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STATE EMPLOYMENT  
RELATIONS BOARD

STATE OF OHIO  
BEFORE THE OHIO STATE EMPLOYMENT RELATIONS BOARD

2010 MAR 12 A 8:34

IN THE MATTER OF FACT-FINDING	:	SERB Case Numbers:09-MED-09-0896
	:	09-MED-09-0919
BETWEEN THE	:	
	:	
VILLAGE OF GRANVILLE, OHIO,	:	
	:	
Employer	:	Date of Fact-Finding Hearing:
	:	February 12, 2010
AND THE	:	
	:	
FRATERNAL ORDER OF POLICE,	:	
OHIO LABOR COUNCIL, INC.,	:	Howard D. Silver
	:	Fact Finder
Union	:	

REPORT AND RECOMMENDED LANGUAGE OF THE FACT FINDER

APPEARANCES

**HAND DELIVERED**

For: Fraternal Order of Police, Ohio Labor Council, Inc., Union

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 Fraternal Order of Police/Ohio Labor Council, Inc.  
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For: Village of Granville, Ohio, Employer

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This matter came on for fact-finding hearing at 10:00 a.m. on February 12, 2010 within Granville, Ohio's Village Council chamber, 141 East Broadway, Granville, Ohio 43023. Both parties were afforded a full and fair opportunity to present evidence and arguments in support of their positions. The fact-finding hearing concluded at 2:10 p.m. on February 12, 2010.

This fact-finding process proceeds under the authority of Ohio Revised Code section 4117.14 and in accordance with rules adopted by the Ohio State Employment Relations Board, including Ohio Administrative Code section 4117-9-05. Both parties have carried out their respective obligations in filing with the fact finder and each other the pre-hearing information required by Ohio Revised Code section 4117.14(C)(3)(a) and Ohio Administrative Code section 4117-9-05(F). The latest collective bargaining agreement between the parties was in effect from January 1, 2007 through December 31, 2009.

#### RECOMMENDATION OF ALL UNOPENED AND TENTATIVELY AGREED ARTICLES

The fact finder recommends that the parties include in their successor collective bargaining agreement all of the Articles in the parties' most recent collective bargaining agreement that remained unopened during the bargaining of the parties' successor Agreement. The fact finder recommends that the language of these unopened Articles be included in the parties' successor Agreement unchanged. These Articles include:

- Article 1 - Preamble and Recognition
- Article 2 - Union Dues/Bulletin Boards, Representation
- Article 3 - Management Rights
- Article 4 - Non-Discrimination
- Article 5 - No Strike-Lockout
- Article 6 - Conflict and Amendment, Emergency
- Article 8 - Standard of Conduct Regulations
- Article 9 - Labor Management Meetings

The fact finder recommends that all of the language tentatively agreed by the parties for inclusion in the parties' successor Agreement be included in the parties' successor collective bargaining agreement. The language tentatively agreed for inclusion in the parties' successor Agreement includes the following:

- Article 7 - Sections 7.1 and 7.5 - Seniority
- Article 10 - Grievance Procedure and Arbitration
- Article 11 - Investigation, Discipline Procedures, Personnel Records
- Article 12 - Probationary Period
- Article 13 - Section 13.2 - Layoff and Recall
- Article 14 - Sections 14.5 and 14.9 - Hours of Work, Overtime, Compensatory Time
- Article 15 - Holidays
- Article 17 - Sick Leave [addition of Section 17.8 (former memorandum of understanding)]

Article 19 - Leaves of Absence/Military Leave

Article 20 - Medical Examinations

Article 21 - Health Insurance

ARTICLE 25 - Duration and Execution (Duration - retroactive  
to January 1, 2010 through December 31, 2012)

#### UNRESOLVED ARTICLES

The Articles bargained by and mediated between the parties  
that remain unresolved are:

Article 13 - Layoff and Recall

Article 14 - Hours of Work, Overtime, Compensatory Time

Article 16 - Vacation Leave

Article 18 - Other Leaves

Article 23 - Wages

During the course of the fact-finding hearing on February  
12, 2010, several issues that had been outstanding were resolved  
through tentative agreement by the parties.

#### FINDINGS OF FACT

1. The parties to this fact-finding process, the Village of Granville, Ohio, the Employer, and the Fraternal Order of Police, Ohio Labor Council, Inc., the Union, engaged in bargaining about a successor collective bargaining agreement on September 30, 2009; October 9, 2009; October 27, 2009; November 3, 2009; and December 1, 2009.

2. The parties participated in a mediation process on December 21, 2009 and January 25, 2010.
3. The most recent collective bargaining agreement between the Employer and the Union was effective January 1, 2007 through December 31, 2009.
4. This fact-finding procedure addresses two bargaining units: a bargaining unit comprised of seven uniformed police officers, SERB case number 2009-MED-09-0896; and a bargaining unit comprised of two uniformed sergeants, SERB case number 2009-MED-09-0919.
5. The Village of Granville, Ohio is a public employer under Ohio Revised Code Chapter 4117. as determined by the Ohio State Employment Relations Board in In re Village of Granville, SERB case number 2006-02 (February 21, 2006).
6. The Union is the exclusive representative of both bargaining units.

#### DISCUSSION AND RECOMMENDED LANGUAGE

##### Article 13 - Layoff and Recall

The Employer has proposed a number of changes to the language of Article 13, Layoff and Recall. One of the proposed changes has been tentatively agreed by the parties, the language to be added to the end of Article 13, section 13.2 that reads:  
`Employees may not displace dispatchers or other employees of

the Village.'" The fact finder recommends the addition of this language to the parties' successor Agreement, language intended to be the final sentence of section 13.2, Layoff.

The other changes to the language of Article 13 proposed by the Employer would extend to the Employer the power to institute up to eighty hours of ``cost savings days'' per year. These cost savings days would take the form of days off or a salary reduction, or a combination of the two. This language is proposed to be included in Article 13, section 13.1, Layoff Notification.

In the last section of Article 13, section 13.6, Appeal, the Employer proposes the addition of language that reads: ``Cost savings days are not grievable.''

The language proposed by the Employer to be included in Article 13 intends to provide the Employer with an alternative to layoffs in the event the Village faces a budget shortfall. It is argued that short-term furloughs of employees enable a political subdivision to meet a revenue income shortfall without laying off employees. The Employer contends that this option is less disruptive to both employees and the Village than would be the case with layoffs, and has become a tool used widely in the public and private sectors. It is noted that amendments to Ohio civil service laws have been enacted to allow furloughs among state employees, and it is claimed that numerous political subdivisions throughout Ohio are turning to furloughs in adapting their operations to the present recession. The Employer argues that uncertainty about the economy haunts all public employers;

cost savings days are an option that should be available to the Village in the event of a revenue shortfall.

The Union describes the changes proposed by the Employer concerning cost savings days as extreme and unwarranted. The Union points out that language proposed by the Employer for Article 13 would impose a loss in wages among bargaining unit members at the sole discretion of the Employer, and would not be grievable. The Union argues that when such unilateral power is ceded to one party in a labor-management relationship it damages the relationship. The Union argues that there is nothing in the Village's budget that indicates a need for such an extreme shift in power and the Employer's proposal in this regard does not present a position with which the Union can agree. The Union states that if the Employer were to face financial difficulty the Union would welcome the opportunity to discuss with the Employer how cost savings could be effected.

The Union argues that if the Employer is granted the unilateral discretion to furlough up to two weeks of full-time work each year for each bargaining unit member, and in so doing be immune from the parties' contractual grievance procedure, such a severe shift in the power wielded by the Employer would work to the detriment of bargaining unit members and the Union. The Union argues that the Employer, having been unable to secure the Union's agreement to such drastic changes, should not be awarded this power through fact-finding. The Union argues that the language proposed by the Employer for Article 13 proposes too

radical a change to the parties' contractual relationship to impose through a fact-finding process.

The fact finder recommends the retention of current language in the parties' collective bargaining agreement in Article 13, augmented by the sentence tentatively agreed by the parties to be added to the end of Article 13, section 13.2.

The Employer's reasons for seeking increased powers to meet revenue shortfalls are valid and these enhanced powers have precedent at the state, county, and local levels in the public sector and in the private sector. The fact finder remains reluctant to recommend such language, however, because of the size of the impact upon each bargaining unit member, up to eighty hours of lost pay per year, and the unassailable nature of this power, the authority to act with immunity from any grievance. The size of the impact of the proposed language and the unlimited nature of the power are not in and of themselves bad, but these aspects of the proposed new language do indicate a substantial change in the balance of power in the parties' working relationship under their collective bargaining agreement.

The Union is adamantly opposed to the language that would allow up to eighty hours of furloughs per year per bargaining unit member, furloughs that are not grievable. The Union does not agree that an ungrievable loss of up to two weeks' pay per year by each bargaining unit member is less disruptive than shrinkage of the bargaining unit. The Union does not agree that avoiding layoffs at all costs is a valid ground for this drastic

and unwarranted change.

Because of the significant change in power that would result from the language proposed by the Employer to be added to Article 13, because the Union is adamantly opposed to such a change, and because the fact finder is of the opinion that substantial changes in a contractual relationship should not occur through a fact-finding recommendation except under the most compelling circumstances, the fact finder recommends the additional language tentatively agreed by the parties for Article 13, section 13.2, and recommends that current language within Article 13 otherwise be retained in the parties' successor Agreement.

#### Recommended Language - Article 13 - Layoff and Recall

Sections 13.1, 13.3 - 13.6 - Maintain current language.

Section 13.2 - Layoff - The Employer shall determine in which classifications layoffs will occur. Layoffs of bargaining unit employees will be by rank/classification. Employees shall be laid off within each rank/classification in the inverse order of seniority, beginning with the least senior and progressing to the most senior up to the number of employees that are to be laid off. With layoff displacement, higher rank shall displace lower rank and more senior members shall displace those with less seniority. Employees may not displace dispatchers or other employees of the Village.

#### Article 14 - Hours of Work, Overtime, Compensatory Time

A number of changes to the language of Article 14 are tentatively agreed by the parties. These changes include changing the words "members" to "employees" and "member" to "employee." These changes occur in Article 14, sections 14.1, 14.3, 14.6, 14.7, and 14.8 (after renumbering sections). These

changes are tentatively agreed by the parties and recommended by the fact finder for inclusion in the parties' successor Agreement.

An entirely new section to be inserted into Article 14, as (renumbered) section 14.5, Overtime, Special Details, & Special Duty Assignments, is proposed by the Employer and tentatively agreed by the Union. The inclusion of the new language designated Article 14, section 14.5 is recommended by the fact finder for inclusion in the parties' successor Agreement.

The remaining changes proposed for Article 14 are from the Union. The Union proposes that within Article 14, section 14.3, the minimum compensation for call-in pay and/or court time be increased from a minimum of two hours of pay at the appropriate rate, whether straight time or overtime, to three hours of appropriate pay. The Union emphasizes the inconvenience of being called in when employees believe they will be off duty with their families. The Union contends that the one hour increase is deserved and affordable.

The Employer opposes the proposed increase in court-time/call-in pay from two hours to three hours, pointing out that this is a fifty percent increase with little more than an expressed desire to have more in this regard put forward as a reason for effecting this change. The Employer emphasizes the difficult economic times in which the Village is now required to operate, and urges that what resources are available be directed to the bargaining unit's wages rather than distributed piecemeal.

One of the factors to be considered by the fact finder in addressing unresolved language is the ability of the public employer to pay for what has been proposed. The fact finder finds the Employer's arguments as to the difficult economic times facing the Village to be credible and persuasive. The unencumbered annual General Fund carryover for the Village over the past three years has declined from 1.5 million dollars in 2008, to 1.17 million dollars in 2009, to an estimated .5 million dollars in 2010. Such a precipitous drop in what separates the amount of Village revenues from the amount of Village expenses is only too real and warns of fiscal hardships that will affect everyone living in the Village and everyone employed by the Village, including police officers and sergeants. The Village's unencumbered General Fund estimated carryover for 2010, the first year of the parties' successor Agreement, does not engender fiscal optimism, nor does the trend exhibited by the Village's revenues and expenses over the past three years. Revenues are eroding and expenses are rising. The costs faced by the Village over the next three years include substantial increases in health care coverage costs for which the Employer bears most of the financial burden.

The fact finder shares the Employer's caution in assessing what is affordable at this time and also has a lack of confidence in forecasting what the economy of the region will be two years and three years from now. With that uncertainty in mind and with the present economy observed to be sluggish, the fact finder is

reluctant at this time to recommend increased costs that are not grounded in clear, compelling reasons for their imposition.

The Union also proposes an increase in the accumulation of compensatory time, proposes a new opportunity to cash out compensatory time (up to forty hours per year), proposes an increase in the allowable compensatory time carryover from forty hours to eighty hours per year, and proposes adding on-call pay of twenty-five dollars per week for sergeants while serving in an on-call capacity.

The proposed increase in compensatory time does not present an increase in direct costs as it proposes the conversion of hours that otherwise would be paid in dollars to additional time off.

The opportunity to recommend something desired by a party that does not increase costs to the other party is usually an opportunity not lost on the fact finder. The increase in compensatory time, however, does give rise to costs beyond the conversion rate of the pay to paid time off. These costs arise from the effort, time, and costs associated with scheduling. Granting increased amounts of compensatory time to be banked, carried over, and cashed out, increases the costs of administering such an expanded scheduling array. The complications that these expanded alternatives present to efficient and safe scheduling of Village police coverage leads the fact finder to decline to recommend the changes proposed by the Union for Article 14. The same sentiments as expressed above,

the importance of conserving resources and directing what resources are available to wages, moves the fact finder to decline to recommend the proposed twenty-five dollar per week on-call pay for sergeants, a duty that has traditionally been done with compensation provided through the substantially higher sergeants' pay.

Recommended Language - Article 14 - Hours of Work, Overtime,  
Compensatory Time

Section 14.1 Workday/Workweek The regular workday and workweek for employees will be determined by the Chief of Police. The regular workweek for employees shall be forty (40) hours. The normal work assignments shall be either five (5) consecutive eight (8) hour days with two (2) consecutive days off or at the discretion of the Chief, four (4) consecutive ten (10) hour days with three (3) consecutive days off. The Chief further reserves the right to develop a schedule of ``12'' hour shifts as an alternative to ``8'' or ``10'' hour shifts.

A. Scheduling assignments for shift changes or training seminars shall not constitute a violation of the consecutive days off provision of this section.

B. Employees shall not be required to flex time-off or take other leave to avoid overtime.

Section 14.2 Work Period For purposes of wage and hour administration, a regular work period shall consist of eighty (80) hours in fourteen (14) consecutive calendar days. This work period shall also constitute the pay period.

Section 14.3 Call-In Pay/Court An employee directed to work any portion of a shift or appearance in court that is not contiguous with his/her regularly scheduled shift shall be compensated for a minimum of two (2) hours of pay at the appropriate rate whether straight time or overtime.

Section 14.4 Overtime All hours actually worked in excess of forty (40) hours in a seven (7) day period shall be compensated at the overtime rate of one and one-half (1-1/2) times the regular rate of compensation. Vacation leave and compensatory time shall count as hours worked for the computation of overtime.

Section 14.5 Overtime, Special Details, & Special Duty Assignments The Chief or his designee will determine when overtime is necessary. The Chief or his designee will attempt to assign overtime in a fair and equitable manner providing such attempts do not effect the orderly and efficient operation of the Department as determined by the Chief.

Special Details are assignments completed by employees on duty, may be outside of their normal work assignments, and may or may not involve overtime. Special Duty assignments are Department-approved agreements for police services between employees and outside employers, are not hours worked and are not subject to overtime.

An employee shall be deemed to be unavailable for overtime, and normally will not be called, because of sickness, vacation, or other leave. This will not apply to emergencies or times of dire need as determined by the Chief.

When overtime is offered for Special Details it will be rotated among employees and in no way limits the use of part-time or auxiliary/reserve employees for Special Details by the Chief or his designee. Rotation will be based upon the use of a last-to-most procedure for offering the overtime, using the total overtime hours proffered and worked. The higher position on the seniority list will be used as a tiebreaker. Any employee may request the Chief not notify them of voluntary overtime opportunities. This section does not apply to mandatory Special Details designated by the Chief or the Village Manager, such as the 4<sup>th</sup> of July Festival.

It is understood that Special Detail rotation shall not apply to (A) the extension of normal duties such as an ongoing complaint, an investigation, case follow-up, court, prisoner escorts, training, the completion of a report, or (B) activities requiring specialized training, qualifications, and/or experience for which the Chief or his designee may assign an employee at his discretion for mandatory overtime.

The Chief or his designee shall maintain a list of all applicable Special Detail overtime hours worked or refused by each employee, and update this list once a month for the duration of this agreement. The list will be made available to a shift associate upon request. Submitted overtime request slips will also be made available upon request.

If no employee accepts an offered Special detail overtime assignment, the Chief or his designee may assign an employee at his discretion for mandatory overtime. The Chief also reserves the right to revise posted schedules in order to provide for

Special Detail coverage when employee availability is limited.

Remedy for missed overtime opportunities will be to offer the next opportunity of a similar nature as determined by the Chief.

Special Duty assignments should be filled in a manner so as to not interfere with the posted schedule of the employees. Employees may choose to place a fellow employee in charge of assigning special duty, subject to a policy approved by the Chief. The employee cannot collect overtime for the performance of this function, but shall be allotted a reasonable amount of time if on duty.

Section 14.6 Compensatory Time An employee who is entitled to overtime payment as authorized in this Contract may request, at such time as the overtime is earned, to take equivalent compensatory time off, in lieu of cash payment, at a later time. The grant and use of compensatory time off must be scheduled through and is subject to approval by the Chief or his designee. The Chief may schedule an employee's compensatory time. Employees may convert accumulated, unused compensatory time.

Section 14.7 Compensatory Time Off An employee may take compensatory time off at the employee's request and the approval of a supervisor. Compensatory time off shall be taken in minimum of one hour increments. Employees requesting an entire shift or more on compensatory time off shall obtain the approval of the Chief of Police or his designee. Such request shall normally be at least seven (7) days in advance. No employee may utilize more than forty(40) hours of compensatory time in any given calendar year.

Section 14.8 Suspension of Compensatory Time Utilization At the discretion of the Chief and due to the operational needs of the department, the practice of utilizing compensatory time may be halted during an emergency. Emergency is defined as any man-made or natural disaster or any shortage in manpower when such manpower falls below eighty percent (80%) of the allocated strength of the department.

#### Article 16 - Vacation

The Union proposes that the vacation accrual rate that applied under the parties' most recent collective bargaining agreement be accelerated and that employees with fifteen or more years of service accrue five weeks of vacation per year, a

vacation accrual rate not contained in the parties' predecessor Agreement.

The contract between the parties that took effect on January 1, 2007 and expired on December 31, 2009 guaranteed the accrual of two weeks of vacation per year to employees who had completed one year of service but less than seven years of service; guaranteed three weeks of vacation per year to employees who had provided seven years of service but less than twelve years of service; and for employees who had provided twelve years or more of service, guaranteed four weeks of vacation accrual per year. The Employer's position is that the current vacation accrual rates are adequate, are comparable to vacation accrual rates internal and external to the Village, and should be retained in the parties' successor Agreement.

The Union's proposal for Article 16 would retain two weeks of vacation accrual per year for those employees completing one year of service; would accrue three weeks of vacation per year at five years of service rather than the current seven years; would accrue four weeks of vacation per year for employees who had provided ten years of service; and at fifteen years or more of service, would guarantee five weeks of vacation accrual per year.

Increased vacation accrual produces increased costs as increased vacation means fewer hours worked and a smaller pool of uniformed officers to provide the seven-day per week, twenty-four hour per day coverage required.

The Union stresses the connection in its proposal between

greater years of service and greater vacation accrual, and argues that this increase in vacation accrual can serve as an incentive to retain long-term, experienced, skilled officers.

The fact finder favors the status quo as presented by the vacation accrual language in Article 16 within the parties' most recent collective bargaining agreement. The fact finder does not find the economic climate favorable to an increase in vacation accrual. The fact finder finds other language to be included in the parties' successor Agreement that recognizes longevity in the bargaining unit. The advantages that accrue to bargaining unit members with greater seniority, and the graduated steps within the police officer and sergeant wage schedules take directly into account the amount of service provided to the Village of Granville by uniformed police officers and sergeants.

The fact finder acknowledges the logic of the Union's arguments in support of its proposal as to Article 16 but the fact finder remains persuaded that the changes proposed to the language of Article 16 are not appropriate at this time. The fact finder recommends that the parties retain the language in Article 16 as presented in the parties' predecessor Agreement.

Recommended Language - Article 16 - Vacation

Maintain current language.

## Article 17 - Sick leave

A number of changes have been proposed for Article 17 including changing ``members'' to ``employees'' and ``member'' to ``employee'' in Article 17, sections 17.1, 17.2, 17.3, 17.4, 17.5, and 17.6. Both parties have agreed to these changes to Article 17 and have also agreed to add new language, section 17.8, Annual Conversion, that reads as follows: ``Employees may convert one (1) sick day to one (1) personal leave day one time per calendar year at the request of the employee.'' The fact finder recommends for inclusion in the parties' successor collective bargaining agreement the language tentatively agreed by the parties for inclusion in Article 17, including the addition of section 17.8, language that was formerly found in a memorandum of understanding attached to the parties' predecessor Agreement.

### Recommended Language - Article 17 - Sick Leave

Section 17.1 Sick Leave Accrual Employees shall accrue sick leave at the rate of 10 hours per month. No sick leave shall accrue during any period of unpaid leave or during any period of disciplinary suspension. An employee with the Village may accumulate accrued sick leave without limit. Employees may only use sick leave accumulated with the village.

Section 17.2 Use of Sick Leave, Immediate Family An employee may use sick leave, upon approval of the Chief, for absence due to personal illness, pregnancy, injury, exposure to contagious disease for which could be communicated to other employees; and for illness, injury in the employee's immediate family (this determination to be within the authority of the Chief), and for necessary medical, dental or optical consultation or treatment when the same cannot be obtained during off duty time.

Immediate family is defined for sick leave purposes as: spouse,

mother, father, child, step-child living in the employee's home, sibling, grandparents, grandchild, legal guardian or other person who stands in place of a parent (loco parentis), or other relative residing in the employee's household.

Section 17.3 Minimum Charge to Sick Leave Absence for a fraction of a day that is chargeable to sick leave in accordance with this provision shall be charged in increments of not less than two (2) hours. Employees who, after reporting to work, are then sent home on sick leave shall be charged for actual hours absent.

Section 17.4 Sick Leave Verification At least one (1) hour before starting his/her shift for each day of absence, employee on sick leave shall inform the on-duty supervisor of the fact, except in the case of provable inability to make a telephone call. Upon reporting, employees shall give the phone number and address of the place of convalescence. Except in cases of suspected abuse, an employee will not be routinely required to furnish upon returning to duty a physician's certificate evidencing that the absence was for one of the reasons set forth in Section 2 above, for absences of two (2) consecutive days or less. The employee may be required to furnish such a certificate following an absence in excess of two (2) consecutive working days. Employees shall be required in all cases to furnish a written, signed statement upon appropriate Department form to justify the use of sick leave.

Section 17.5 Abuse of Sick Leave In the event that an employee is suspected of abusing sick leave, the Village may require the employee to justify his/her use of sick leave by obtaining a physician's certificate, at Village expense, from a physician designated by the Village. In addition, or in the alternative, the Village may require the employee to obtain a certificate from his own doctor at the employee's own expense, or other verification of illness or injury acceptable to the Chief, for any or all future absences for which sick leave is claimed within a period of six (6) consecutive months.

A. Grounds for suspicion of abuse shall include, but not limited to, information received by the Village that the employee is, or was, during any time for which sick leave is claimed:

1. Engaging in other employment;
2. Engaging in strenuous physical exercise of recreation, including work around the home, other than as ordered or recommended by a doctor;
3. Present in a tavern or other place inconsistent with a claim of illness or injury;
4. Absent from home or place of confinement or

convalescence when called or visited by representatives of the Village, except in cases where the employee can produce verification (such as hospital or medical clinical admissions or treatment slip or a receipt for the purchase of medicines from a pharmacy or a reasonable explanation) that his absence was for reasons directly related to the treatment of his illness or injury.

- B. Any employee who is suspected of abusing sick leave shall be confronted with such suspicion by his supervisor and given an opportunity to explain his use of sick leave prior to being required to produce a physician's certification for future absences as set forth above.
- C. While on paid sick leave employees are not authorized to work at other jobs without the written permission of the Village Manager.

Section 17.6 Sick Leave Credit on Return Service An employee who is laid off or on unpaid disability leave will, upon reinstatement to service, be credited for any unused sick leave existing at the time of his layoff or leave.

Section 17.7 Conversion of Sick Leave Upon retirement or separation, in good standing, after five years of employment, full-time employees may convert unused accrued sick leave to a lump sum monetary payment under the following conditions:

- 1) Payment will be on the basis of one day's pay for each three days of accrued sick leave.
- 2) Payment will be at the hourly rate in effect at the time of retirement or separation in good standing.
- 3) Only that sick leave which is accrued while employed by the Village of Granville shall be used in determining the amount of accrued sick leave eligible for conversion.
- 4) Employees terminated for cause or who fail to give two weeks written notice of intent to terminate employment, or who do not separate in good standing are not eligible for sick leave conversion benefit.
- 5) Provided the condition in paragraphs (1)-(4) are met, the maximum conversion of accrued but unused sick leave upon retirement or separation in good standing shall be one third (1/3) of accrued, unused sick leave to a maximum of 320 hours (or 1/3 of 960 hours maximum).

Section 17.8 Annual Conversion Employees may convert one (1) sick day to one (1) personal leave day one time per calendar year at the request of the employee.

## Article 18 - Other Leaves

Article 18 contains changes tentatively agreed by the parties, changing ``a member's'' to ``an employee's'' and ``member'' to ``employee'' in sections 18.1, 18.2, and 18.3. The fact finder recommends these changes for the parties' successor Agreement.

The Union proposes new language to be included in Article 18 that would grant to each bargaining unit member two personal leave days per year, with the use of these days dependant upon approval by the Chief or the Chief's designee. The Union's proposal would allow unused personal leave to be cashed out on December 15 of each year.

The sentiments expressed by the fact finder in declining to recommend the increased vacation accrual rates proposed by the Union for Article 16 are found by the fact finder to be germane to the two new personal days proposed by the Union. The fact finder is constrained by the difficult economic times in which the parties' successor Agreement will be in effect. For the same reasons expressed above, the fact finder declines to recommend the two personal days proposed by the Union for inclusion in Article 18. The fact finder recommends the member/employee changes in the language of Article 18 but otherwise recommends that Article 18 be brought forward to the parties' successor Agreement unchanged.

## Recommended Language - Article 18 - Other Leaves

Section 18.1 Bereavement Leave In the event of the death of an employee's mother, father, sister, brother, aunt, uncle, current spouse, child, current mother-in-law, current father-in-law, current step children, current daughter-in-law, current son-in-law, current stepmother or stepfather, legal guardian or person who serves in loco parentis, the member shall be granted up to three (3) working days with pay to attend the funeral.

In the event of the death of an employee's grandparents, grandchildren, current brother-in-law, current sister-in-law or any other relative of the employee residing in the employee's home, the employee shall be excused for one (1) day with pay. The Village may request proof of death and of the relationship in question.

If additional time is necessary for bereavement purposes, the employee may use up to one (1) day of sick leave for a death occurring out of state. Sick leave usage is appropriate for death of individuals listed in this Section. For the death of an immediate family member the Chief, with the approval of the Village Manager, may extend the amount of time an employee may be off to come out of the employee's sick leave bank.

Section 18.2 Jury Duty Leave An employee, while serving upon a jury in any court of record, will be paid his regular salary for each of his workdays during the period of time so served. Upon receipt of payment for jury service, the employee shall submit jury duty fees to the Chief who will then deposit such funds with the Village.

Section 18.3 Injury Leave An employee that is injured on duty shall, in the sole discretion of the Chief, be eligible for injury leave for a period of up to thirty (30) calendar days from the date of injury. This time shall not come from the employee's sick leave bank. The Chief, upon approval of the Village Manager may extend this injury leave up to forty (40) calendar days from the date of injury.

## Article 23 - Wages

Article 23, section 23.1 provides that the wage rates for employees are set forth in an appendix to this Agreement.

The Union proposes a three percent annual wage increase for all bargaining unit members for each of the three years of the

successor Agreement, with the first year's wage increase under the successor Agreement retroactive to January 1, 2010. As proposed by the Union, the three percent annual wage increases would occur in the context of the police officers' and sergeants' wage schedules agreed by the parties and applied from January 1, 2007 through December 31, 2009. The wage schedule for police officers contains ten steps, A through J, with step A for new hires and step J being top pay, requiring twelve years of service to reach top pay. The sergeants' wage schedule contains six steps, A through F, with step A for new sergeants and step F being top pay, requiring five years to reach top pay.

The police officers' wage schedule contains three steps, steps G, H, and I, that require two years of service in step before moving up to the next step. All other steps, except the last step, require one year of service to ascend to the next step.

The Union describes steps G, H, and I as containing ``ghost'' steps as these steps require a second year in step before moving to the next step. The Union proposes the elimination of the second years in steps G, H, and I, thereby making all steps one year in duration. Under this proposal top pay would be attained with nine years of service rather than the current twelve years of service.

The Employer points to a recent trend in declining revenues available to operate the Village and emphasizes that the budget of the Village's police department is determined by the Village

Council, not the Chief of Police. The Village Council has made it known to the Department that over the three years of the parties' successor Agreement there are funds available for wage increases that total five percent for the three-year term of the successor Agreement.

The Employer points out that the wage schedules applied during the most recent collective bargaining agreement, from January 1, 2007 to December 31, 2009, increase wages within the bargaining units based solely on years of service. The police officers' bargaining unit takes twelve years of service to attain top pay among ten steps; the sergeants' bargaining unit has a wage schedule that includes an initial hire step, followed by five steps of one year each, requiring five years to attain top pay.

The sergeants' pay schedule has built into it a five percent increase from one step to the next. The police officers' wage schedule provides, in its January 1, 2009 version, a 3.8% increase at the completion of one year of service; a 3.8% increase with the completion of the second year of service; a 5.8% increase after three years of service; a 5.7% increase with four years of service; a 5.7% increase for five years of service; a 5.6% increase for the completion of six years of service; a 5.6% increase with the completion of eight years of service; a 5.6% increase with the completion of ten years of service; and at the completion of twelve years of service, upon attaining top pay, a 7.8% increase.

In the second year of the parties' predecessor Agreement, on January 1, 2008, with the exception of top pay police officers, police officers received an annual wage increase of 3.2%. Top pay police officers and sergeants received an annual wage increase effective January 1, 2008 of 4.0%.

Effective January 1, 2009, most police officers received an annual wage increase of 3.2%, top pay police officers received an annual wage increase of 4.2%, and sergeants received an annual wage increase of 4.0%.

The Employer argues that there are insufficient funds available to the Village to pay the wage increases proposed by the Union. The Employer, constrained by the amount of funds made available by the Village Council for wage increases over the three years of the parties' successor Agreement, recommends that the increases built into the wage schedule based on years of service be frozen, and over each of the years of the successor Agreement the bargaining unit members receive annual wage increases of 1.64%. An alternative form of the Employer's proposal on wages is to pay all bargaining unit members an additional \$0.3311 per hour for the hours worked in each of the three years of the successor Agreement, an increase that calculates to \$689.00 per year per bargaining unit member. Such an increase would be exactly the same for all bargaining unit members no matter what their step or seniority.

The Employer has presented evidence comparing what has been proposed for the bargaining units in this fact-finding proceeding

to other bargaining units within the organizational structure of the Village of Granville and uniformed police officer bargaining units in other political subdivisions in the region and the state. The Employer argues that the constraints on its wage proposal are necessitated by the economic times in which we live. The Employer claims that its proposal on wage increases will strain an already tight Village budget.

What complicates an analysis of the parties' proposals on wages are the two components of their proposals that must be accounted for, both in tandem and as separate mechanisms. One wage calculation mechanism is comprised of the wage schedules agreed by the parties and applied over the past three years. The wage schedules ground wage rates in years of service provided to the Village from the bargaining unit. Such a system pays higher wages to employees with greater years of service. The wage schedules also provide to both parties a precise description of what level of wages will be required over the three years of the collective bargaining agreement, and what can be expected over the twelve years of the police officers' wage schedule and beyond, so long as the wage schedules are maintained.

While the wage schedules contained in an appendix to the parties' collective bargaining agreement increase wages based on the number of years of service provided, the fashioning of a new collective bargaining agreement also entails bargaining annual wage increases over the course of the successor Agreement's term, in this case three years. Annual wage increases are a separate

bargaining issue from the wage schedules agreed by the parties and put into effect on January 1, 2007; annual wage increases are a separate wage calculation mechanism.

While the two wage mechanisms used in the parties' collective bargaining agreement are separate systems, one based on years of service and the other based on an agreed annual percentage, the costs from these two separate systems ultimately flow together as an increased obligation upon the Village. The funds required to meet the obligations of the wage schedules and annual wage increases over the three years of the successor Agreement add up to what is required of the Employer in this regard. When the step increases over time are added to the annual wage increases proposed by the parties, the amount of money needed can be substantial.

As an example, a police officer completing his or her fourth year receives a 5.7% wage increase with his movement from step D to step E and, as was the case effective January 1, 2009, an annual wage increase of 3.2% moves the increase in wages for this police officer to about 9.0% of what had been earned a year earlier.

In the case of the Union's proposal of 3.0% annual wage increases, the increased wages for a patrol officer completing his fourth year of service would be 5.7% for the attainment of the next step and a 3.0% annual wage increase would produce a wage increase approaching 9.0% as the 3.0% annual increase would be applied to an hourly rate that had increased by 5.7%.

The fact finder views the wage schedules agreed by the parties effective January 1, 2007 and applied over the ensuing three years to present the status quo of the wage system in effect between the parties. The wage schedules were agreed and ratified by the parties and present a wage system that was relied upon by bargaining unit members with an eye to the long term. This reliance on an agreement between the parties as to what could be expected in how bargaining unit members would be paid supports the Union's preference that the wage schedules continue in effect over the coming years as intended by both parties when they agreed to these wage schedules.

The fact finder favors the Union's position on retaining the wage schedules but does not recommend the removal of the second year within steps G, H, and I, the so-called "ghost" steps. There is no rule of thumb as to how many years are needed to attain top pay, nor any generally accepted standard as to how many years are to be served in step before ascending to the next step. The wage schedules were agreed by both parties effective January 1, 2007, and no agreement to change the wage schedules has occurred. The fact finder favors the retention of the wage schedules as presently configured, a continuation of the status quo, with an understanding of the reliance placed upon the wage schedules by all parties. The fact finder therefore declines to recommend the changes in the structure of the wage schedule that have been proposed by the Union and also declines to recommend a freeze of the wage schedules as proposed by the Employer.

If the wage schedules are retained and neither modified nor frozen, police officer bargaining unit members, except those who have already attained top pay, would either receive a 3.2% or a 5.8% increase when moving to the next step during the parties' successor Agreement. Sergeants would receive a 5.0% increase with a movement to the next step. Even those bargaining unit members who are completing a second year in step for those steps requiring a second year would, in the absence of a wage increase grounded in the wage schedule for that year, still be moving forward to the next step with its 5.6% wage increase and would be one year closer to top pay.

The amount of the wage increase proposed by the Employer is insufficient, even in the absence of any annual wage increase, to meet the obligations required by the wage schedules applied under the parties' most recent collective bargaining agreement. The freezing of the wage schedules as proposed by the Employer, coupled with a 1.64% annual wage increase, would leave bargaining unit members with less pay than would be the case if the wage schedules were to be implemented and no annual wage increase granted.

The fact finder recommends that the wage schedules continue in effect based on the reliance placed upon them by all parties beginning January 1, 2007 and extending to the present. The wage schedules agreed by the parties to be put into effect on January 1, 2007 were understood by both parties to present continuing, ongoing obligations between the parties, a promise that was

intended to be relied on for years beyond the (then) current collective bargaining agreement. A pay schedule that extends to twelve years, even if contained in a three-year Agreement, sends a message that communicates stability and invites reliance over the long term. The fact finder finds these factors to be sufficiently compelling to recommend that the wage schedules continue in effect under the parties' successor Agreement. These wage rates are no novel or unexpected financial obligation; they are the result of agreements between the parties that were ratified by both the Employer and the Union three years ago.

Because the fact finder is persuaded by the evidence presented of the severity of the economic times we now live in, and with the recommendation that the wage schedules remain in effect in the parties' successor Agreement, a recommendation that includes wage increases for many bargaining unit members, the fact finder recommends that the first year of the successor Agreement elapse without an agreed annual wage increase. As noted above, this does not mean that bargaining unit members are frozen at their present wage levels. Those bargaining unit members who move to the next step during this year will still receive a wage increase that is substantially higher than pay increases currently found in the region and the state.

The lack of an agreed annual wage increase in the first year of the parties' successor Agreement recognizes the present economic difficulties faced by the Village and is intended to provide some relief in that regard during 2010. In exchange for

the zero wage increase in 2010, the fact finder recommends an annual wage increase of two percent (2.0%) effective January 1, 2011 and two percent (2.0%) effective January 1, 2012. These two annual wage increases are found by the fact finder to be affordable by the public employer and reasonable under the wage and working history of the parties.

Recommended Language - Article 23 - Wages

Maintain current language.

APPENDIX

First Year - Effective January 1, 2010 - Police Officers

Step	A	B	C	D	E	F	G	H	I	J
Years	0	1	2	3	4	5	6	8	10	12

Uncert: 12.54

Annual Equivalent: 26,085

Police Officer Hourly:

13.54 14.05 14.59 15.43 16.31 17.24 18.21 19.23 20.31 21.89

Annual Equivalent:

28,165 29,217 30,352 32,092 33,923 35,850 37,876 40,008 42,251 45,541

Police Officer w/degree:

14.54 15.30 16.09 16.93 17.81 18.74 19.71 20.73 21.81 23.39

Annual Equivalent:

30,245 31,817 33,472 35,212 37,043 38,970 40,996 43,128 45,371 48,661

Second Year - Effective January 1, 2011 - Police Officers - 2% increase

Step	A	B	C	D	E	F	G	H	I	J
Years	0	1	2	3	4	5	6	8	10	12

Uncert: 12.79

Annual Equivalent: 26,607

Police Officer Hourly:

13.81 14.33 14.88 15.74 16.64 17.58 18.57 19.61 20.72 22.33

Annual Equivalent:

28,728 29,801 30,959 32,734 34,601 36,567 38,634 40,808 43,096 46,452

Police Officer w/degree:

14.83 15.61 16.41 17.27 18.17 19.11 20.10 21.14 22.25 23.86

Annual Equivalent:

30,850 32,453 34,141 35,916 37,784 39,749 41,816 43,991 46,278 49,634

Third Year - Effective January 1, 2012 - Police Officers - 2% increase  
 Step       A       B       C       D       E       F       G       H       I       J  
 Years       0       1       2       3       4       5       6       8       10      12

Uncert: 13.05

Annual Equivalent: 27,139

Police Officer Hourly:

14.09 14.62 15.18 16.05 16.97 17.93 18.94 20.00 21.13 22.78

Annual Equivalent:

29,303 30,397 31,578 33,389 35,293 37,298 39,407 41,624 43,958 47,381

Police Officer w/degree:

15.13 15.92 16.74 17.62 18.53 19.49 20.50 21.56 22.70 24.34

Annual Equivalent:

31,467 33,102 34,824 36,634 38,540 40,544 42,652 44,871 47,204 50,627

First Year - Effective January 1, 2010 - Sergeants

Step                   A       B       C       D       E       F  
 Years                   0       1       2       3       4       5

Police Sergeant Hourly: 20.17 21.18 22.24 23.35 24.52 25.75

Annual Equivalent: 41,962 44,061 46,264 48,577 51,006 53,556

Second Year - Effective January 1, 2011 - Sergeants - 2% increase

Step                   A       B       C       D       E       F  
 Years                   0       1       2       3       4       5

Police Sergeant Hourly: 20.57 21.60 22.68 23.82 25.01 26.27

Annual Equivalent: 42,801 44,942 47,189 49,549 52,026 54,627

Third Year - Effective January 1, 2012 - Sergeants - 2% increase

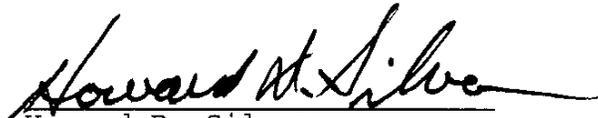
Step                   A       B       C       D       E       F  
 Years                   0       1       2       3       4       5

Police Sergeant Hourly: 20.98 22.03 23.13 24.30 25.51 26.80

Annual Equivalent: 43,657 45,841 48,133 50,540 53,067 55,720

The fact finder incorporates by reference, as if fully rewritten herein, all Articles that were unopened by the parties or tentatively agreed by the parties, and recommends these Articles be included in the parties' successor Agreement.

In making the recommendations presented in this report, the fact finder has considered the criteria presented by Ohio Revised Code Chapter 4117., and section 4117-9-05(K) of the Ohio Administrative Code.

  
Howard D. Silver  
Fact Finder

Columbus, Ohio  
March 12, 2010

CERTIFICATE OF SERVICE AND FILING

I hereby certify that the foregoing Report and Recommended Language of the Fact Finder in the Matter of the Village of Granville, Ohio and the Fraternal Order of Police, Ohio Labor Council, Inc., SERB case numbers 2009-MED-09-0896 and 2009-MED-09-0919, was filed, via hand-delivery, with the State Employment Relations Board, and hand-delivered to the offices of the following, this 12<sup>th</sup> day of March, 2010:

Brenda Goheen  
Staff Representative  
FOP/Ohio Labor Council, Inc.  
222 East Town Street  
Columbus, Ohio 43215

and

Jonathan J. Downes, Esquire  
DOWNES FISHEL HASS KIM LLP  
400 S. Fifth Street, Suite 200  
Columbus, Ohio 43215.

  
Howard D. Silver  
Fact Finder

Columbus, Ohio  
March 12, 2010