

STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD  
FACT-FINDING PROCEEDINGS

STATE EMPLOYMENT  
RELATIONS BOARD

2009 JUL 10 P 4:04

AS ISSUED

FINDINGS & RECOMMENDATIONS

JULY , 2009

THOMAS R. SKULINA

IN THE MATTER OF:

**Brunswick Hills Township**  
(Employer)

08-MED-11-1327 ✓  
08-MED-11-1328

-and-

**Fraternal Order of Police, Lodge 15**  
(Union)

APPEARANCES:

**On Behalf of the Employer:**

Patrick J. Murphy, Esq.  
38400 Crossbrook Avenue  
Willoughby, Ohio 44094

**On Behalf of the Union:**

Robert M. Phillips, Esq.  
Faulkner, Muskovitz, and Phillips, LLP  
820 West Superior Avenue, Ninth Floor  
Cleveland, Ohio 44113-1800

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## SUBMISSION

The parties in the present negotiations engage in multi-unit bargaining pursuant to ORC 4117, and have had an ongoing collective bargaining relationship culminating in Agreements that became effective on January 1, 2008 and obtained through December 31, 2008. Mutually agreeing to an extension of the statutory deadlines, the Parties met in negotiations toward a successor contract on several occasions prior to reaching impasse on the issues enumerated below. Pursuant to the provisions of Ohio Revised Code 4117.14(C)(3), the undersigned was appointed Fact-finder in the matter on May 12, 2009.

Having reached impasse, the Parties requested that the Fact-finder convene a mediation session to attempt resolution of issues outstanding. Accordingly, mediation was conducted on June 18, 2009 at the Township's facility in Brunswick Hills, Ohio. As a result of mediation, tentative agreement was reached on two issues identified below. However, the additional issues presented to the Fact-finder remained unresolved. The remaining issues were submitted to the Fact-finder at an evidentiary hearing, at which the Parties were afforded an opportunity to present evidence and testimony, and to cross examine witnesses. The matter was declared closed on June 18, 2009.

## ISSUES AT IMPASSE

The parties identified and presented the following issues as unresolved:

1. **Article 14 Discipline** (Patrol, Sergeants)
2. **Article 32 Compensation** (Patrol, Sergeants)

## TENTATIVE AGREEMENTS OF THE PARTIES

Prior to going on the record and with assistance and direction from the Fact-finder, the Parties reached tentative agreement on the following issues which this Fact-finder incorporates into his report and recommendations.

1. **Article 18 Hours of Work** Language will be modified to permit shift bids on a quarterly basis in March, June, September and December. (Patrol, Sergeant units)
2. **Article 22 Holidays** There shall be one (1) additional personal day commencing in contract year 2009 for a total of two (2) personal days. (Patrol, Sergeant units)
3. **Article 24 Sick Leave** Language will be modified to allow for the accrual of sick leave at a rate of 4.6 hours per pay period. Language will be further modified to allow for the payout of one half (1/2) of an employee's accrued but unused sick time only upon an employee's retirement under the Ohio Public Employees' Retirement System (OPERS). While an employee may accrue an unlimited amount of sick time, any payout upon retirement is limited

to a maximum accrual of One Thousand Seven Hundred Fifty (1,750) hours, and a maximum payout of Eight Hundred Seventy-five (875) hours. (Patrol, Sergeant units)

4. **Article 30 Hospitalization Insurance** Language will be modified to allow for increased employee contributions toward their health care coverage premiums. In Year 1 of the contract (2009), employees will contribute \$25 per month towards single coverage and \$35 per month towards family coverage. In Year 2 (2010), employees will contribute \$30 per month towards single coverage and \$40 per month towards family coverage. In Year 3 (2011), employees will contribute \$35 per month towards single coverage and \$45 per month towards family coverage. (Patrol, Sergeant units)

5. **Article 34 Military Leave** Delete the current language in Article 34 and replace with the following:

The parties hereby incorporate by reference 38 U.S.C. 4301 et seq. and O.R.C. Title 59, 5903 et seq; 5923.05 as if fully rewritten herein.

(Patrol, Sergeant units)

6. **Article 35 Longevity Compensation** The current longevity compensation of \$40 per year of continuous full-time service shall be increased by \$10 per year to \$50 per year of continuous full-time service. (Patrol, Sergeant units)

7. **Article 36 Attendance at Training** Add the following language to the existing language in subsection 36.6 of the parties' current contract:

If an employee receives non-mandated training at Township expense, then leaves Township employment for any reason within one year of receiving that training, the employee shall reimburse the Township for the cost of that training on a pro rata basis (e.g., if employee leaves 6 months after completing training, reimburse one-half the cost of training.

(Patrol, Sergeant units)

#### STATUTORY CONSIDERATIONS

In weighing the positions presented by the Parties, the Fact-finder was guided by the considerations enumerated in OAC 4117-9-05(K), *et seq*, specifically:

**4117-9-05(K)(1)** Past Collective Bargaining Agreements, if any, between the parties;

**4117-9-05(K)(2)** 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;

- 4117-9-05(K)(3)** The interests and welfare of the public, 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;
- 4117-9-05(K)(4)** The lawful authority of the public employer;
- 4117-9-05(K)(5)** Any stipulations of the parties;
- 4117-9-05(K)(6)** Such other factors, not confined to those listed above, which are normally or traditionally taken into consideration in the determination of the issues submitted to mutually agreed-upon dispute settlement procedures in the public service or in private employment.

#### **BACKGROUND AND STATUTORY CONSIDERATIONS**

Brunswick Hills Township (Township) is a government agency located southwest of Cleveland in Medina County. They are provided law enforcement security by a modest-sized department of six (6) patrol officers and two (2) sergeants who are represented in multi-unit bargaining by Fraternal Order of Police, Lodge 15 (FOP). The parties' current relationship is expressed in a collective bargaining agreement that took effect January 1, 2008 and expired December 31, 2008. The parties have executed an extension of that agreement and a waiver of statutory impediment to retroactive compensation which was submitted as evidence in the current hearing.

During the negotiations for the current agreement, the fiscal revenues of the Township were unable to fully fund the ongoing Township expenditures including wage and benefit considerations for the police bargaining units. As a result, the parties reached agreement to forego a basic wage increase and adopted a cash stipend of \$1,300 per employee, not rolled into base wages in 2008. In November 2008, the electorate of the Township voted to approve a special police levy allowing the parties to address basic wage increases in a successor contract. In addition the parties agreed to terms for hospitalization insurance in 2009 which reflected modest savings to the Township with minimal premium increases for employees as expressed in the tentative agreement in Article 30.

In evaluating the evidentiary submissions of the parties, including financial documents, testimony, comparable data from other law enforcement agencies and statutory directives from O.R.C. 4117.14, I make the following findings and recommendations.

#### **FINDINGS AND RECOMMENDATIONS**

- The tentative agreements set forth earlier in this report are incorporated into my findings and recommended. Additionally all

current terms not proposed by either party for modification will continue unabated in the successor agreement.

- Article 14 Discipline. The Township having proposed the right to discipline within 120 days of an event/incident giving rise to discipline and the FOP counter proposed 60 days, this fact-finder recommends 90 days.
- Article 32 Compensation Schedule. The Township consistently argued the current economic realities and comparable wage settlements in 2009 reflecting many 0% increases and only very modest increases of between 1% and 2%. Consequently the Township offered base wage increases of 3% in 2009; 2.5% in 2010; and 2.5% in 2011.

While the Township agreed that the police levy from November 2008 was very important to the overall fiscal health of the Township, they also advanced the notion that their offer reflected the department's fair share of that levy. At the hearing they maintained that rolling up the 2008 cash stipend of \$1,300 creates the appearance of approving a wage increase in 2009 in excess of 5% when included in the offer of 3% for 2009.

The FOP proposed to roll up the \$1,300 cash stipend into the base wage and thereafter to add 3% in 2009; 3% in 2010; and 3% in 2011 for the patrol unit and 4% in 2009; 4.25% in 2010; and 4.5% in 2011 for the sergeant unit. They too argued the comparables and focused on having expended time and effort in promoting the passage of the police levy.

To balance the competing interests of the parties, the current fiscal state of the Township and the stark realities of northeast Ohio in the current state and national economies, my recommendation is as follows.

Roll up the \$1,300 cash stipend into base wages for both patrol and sergeant units effective January 1, 2009.

After the roll up of the cash stipend, an additional 3% increase in base wages also effective January 1, 2009 for both the patrol and sergeant units.

Thereafter a 2.75% increase in 2010 and 2.75% increase in 2011 to be effective January 1<sup>st</sup> of each contract year in both the patrol and sergeant units.

  
Thomas R. Skulina

**THOMAS R. SKULINA**  
ATTORNEY AND COUNSELOR AT LAW

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July 7, 2009

SERB Employment Relations Board  
65 East State Street  
12<sup>th</sup> Floor  
Columbus, Ohio 43215-4213

ATTN: EDWARD E. TURNER  
ADMINISTRATOR, BUREAU OF MEDIATION ✓

**RE: STATE EMPLOYMENT RELATIONS BOARD  
(FACT-FINDING)**

**FRATERNAL ORDER OF POLICE,  
LODGE NO. 15**

**and**

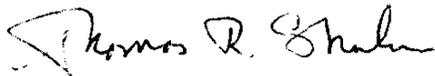
**BRUNSWICK HILLS TOWNSHIP TRUSTEES  
CASE NOS.: 08-MED-11-1327 & 08-MED-11-1328**

Dear Mr. Turner:

Enclosed herein, please find a Fact-Finding Report, in regard to the above-captioned matter.

Thank for your courtesy and cooperation herein.

Very truly yours,



Thomas R. Skulina

TRS/cad  
Enclosure

cc: Robert M. Phillips, Esquire w/copy Enclosure  
Patrick J. Murphy w/copy Enclosure