

**STATE OF OHIO**  
**BEFORE THE STATE EMPLOYMENT RELATIONS BOARD**  
**FACT-FINDING PROCEEDING**

**Case Nos. 09-MED-04-0511, 09-MED-04-0512, 09-MED-04-0513**

**Ohio Patrolman's Benevolent Association, Employee Organization**  
**and**

**The City of London**

**REPORT AND RECOMMENDATIONS OF THE FACT FINDER**

**Daniel N. Kosanovich**

**ISSUED: May 14, 2010**

**Appearances:**

**Joseph M. Hegedus, Esq.**  
**92 Northwoods Blvd., Suite B-2**  
**Columbus, OH 43235**  
**(For the OPBA)**

**Spencer M. Youell, Esq.**  
**Mowery, Youell and Galeano LTP**  
**425 Metro Place North, Suite 420**  
**Dublin, OH 43017**  
**(For the City of London)**

STATE EMPLOYMENT  
RELATIONS BOARD  
2010 MAY 19 P 1:16

## **REPORT AND RECOMMENDATIONS**

### **I. Background**

This Report and Recommendations applies to three (3) of the city's bargaining units. Those three (3) units consist of the following: three (3) full-time Sergeants; thirteen (13) full-time Police Officers; and four (4) full-time Dispatchers.

The most recent Collective Bargaining Agreement between the parties expired by its terms on June 30, 2009. However, by virtue of the execution of a Memorandum of Agreement dated June 30, 2009, the OPBA and the City of London stayed the negotiations (scheduled to commence on or about May 1, 2009) until January 1, 2010. It must be noted that the City agreed to waive the restrictions contained in R.C. Section 4117.14(G)(11), and thus a facilitator appointed pursuant to that Section may award increases retroactive to January 1, 2010. The Memorandum of Agreement addresses additional matters relevant to collective bargaining between the parties. The Memorandum of Agreement was entered into by the parties in a collaborative effort to address matters related to a potential revenue shortfall for the City during the calendar year of 2009. Said Memorandum is fully incorporated by reference herein as if fully set forth in this report.

The undersigned was appointed to serve as a Fact-Finder in a letter dated March 29, 2010 from the State Employment Relations Board. A fact-finding hearing was scheduled and conducted on April 29, 2010 at London City Hall. By agreement of the parties, the fact-finding report is scheduled to be issued on May 14, 2010 and be transmitted via electronic mail.

At the outset of the hearing, the undersigned offered to mediate the open issues and the offer was accepted. The parties worked diligently to come to agreement on the outstanding issues.

The outstanding issues that existed at the commencement of the hearing included the following:

Article 12–Sick Leave (Sergeants), Article 15–Holidays (Patrol Officers), Article 19–Wages (Sergeants, Patrol Officers and Dispatchers) (including OIC and shift differential), Article 20–Uniform Allowance (Sergeants and Patrol Officers), Article 24–Insurance (Dispatchers), Article 26–Insurance (Sergeants and Patrol Officers), Article 30–Educational Incentive (Sergeants and Patrol Officers), Article 32–Seniority (Patrol Officers) and Article \_\_\_ -Duration (Sergeants, Patrol Officers, and Dispatchers).

The issues involving Article 12-Sick Leave (Sergeants); Article 15-Holidays (Patrol Officers); Article 19-OIC; Article 30-Educational Incentives (all bargaining unit members); and Article 32-Seniority (Patrol Officers) were settled and compromised by the withdrawal of the parties' competing proposals and returned those provisions to status quo. Said mediation agreements are incorporated herein as if fully rewritten.

At the conclusion of the mediation effort, the parties agreed to a contractual duration of three (3) years effective January 1, 2010 and expiring December 31, 2012 for all of the bargaining units. This agreement is incorporated by reference herein as if fully rewritten.

Unfortunately, all of the outstanding issues were not resolved and the Fact-Finder has made recommendations contained in this report in an effort to resolve the disputes between the parties.

It must be noted that during the course of the fact-finding hearing both parties were given full opportunity to submit evidence in support of their respective positions on the

remaining unresolved issues. Set forth below are the undersigned's recommendations on the remaining unresolved issues.

## **II. Criteria**

In compliance with Ohio Revised Code, Section 4117.14(G)(7), and the Ohio Administrative Code, Section 4117-95-05(J), the Fact-Finder considered the following criteria in making the recommendations contained in this report:

- 1) Past collectively bargained agreements between the parties;
- 2) Comparison of unresolved issues relative to the employees in the bargaining units with those issues related to other public and private employers in comparable work, given consideration to factors peculiar to the area in the classifications involved;
- 3) The interest and welfare of the public, the ability of the public employer to finance and administer the issues proposed, and the effect on the normal standards of public service;
- 4) Lawful authority of the public employer;
- 5) Stipulations of the parties; and
- 6) Such factors as are not confined to those above which are normally and traditionally taken into consideration.

## **III. Findings and Recommendations**

### ***Wages (Including Shift Differential)***

#### **Article 19**

#### **City of London's Position**

The offer by the City submitted at the fact-finding hearing and contained in the statement of position is a wage increase applicable to all grades of bargaining unit of 2.0% effective January 1, 2010, 1.5% effective January 1, 2011, and 1.5% effective

January 1, 2012. The thrust of the City's argument is based on the fact that it has attempted to increase income tax revenues from 1.0% to 1.5% on three (3) occasions since 2005. The tax revenue increase was proposed and defeated in 2005 and again in May of 2009. The voters rejected the City's third attempt for a requested income tax increase in November of 2009. Thus, the City maintains it does not have the financial wherewithal to finance the Union's proposal. As a result, the City urges the undersigned to adopt its proposal as the recommendation on wages.

### **OPBA's Position**

The OPBA proposes a 3.0% pay increase to all wage steps effective January 1, 2010, a 4.0% increase to all wage steps effective January 1, 2011, and a 5.0% increase to all wage steps effective January 1, 2012. In support of its position, the OPBA notes that historically, the members of the bargaining units have realized 4.0% wage increases. Moreover, the Union asserts that by virtue of the operation of the Memorandum of Agreement dated June 30, 2009, to which it agreed, it has in effect submitted to a wage freeze for six (6) months. Drawing on the information provided by an examination of external comparisons, according to the Union, the inescapable conclusion to be drawn is that the Union's proposal is a reasonable one. Finally, notwithstanding the gloomy economic prognosis, there are indications that the economy has moved past the crisis and should continue to strengthen. See for example "As Folks Spend, Profits Rise Across The Board" (April 29, 2010) by David Carpenter. The Union's proposal should be adopted.

### **RECOMMENDATION**

The City's argument of an inability to finance the wage proposal submitted by the Union does not fall on deaf ears. However, there is a distinct difference between the City's alleged inability to finance the Union's proposal and providing employees with a

fiscally responsible wage increase. Being fiscally conservative in the approach to wages does not result in the denial of meaningful wage increases. Rather, a balance must be struck between the employees' need for a wage increase and a financially sound foundation which is able to support the increases. Furthermore, the Collective Bargaining Agreement must be looked at as a whole and in particular the inner relationship between insurance costs and wage increases.

The Union's reliance on historical bargaining trends in these bargaining units is justified. For over ten (10) years the bargaining unit members have realized wage increases in the amount of 4% per year. Based on the bargaining history 4% represents a reasonable expectation.

It must be noted that in addition to the income tax revenue stream, other sources of funding are available. For instance, the monies in the Capital Fund were redirected to satisfy non-capital obligations.

Moreover, given the recommendation on insurance which is set forth below the Employer's position cannot be adopted.

Based upon the evidence submitted, it is the undersigned's conclusion that the Employer can finance a larger wage package than it proposes. It is recommended that the Employer increase wages across the board at 3.0% effective January 1, 2010, an additional wage increase of 3.0% effective January 1, 2011, and a final wage increase of 3.0% effective January 1, 2012. These percentage wage increases are applicable to all three bargaining units and all grades of bargaining unit members.

## *Shift Differential*

### City of London's Position

It is the City's position that shift differential should be reasonable and, under the circumstances, remain the same as in the prior Collective Bargaining Agreement. In the prior Collective Bargaining Agreement, the shift differential for all hours worked between 3:00 p.m. and 11:00 p.m. was 25¢ per hour and the shift differential was 35¢ per hour in addition to the base rate for all hours worked between 11:00 p.m. and 7:00 a.m. In the City's view, the shift differential provision is consistent with a principle of adopting a fiscally conservative approach to expenditures, particularly wage costs. Therefore, the City urges the undersigned to adopt the City's proposal.

### OPBA's Position

The Union proposes 35¢ per hour in addition to the base rate for all hours worked between 3:00 p.m. and 11:00 p.m. In addition, the OPBA proposes 45¢ per hour in addition to the base rate for all hours worked between 11:00 p.m. and 7:00 a.m. Working "off" shifts disrupts family and personal lives and the employees must be reasonably compensated for the interruption. Moreover, the Union notes that the City can finance the proposal. Therefore, the OPBA urges the undersigned to recommend its shift differential proposal.

### RECOMMENDATION

Given the evidence admitted at the hearing, it is obvious the balance of the scale assessing the reasonableness and compelling nature of the parties approaches to shift differential tips in favor of the Union. The outside comparables demonstrate that the OPBA is far behind in shift differential. The adoption of a proposal similar to the OPBA's proposal would leave the OPBA members at the bottom of the rankings,

however, allow the bargaining unit to keep pace with others. Therefore, the undersigned recommends that the shift differential for the 3:00 p.m. to 11:00 p.m. shift be 30¢ per hour in addition to the base rate for all hours worked between 3:00 p.m. and 11:00 p.m. and 35¢ per hour in addition to the base rate for all hours worked between 11:00 p.m. and 7:00 a.m.

### **Uniform Allowance**

#### **Article 20 - Patrol Officers and Sergeants**

##### **The City's Position**

It is the City's position that the parties should maintain the status quo with respect to the Uniform Allowance. The City is willing to pay up to \$800.00 per year for the Uniform Allowance. To absorb any more costs associated the allowance would be an unreasonable expenditure given the current economic outlook.

##### **OPBA's Position**

The Union's demand is to increase the Uniform Allowance to \$900.00 per year effective January 1, 2010. The Union relies heavily on the external comparables to support its proposal. The OPBA submits that the cost of its proposal is reasonable and the City has the ability to finance the request.

##### **RECOMMENDATION**

The Union's assertion is compelling. When London's Allowance is compared to other jurisdictions, its officers rank at the bottom of the list. Only Hillsboro, Sidney and Xenia receive a lesser allotment. Providing a Uniform Allowance of \$850.00 effective January 1, 2010 will simply give the City's Sergeants and Patrol Officers the opportunity to maintain their posture in relation to comparable jurisdictions. Moreover, the City can

finance the proposal. Therefore, a Uniform Allowance of up to \$850.00 per year effective January 1, 2010 is recommended.

### **Insurance**

#### **Article 24 - Dispatchers of the Collective Bargaining Agreement and**

#### **Article 26 – Patrol Officers and Sergeants of the Collective Bargaining Agreement**

#### **The City's Position**

Starting on January 1, 2011, the City proposes to adjust and establish \$2,000/single-\$6,000/family deductible. The City would continue to pay 90% of the premium. The HRA payment would be 90% and the co-insurance fund would be eliminated. It is obvious from the evidence presented that the Employer can ill-afford the costly price tag associated with health insurance. It is essential that the City be able to defray the soaring insurance premiums both in the near term, as well as in the future. Increasing the single member and family member's deductibles from \$1,000 to \$3,000 to \$2,000 to \$6,000 will help offset future increases in premiums. Moreover, the elimination of the co-insurance fund serves to manage the cost associated with health insurance provided by the City.

#### **OPBA's Position**

The OPBA proposes current contract language concerning the entire insurance provision. The OPBA asserts that increasing deductibles serve no direct purpose in lower premium costs. In addition, the record fails to illuminate any compelling reason to make the changes set by the Employer.

#### **RECOMMENDATION**

The undersigned is satisfied that the City has demonstrated a correlation between increasing the deductible levels for which the employees are responsible and the increase of insurance premiums. Thus, it is recommended that the deductible for a single member

plan be increased from \$1,000 to \$2,000 effective January 1, 2011 and the family plan deductible be increased from \$3,000 to \$6,000 effective January 1, 2011. Given the modest increases in wages and the six month wage “freeze” already realized by the bargaining unit members, it is recommended that the co-insurance fund remain in tact and be included in the Collective Bargaining Agreement. Additionally, it is recommended that the status quo be maintained as it relates to the parties’ historical application of the 90%-10% principle to health insurance. For instance, the application of this principle requires the Employer to contribute 90% of the cost of insurance premium while the employee is obligated to contribute 10% of the premium cost.

#### **IV. Certification**

The fact-finding report and recommendations are based upon the evidence and testimony presented to me at a fact-finding hearing conducted on April 29, 2010. Recommendations contained herein are developed in conformity with the criteria for a fact-finding found in Ohio Revised Code 4717(7)(a-f) and the associated administrative rules developed by SERB. Tentative agreements reached by the parties prior to the fact-finding hearing on April 29, 2010 are incorporated herein by reference as if fully re-written.



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Daniel N. Kosanovich  
Fact-Finder

#### **V. Proof of Service**

This fact-finding report was mailed electronically to Joseph M. Hegedus and Spencer Youell, as well as by USPS to Joseph M. Hegedus, 92 Northwoods Blvd., Suite B-2,

Columbus, OH 43235 and Spencer M. Youell, Mowery, Youell and Galeano LTP, 425  
Metro Place North, Suite 420, Dublin OH 43017.



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Daniel N. Kosanovich  
Fact-Finder