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FACTFINDING REPORT

STATE OF OHIO

STATE EMPLOYMENT RELATIONS BOARD

February 20, 2009

In the Matter of:

City of Canfield )

and )

Ohio Patrolmen's Benevolent Association )

Case Nos. 08-MED-10-1075

08-MED-10-1076

08-MED-10-1077

APPEARANCES

For the City:

Charles H. Tieche, City Manager

For the Union:

Jeff Perry, Business Agent

Dean Vrancic, Union President

Factfinder:

Nels E. Nelson

## BACKGROUND

The instant dispute involves the City of Canfield and the Ohio Patrolmen's Benevolent Association. The city is located in Mahoning County and has a population of approximately 7,400. The union represents three bargaining units -- nine full-time patrolmen, four sergeants, and four dispatchers.

The current contract expired December 31, 2008. The parties met and conferred on numerous occasions but were unable to reach an overall agreement. The Factfinder was appointed. The factfinding hearing was held on January 7, 2009. When the attempts to mediate the dispute were unsuccessful, this factfinding report was prepared.

The recommendations of the Factfinder are based upon the criteria set forth in Section 4117-9-05(k) of the Ohio Administrative Rules. They are:

- (a) Past collectively bargained agreements, if any, between the parties;
- (b) Comparison of the unresolved issues relative to the employees in the bargaining unit with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;
- (c) The interest and welfare of the public, and 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;
- (d) The lawful authority of the public employer;
- (e) The stipulations of the parties;
- (f) Such other factors, not confined to those listed in this section, which are normally or traditionally taken into consideration in the determination of issues submitted to mutually agreed upon dispute procedures in the public service or in private employment.

## ISSUES

The parties submitted two issues to the Factfinder. For each issue, the Factfinder will set forth the positions of the parties and summarize the arguments and evidence presented by them in support of their positions. He will then offer his analysis for each issue, followed by his recommendation.

1) Article 31 - Compensation, Section 1 - Annual Compensation - The current contract provides for a maximum wage of \$51,178 for patrolmen after three years, a maximum wage of \$57,735 for sergeants after two years, and a maximum wage of \$40,902 for dispatchers after four years. The union demands increases of 4%, 3.5%, and 3% effective January 1 of 2009, 2010, and 2011. The city proposes a wage freeze for 2009 and a wage reopener for wages in 2010 and 2011.

Union Position - The union argues that its demand ought to be granted. It claims that wage increases in the state have been 3% for the last few years but have been closer to 4% in the area. The union complains that the city has “offered much less than the going rate and given inadequate reasoning for their low proposal.” (Union Pre-Hearing Statement, page 5)

The union states that the city never said that it could not afford its wage demands. It asserts that the city has always been financially well-off compared to most other cities in the immediate area. The union indicates that the city has high-salaried residents and has been purchasing land in Canfield Township which should pay dividends in the future.

The union questions the city’s claim that it faces a financial crisis. It points out that the income tax revenue has increased each year. The union notes that the city has a large carryover balance and observes that it received \$415,000 in interest in 2008.

The union contends that the city places unique demands on its police officers. It observes that they must have a bachelor's degree to be hired. The union reports that once they have been hired, they face the highest standards and receive very extensive training.

The union maintains that the wages paid in other police departments support its demands. It points out that in 2008 the average compensation, including top pay, uniform allowance, shift differential, longevity, and other compensation, for Austintown, Beaver Township, and Boardman was \$52,697 compared to \$52,048 in Canfield. The union notes that sergeants in the nearby departments received \$64,654 compared to \$58,605 in the city. It indicates that in 2006, ten-year dispatchers in Canfield received \$38,150 compared to \$37,050 in comparable jurisdictions. It reports that wage increases for 2009 were 4% in Austintown and Boardman and 3% in Beaver Township.

City Position - The city proposes a wage freeze followed by a wage reopener in October of 2009. It states that it does not know the impact of the economic downturn on its general fund. The city claims that by October it will have the facts upon which to base compensation decisions for 2010 and 2011.

The city maintains that it faces a difficult financial situation. It points out that its records reveal that income tax and general fund revenue are declining. The city complains that at the same time, general fund expenditures, which consist primarily of police department expenditures, have been increasing.

The city claims that the outlook for 2009 is poor. It reports that it projects an 8%, or \$200,000, decrease in income tax receipts because of economic conditions. The city asserts that this requires a corresponding decrease in expenditures, which will be accomplished by freezing the wages of all city employees.

The city suggests that its financial data must be carefully examined. It acknowledges that at the end of 2008 it had a \$5.7 million carryover balance for all funds but states that only \$1.3 million is available to pay general fund expenses, including those of the police department. The city stresses that “it is important that we evaluate only current year projected expenditures otherwise we initiate a pattern of spending more money than we receive, which ultimately results in a deficit.” (City Pre-Hearing Statement, page 2)

The city argues that it cannot rely on its carryover balance. The city cautions the Factfinder not to get “carried away” with comparisons to other communities. It points out that its facts are different from other cities. The city claims that it makes sense to be fiscally conservative now because it will result in a stable financial position in the future.

Analysis - The parties have radically different wage proposals. The union demands increases of 4%, 3.5% and 3% effective January 1 of 2009, 2010, and 2011. The city offers a wage freeze for 2009 and a wage re-opener for wages in 2010 and 2011.

The Factfinder believes that there are two more or less distinct issues regarding wages. The first question is the wage increase, if any, for 2009. The second problem is wages for 2010 and 2011.

With respect to wages for 2009, the Factfinder rejects the union’s suggestion that its proposed wage increase is justified by the wages paid in comparable jurisdictions. It is true that the comparison of ten-year patrolmen’s compensation in the city to patrolmen in Austintown, Beaver, and Boardman indicates that they are \$645 below the other departments. However, if Boardman, which has a population of 42,518 compared to 7,374 in Canfield, is omitted, the city’s patrolmen earn \$3685 more than the average for

Austintown and Beaver Township and considerably more than patrolmen in both of those departments.

The fact that wages in the city compared favorable to other jurisdictions in 2008 does not mean that bargaining unit members they are not entitled to a wage increase in 2009. In any area there is a hierarchy of wages where a few departments pay high wages, a few pay low wages, and the majority offer wages between the two other groups. The wage ranks are ordinarily the result of many years of bargaining by the parties. When a Factfinder recommends a wage increase similar to those being increased by other departments, the neutral is simply preserving the hierarchy of wages the parties have created.

The union provided the only data on wage increases. Its information revealed that in 2009 wage increases were 4% in Austintown and Boardman and 3% in Beaver Township. While it is unclear when the 4% increases in Austintown and Boardman were negotiated, the contract in Beaver Township was signed in December of 2008.

The Factfinder has additional knowledge of 2009 wage increases. Data from the State Employment Relations Board and information from other disputes where he is either the Factfinder or Conciliator indicate that employers are offering wage increases of approximately 3%. While the Factfinder may question how some of the employers will be able to afford their proposed increases, they become an important consideration in the formulation of recommendations and awards by Factfinders and Conciliators.

The Factfinder believes that Canfield clearly can afford the 3% wage increases granted by other employers. At the end of 2008, it had a general fund carryover of \$1.3 million, or 34% of 2008 general fund expenditures. The city's strong financial position is also reflected in its 2008 carryover of \$4.0 million in its other funds.

The Factfinder believes that wage increases for 2010 and 2011 are a different matter. We are in a serious recession which continues to deepen. The future of employment is unclear and with it income tax collections and other sources of general fund revenue. Rather than make a wage recommendation that implicitly assumes a quick recovery or one that is based on a continuing economic decline, the Factfinder recommends the city's proposal that negotiations be reopened in October 2009 to negotiate wages for 2010 and 2011. At that time the direction of the economy and general fund receipts should be clearer. If the city's pessimistic view of the future is correct, it will be able to make a stronger case for a wage freeze. However, if the union's assumption of a quick economic recovery is correct, it will be in a better position to seek further wage increases.

**Recommendation** - The Factfinder recommends the following contract language:

1. Wages are to be increased by 3% effective January 1, 2009.
2. Negotiations shall be reopened in October of 2009 to negotiate wages for 2010 and 2011. If the parties fail to reach agreement, the dispute shall be submitted to the statutory impasse procedure or a mutually agreed alternative dispute procedure.

## **2) Article 36- Miscellaneous, Section 36.14 - Annual Physical Fitness**

**Assessment** - The current contract grants employees who pass an annual physical fitness assessment at the 40<sup>th</sup> percentile a bonus equal to two days of pay. The union seeks to increase the bonus to three days. The city opposes the union's demand.

**Union Position** - The union argues that employees should be compensated for maintaining a high level of physical fitness. It states that increased fitness leads to

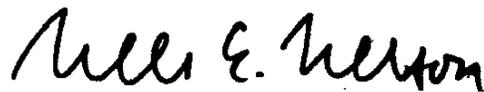
better service to residents and should reduce health insurance costs in the long run. The union claims that since the current two-day bonus was established approximately ten years ago, it should be increased.

City Position - The city argues that the union's demand should be rejected.

It claims that the increases in the bonus together with the union's wage demand would increase its costs by \$223,500.

Analysis - The Factfinder cannot recommend the union's demand. First, the bonus has increased over the years as employees' wages have increased. It is not clear that the formula for the fitness bonus should be changed. Second, the current economic situation makes it an inappropriate time to increase the physical fitness bonus.

Recommendation - The Factfinder recommends that the union's demand be denied and the current contract language be retained.



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Nels E. Nelson  
Factfinder

February 20, 2009  
Russell Township  
Geauga County, Ohio