

IN THE MATTER OF FACT-FINDING
BETWEEN

CITY OF STRONGSVILLE)	CASE NOS. 09-MED-09-1005
)	09-MED-09-1006
AND)	
)	<u>FINDINGS</u>
)	AND
FRATERNAL ORDER OF POLICE)	<u>RECOMMENDATIONS</u>
LODGE NO. 15)	

JAMES M. MANCINI, FACT-FINDER

APPEARANCES:

FOR THE UNION

Robert M. Phillips, Esq.

FOR THE CITY

Jon M. Dileno, Esq.

STATE EMPLOYMENT
RELATIONS BOARD
2010 JUL 16 A 10:48

SUBMISSION

This matter concerns fact-finding proceedings between the City of Strongsville (hereinafter referred to as the Employer or City) and the Fraternal Order of Police, Lodge No. 15 (hereinafter referred to as the FOP or Union). The State Employment Relations Board (SERB) duly appointed the undersigned as fact-finder in this matter. The fact-finding hearing was held on June 16, 2010 in Strongsville, Ohio.

The fact-finding proceedings were conducted pursuant to the Ohio Collective Bargaining Law as well as the rules and regulations of SERB. During the fact-finding proceeding, this fact-finder attempted mediation of the issues at impasse. The issues remaining for this fact-finder's consideration are more fully set forth in this report.

There are two bargaining units involved in this matter. The Patrol Officer Unit is comprised of approximately fifty sworn patrol officers. The Sergeant Unit is comprised of approximately twenty sworn sergeants.

This fact-finder in rendering the following findings of fact and recommendations on issues at impasse has taken into consideration the criteria set forth in Ohio Revised Code Section 4117-14(G)(6)(7). Further, this fact-finder has taken into consideration all reliable evidence presented relevant to the outstanding issues before him.

1. WAGES

The FOP proposes wage increases of 2% effective January 1, 2010; 3.5% effective January 1, 2011; and 3% effective January 1, 2012. In addition, the FOP proposes to improve the current Professional Premiums as follows: 2010 – Additional \$300.00 for a total of \$1,800; 2011 – Additional \$200.00 for a total of \$2,000; and 2012 – Additional \$100.00 for a total of \$2,100.

The City proposes that there be a first year wage freeze. In the second year there is to be a 1% wage increase. For the third year, the Employer proposes a 1.5% wage increase. The City further proposes to eliminate the \$.30/hour second shift premium and \$1.00/hour third shift premium.

The FOP contends that the City of Strongsville has had only a modest slowdown in revenues which does not approach that which has been experienced by other comparable municipalities. Even though there was a decline in revenue for fiscal year 2009, the City continues to have a robust fiscal outlook. As a result, the FOP takes strong exception to the City's proposed wage freeze for the current year. The FOP's proposal of a 2% increase for 2010 takes into consideration the slowdown in City revenues projected for the current year and is clearly reasonable.

The FOP introduced its own financial analysis of the City's finances through the testimony of Mary Schultz, a Certified Public Accountant. Ms. Schultz stated that although the City's income tax revenues declined in 2009, the City still had a year-end General Fund carryover balance of \$8,381,000. Ms. Schultz further stated that in light of

lower tax revenues, the City has reduced some departmental budgets in the General Fund. While the Police Department budget has decreased, the Transfers Out Budget to the Street Construction Fund and the Multi-Purpose Center remains virtually unchanged. This simply indicates that the changes in the operating budgets reveal a shift in priorities. Ms. Schultz noted that even with the reduced budgets, the City projects an unencumbered General Fund balance at the end of 2010 of approximately \$7,000,000. Ms. Schultz concluded that the City of Strongsville is fiscally healthy especially compared to some other neighboring communities.

The Union also cites wage comparables for patrol officers in neighboring jurisdictions. It first points out that Strongsville has the lowest entry level wage in Cuyahoga County including that found in East Cleveland which is at \$34,000. It takes a Strongsville patrol officer five years to achieve the top level pay of \$63,000. Even the City's top wage for patrol officers falls below that in the comparable municipalities of Middleburgh Heights, North Olmsted, Solon and Mentor. There have been substantial wage increases provided in several of these jurisdictions for 2010 which have averaged 2.3% in the first year of their contract. The wage comparables cited support the FOP's proposed wage increases in this case.

The City maintains that due to declining income tax revenues through mid June 2010, a wage freeze in the first year of the Agreement is appropriate. The City contends that the "great recession" has hit Strongsville and reduced its tax collections. In 2009, the City saw its income tax revenues drop by over 1.2 million dollars. As a result, the City

had to implement cost cutting measures in order to maintain a reasonable year-end General Fund balance. Since 2008, the City has reduced its payroll by eleven full-time positions resulting in over one million dollars in expenditure cuts.

The City's Finance Director, Joe Dubovec, testified regarding the City's current financial condition. According to Mr. Dubovec, the City has continued to experience a decline in revenue in 2010. As a result, expenditures are expected to exceed revenues for the current year by approximately 1.2 million dollars. The City anticipates that its cash reserves will be depleted by over 2 million dollars or down to approximately 5.7 million dollars at year's end. Because of the significant downturn in the tax revenue, the City has asked all departments to cut expenditures for the current year. The Finance Director indicated that due to the anticipated slow growth in the economy, the City faces significant uncertainty as to revenues over the next several years. The City believes that there should be no increase in wages this year for the bargaining units involved and modest increases in years two and three of the Contract.

The City also presented the testimony of an outside financial consultant, Dr. Kleinhenz. He basically testified as to the national and greater Cleveland metro economic outlook. Dr. Kleinhenz indicated that fiscal and monetary policies have triggered a moderate economic recovery, following the longest and deepest recession since World War II. However, he noted that 2010 is shaping up to be a challenging year. Dr. Kleinhenz acknowledged that he did not do a specific assessment of the City of Strongsville's current economic outlook.

The City also presented the testimonies of its Police Chief and Service Director. Police Chief Goss stated that the City has made substantial budget cuts to the police operating budget for the current year due to the financial difficulties which it has experienced. As a result, he has implemented cuts in various operating expenditures and has further delayed the purchase of vehicles, firearms and in-car video equipment. Likewise, the Service Director, Joe Walker, stated that he has implemented certain operating budget cuts and delayed the purchase of snowplow trucks and other items.

The City also points out that it has implemented a wage freeze for its non-union employees for 2010. In addition, Teamsters Union Local 252 and the City negotiated a one year contract with no wage increase for 2010. Moreover, external wage comparables indicate that the City's patrol officers' pay is above the average paid in the thirty or so cities in Cuyahoga County. Even with respect to contiguous cities, the City ranks second in compensation paid to its patrol officers. Such comparable evidence provides further support for the City's wage proposals.

ANALYSIS – Based upon a careful review of the evidence and arguments presented, this fact-finder would recommend that there be a wage increase of 1.5% effective January 1, 2010; a 2.5% increase on January 1, 2011; and 3% wage increase on January 1, 2012.

This arbitrator must find from the record presented that the evidence fails to clearly demonstrate that the City is facing a financial crisis which would warrant a wage freeze for the first year of the Contract. The evidence does indicate that the City has

experienced a reduction in its tax collections due to the recession. In 2009, the City's income tax revenues declined by over 1.2 million dollars from the previous year. However, it is apparent that unlike some other municipalities which have been forced by the recession to take drastic cost cutting measures, the City of Strongsville has not experienced such severe budgetary shortfalls which would call for such action. Even with the slowdown in revenues, it was estimated that the City's 2010 year-end General Fund balance will be approximately 7 million dollars. Although the Finance Director indicated that his estimate for the year-end General Fund balance would be more like 5.7 million dollars, there was evidence presented through the FOP's financial expert that if the amount transferred to the SCMR fund were taken into consideration, the General Fund balance would be considerably greater. Moreover, the City acknowledged that it has a substantial reserve fund set aside for investment purposes. It is evident therefore that the City has the ability to fund the 1.5% wage increase recommended for the bargaining units here for the first year of the Contract. This would cost approximately \$106,000 for the current year.

There was other evidence presented which shows that the City is not facing a financial crisis at the current time which would warrant a wage freeze for the first year of the Contract. As the FOP's financial expert stated, the City's financial well-being is "much healthier than others." There was no showing made that the City of Strongsville is experiencing any decline in business activity. To the contrary, as indicated in recent newspaper articles, there is new job growth in the City with several area businesses

expanding and adding jobs. Recently, Moody's Investor Service gave the City an Aa1 rating noting that in a region that continues to struggle, the City of Strongsville maintains a stable employment base. Therefore, there are positive signs which indicate that the decline in income tax collections may be ending soon.

This fact-finder recognizes the City's contention that it would be wise to use some degree of caution in providing for any kind of first year wage increase for the bargaining units involved. This is due to the uncertainty which it faces as a result of the recession. It is for that reason that this fact-finder only recommends a 1.5% increase in the first year of the Contract rather than the greater wage increase proposed by the FOP. As for the second and third years of the Contract, this fact-finder finds that it would be reasonable to recommend a 2.5% and 3% wage increase for the bargaining units. This would be in line with wage increases provided to safety forces in neighboring communities. For example, Middleburgh Heights' police were provided with a 3% wage increase for 2010. Moreover with such wage increases, the bargaining units here would be able to retain their relative ranking with respect to wages in the area.

This fact-finder does not recommend any change in the current professional pay provision. Currently, bargaining unit members receive \$1,500 for professional pay as set forth in the Contracts. That amount appears to be reasonable and in line with others in the area which provide similar professional pay supplements. There was no justification established for any increase in the professional pay supplement at this time.

This fact-finder also does not find any basis to support the City's proposal to eliminate the current shift premiums. There is currently a second shift premium of \$.30 an hour and \$1.00 per hour third shift premium. Considering that the patrol units work permanent shifts in the City, the current shift premiums appear to be appropriate. There simply was no evidence presented which would warrant the elimination of the shift premiums.

RECOMMENDATION

It is the recommendation of this fact-finder that there be a 1.5% wage increase in the first year of the Contract followed by increases of 2.5% and 3% in the second and third years of the Agreement as more fully set forth below. In addition, it is not recommended that there be any increase in the professional pay supplement. It is also recommended that the shift premiums remain unchanged.

ARTICLE XXIII - WAGES AND BONUS/PREMIUMS

Effective January 1, 2010 – One and one-half percent (1.5%) increase.

Effective January 1, 2011 – Two and one-half percent (2.5%) increase.

Effective January 1, 2012 – Three percent (3%) increase.

PROFESSIONAL WAGE SUPPLEMENT

To remain the same, no change.

SHIFT PREMIUM

To remain the same, no change.

2. HEALTHCARE BENEFITS

The Employer proposes to increase the employee's monthly premium contribution from the current \$20 per month to ten percent (10%) of the monthly premium costs paid by the City. In addition, the City proposes to modify benefits or the design of the healthcare plan which would include changes in deductibles and co-insurance. The FOP has offered to increase their premium contribution to \$40 per month in January 2011 and to \$60 per month in January 2012. However, the FOP opposes any change in the healthcare plan currently provided to the employees.

The City contends that patrol officers pay very little per month for insurance coverage while they are provided with a high level insurance plan with minimal deductibles and co-pays. The City presented evidence comparing the healthcare plan offered to employees here with that provided to other public sector employees in the state. Such comparison shows the City's proposed changes in both the employee contributions towards health coverage and in the healthcare plan itself is reasonable and should be recommended.

The FOP maintains that the proposed modification to healthcare benefits is unwarranted. The current plan whereby the employees are on a 90-10 in network and 80-20 out of network level of contributions is reasonable. Again, the FOP notes that it has offered to increase the employees' premium contributions in the final two years of the Contract.

ANALYSIS – This fact-finder finds that it would be appropriate to recommend that the employees' contributions towards healthcare premiums be increased to \$80 per month effective January 1, 2011. However, the change in the healthcare plan design as proposed by the City is not recommended.

This fact-finder finds that the current employee contribution of \$20 per month is significantly less than that paid by other public sector employees in the state. SERB's most recent report on health insurance in Ohio's public sector indicated that when employees pay a portion of the premium, the average monthly contribution is \$48.87 for single and \$138.44 for family coverage. It is apparent therefore that the current \$20 per month which employees contribute here is significantly less than the average paid by other public sector employees. This fact-finder does not find that there is any merit to the City's proposal that employees contribute ten percent of the monthly premium cost paid by the City. Rather a more reasonable approach would be simply to increase the employee contribution from \$20 to \$80 per month effective January 1, 2011.

This fact-finder further finds that there was insufficient basis established for any change in the current healthcare plan provided to the employees. Under the SuperMed Plus Plan, the employees are on a 90-10 in network and 80-20 out of network level of contribution. It was not established that the current benefits provided under the SuperMed Plus Plan should be changed at the present time. It was shown that the current SuperMed Plus contract with Medical Mutual runs through mid 2011. At one point during negotiations, the City proposed to continue the current healthcare plan design for

the duration of the three year Contract so long as employee contributions towards premiums were increased. As indicated, this fact-finder is recommending that such employee premium contributions should be increased to \$80 per month beginning next year.

RECOMMENDATION

It is the recommendation of this fact-finder that employee contributions towards healthcare premiums be increased to \$80 per month effective January 1, 2011.

Otherwise, there is to be no change in the current healthcare plan.

ARTICLE XXI - HEALTHCARE

Effective January 1, 2011, there shall be an increase in the employee's monthly premium contribution to Eighty Dollars (\$80) per month.

No change in the current healthcare plan.

3. INJURY WAGE CONTINUATION

The City proposes to delete paragraph 22.2 which provides for the continuation of full pay and benefits for non-hazardous type injuries. The Union proposes to retain current language.

The City contends that it would be appropriate to eliminate the Wage Continuation Provision for non-hazardous on the job injuries. The City does not believe it is appropriate in such instances to provide officers with continuation of their wages unless it involves an injury due to hazardous duty.

The Union maintains that police work is inherently dangerous and would be wrong to attempt to split hairs in a manner proposed by the City with respect to on duty injuries. In most instances, there is a fine line between what is and is not hazardous and therefore the City's proposal would create difficulties in determining whether or not compensation should be continued in certain case.

ANALYSIS – This fact-finder finds that there was insufficient basis established for any change in the current Injury Wage Continuation Provision. As noted by the parties, the wage continuation plan actually gives a public employer significant savings in Ohio Bureau of Workers Compensation premiums. Without the wage continuation plan, certain on the job injuries could create a lost time accident which would add to the Employer's experience rating thereby driving up premiums. Comparables also show that there is no reason to change the current Injury Wage Continuation Provision.

RECOMMENDATION

It is the recommendation of this fact-finder that there be no change in the current Injury Wage Continuation Provision.

ARTICLE XXII - INJURY WAGE CONTINUATION

Retain current language.

4. BENEFITS

The Union proposes to modify Section 21.01 by providing that if an employee is held over beyond their regularly scheduled hours for working the named holidays, they will be compensated at two (2) times their basic rate of pay. The City opposes any change as proposed by the FOP.

ANALYSIS – There was insufficient basis established for the Union’s proposal. As such, this fact-finder cannot recommend the language proposed by the FOP.

RECOMMENDATION

It is the recommendation of this fact-finder that there be no modification to Section 21.01 of the Holidays Provision as proposed by the FOP.

ARTICLE XX1 - BENEFITS

Section 21.01 – Holidays – Current language, no change.

5. SICK LEAVE

The FOP proposes to modify the minimum units for the charging of sick leave from one hour to one quarter hour. The City opposes any change in the current provision.

ANALYSIS – There was insufficient basis established for the FOP’s proposal. There was no indication that the current provision which provides that sick leave is to be charged in minimum units of one hour is unreasonable. For that reason, this fact-finder cannot recommend the change proposed by the FOP.

RECOMMENDATION

It is the recommendation of this fact-finder that there be no modification to Section 20.03 of the Contract pertaining to the charging of sick leave.

ARTICLE XX - SICK LEAVE

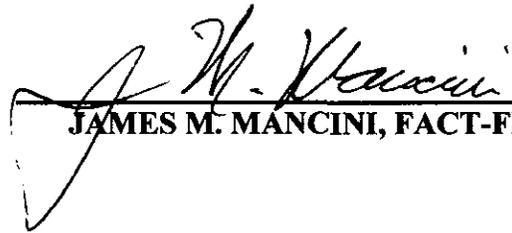
Section 20.03 – Charging of Sick Leave

In minimum units of one hour – No change, to remain the same.

CONCLUSION

In conclusion, this fact-finder hereby submits the above referred to recommendations on the outstanding issues presented to him for his consideration.

JULY 13, 2010



JAMES M. MANCINI, FACT-FINDER

JAMES M. MANCINI
ATTORNEY AT LAW - ARBITRATOR
JEFFERSON CENTRE - SUITE 306
5001 MAYFIELD ROAD
LYNDHURST, OHIO 44124
216 382-9150 Fax 216 382-9152 ManciniJM@aol.com

July 13, 2010

J. Russell Keith
Assistant Executive Director
State Employment Relations Board
65 East State Street, 12th Floor
Columbus, Ohio 43215-4213

RE: Case Nos. 09-MED-09-1005
 09-MED-09-1006
City of Strongsville
-and-
Fraternal Order of Police, Lodge No. 15

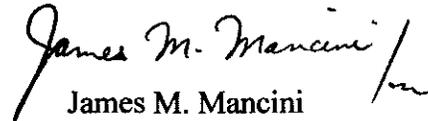
STATE EMPLOYMENT
RELATIONS BOARD
2010 JUL 16 A 10:48

Dear Mr. Keith:

Please find enclosed herewith a copy of my fact-finder's Report in the above referred to matter.

Thank you.

Very truly yours,


James M. Mancini

JMM:em
Enclosure