111**

**ADVOCATE FOR THE EMPLOYER:**

**Almeta A. Johnson, Director of Law  
CITY OF EAST CLEVELAND  
14340 Euclid Ave  
East Cleveland OH 44112**

## INTRODUCTION

The Fraternal Order of Police represents the bargaining unit (hereinafter "Union") and the Employer is the City of East Cleveland (hereinafter "Employer", "City", or "Department"). The bargaining unit involved in this case is comprised of approximately twenty seven (27) police officers. The Union also represents another unit of higher ranking officers in the City, referred to as the "gold unit." The patrol officers have had an extended bargaining relationship with the City, being previously represented by another bargaining agent. A mediation/conciliation hearing was held on May 14, 2009 in accordance with the re-opener language contained Section 24.3 of the Collective Bargaining Agreement. It reads as follows:

Section 24.3. Re-Opener in Accordance with R.C. 4117 The Union may file a notice to negotiate over wages for 2009 and 2010 from thirty (30) to ninety (90) days prior to the end of 2008 and/or 2009. The parties agree that wages for the re-opener(s) shall be retroactive to January 1 of each year.

## **CRITERIA**

### OHIO REVISED CODE

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

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

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

## **OVERALL RATIONALE FOR DETERMINATIONS**

While there appear to be mixed signs of rising optimism regarding the national economy, Ohio's economy remains uncertain particularly in light of the state of the domestic auto industry and its multitude of suppliers. The state of Ohio continues to struggle to find ways to fund the many obligations it shoulders such as Medicaid costs, education, job growth, and a myriad of other pressing economic demands. In addition, the State has to reconcile a three (3) billion dollar shortfall in its next biennium budget. The City of East Cleveland and the bargaining unit are no strangers to difficult economic times. Although being carefully managed for years under long standing economic constraints, the economic realities facing East Cleveland are extremely challenging and the real limitations they create for all parties concerned are not lost on the analysis of this fact finder.

After carefully considering the facts and evidence and applying all the statutory criteria stated above the following recommendations are made in the areas of tentative agreement and in the issues of dispute brought to fact finding:

## **Issue Rationale:**

The evidence and the past experience of this neutral with both of these parties demonstrates that for years, the City of East Cleveland has continued to provide vital police services to the citizens of East Cleveland with extremely limited resources. The City came out of eighteen (18) years of fiscal emergency in 2006. During this period of time and to the present the City argues it has made persistent attempts to avoid layoffs of its employees. Credit for this effort should certainly go to the leadership of the Mayor Eric J. Brewer, the City Council, the Finance Director, and the Chief of Police. Equal credit needs to be given to the police officers in the bargaining unit, some of whom have appeared before this neutral. They need to be singled out for their dedication and for continuing to perform their essential work under considerable long standing economic restraints. Relative to their colleagues in northeast Ohio, these bargaining unit members do not have a competitive wage scale.

Following a change in bargaining agent the undersigned fact finder had the privilege of serving as a conciliator in resolving negotiations that led to the current Agreement. That contract was executed by the parties less than a year ago. In spite of the City's limited resources the City added approximately ten (10) new employees to the police department. This move appeared to be brought about by the strong leadership of the Chief of Police, with hopes of not

only increasing the effectiveness of the Department, but also in putting the department on better economic footing. While the evidence and testimony demonstrates that this has been accomplished in part, the gap between revenue and expenses related to operating the department has not been met, according to the City's Finance Director, Ron Brooks. Director Brooks provided weighty testimony regarding the budget realities facing the City now and in the near future (See Employer Exhibit 1, YTD Fund Report City of East Cleveland). Similarly, Mr. Otto Holm, the FOP's representative, made an equally compelling case for preventing further relative erosion of bargaining unit wages in contrast to comparable jurisdictions. The Union argues that even if its wage increase proposal is granted the bargaining unit in 2010 will likely remain behind comparable jurisdictions by close to double digit figures. The City's Law Director, Ms. Almeta A. Johnson, forcefully argued the City's case pointing out that from an economic perspective, East Cleveland is not comparable to the likes of Pepper Pike, Beachwood, or the City of Euclid, yet unlike some of its comparable counterparts it has earnestly attempted to avoid layoffs.

Bargaining history reveals that wages for the bargaining unit remained frozen from 2006 to 2007. In 2008, the first year of the Agreement, wages were increased from \$36,437.28 TO \$38,000.00 for Grade 2 patrol officers (4.29%) and from \$40,128.95 to \$42,000 for Grade 1 patrol officers (4.67%), the top grade in the classification. In the instant matter, the City is proposing a second wage freeze in three (3) years. The Union is seeking a wage proposal a two percent

(2%) wage increase. When combining and averaging wage increases for Grade 2 and 3, the City's position would result in the patrol unit wages being adjusted by approximately 4.5% for both classifications over the last three (3) years (2006 -2009), an average of approximately 1.5% each year. The Union's position over the same period would result in an average wage increase of 2.17% for the same period.

However, more revealing are the wages of patrol officers in East Cleveland when viewed in the greater context northeast Ohio. **The top wage of \$42,000, for senior patrol officers, in all but one jurisdiction, is below the starting wage in the remaining thirty-two (32) jurisdictions contained in Cuyahoga County (See Union Exhibit, SERB data).** I applaud the City's efforts to avoid layoffs and actually add patrol officers during the past twelve (12) months in order to provide the citizens of East Cleveland with a more police coverage. This was clearly a bold move demonstrating strong leadership when faced with the long term effects of chronic underfunding. However by increasing the bargaining unit by approximately 59% in one year, it is clear that the City chose to incur the personnel expenses to add employees and now argue they cannot afford any wage increases for employees who are well below all other comparable jurisdictions. The cost of one of these additional employees would likely more than cover the cost of a modest increase in wages. The data and application of the statutory criteria, including the recent bargaining history between the parties, support a modest "maintenance" increase in wages for

2009. However, given the economy and the impact of declining tax revenues, the outlook for 2010 is uncertain at best.

**Determination:**

**Article 24 Wages**

Effective January 1, 2009 wages shall be increased by two percent (2%).

**Section 24.2 Wages for the year 2009 effective January 1, 2009:**

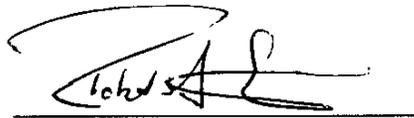
<b>Grade 3 Patrol Officer</b>	<b>\$34,680 (Probationary wage)</b>
<b>Grade 2 Patrol Officer</b>	<b>\$38,760 (At start of the Second year of Service)</b>
<b>Grade 1 Patrol Officer</b>	<b>\$42,840 (At the start of the Third year of Service)</b>

The remainder of the Article shall be current language.

## TENTATIVE AGREEMENT

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

The Fact-finder respectfully submits the above recommendations to the parties this 14<sup>th</sup> day of July 2009 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