

IN THE MATTER OF FACT FINDING

BETWEEN

THE CITY OF GREEN

AND

AFSCME OHIO COUNCIL 8, LOCAL 2714

SERB CASE # 10-MED-01-0011

Robert G. Stein, Fact Finder

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INTRODUCTION

The bargaining unit is represented by the American Federation of State, County, and Municipal Employees, Ohio Council 8, and its Local 2714 (hereinafter "Union" or "bargaining unit") and consists of approximately eight (8) people employed full-time in the classifications of Dispatchers, and four (4) people employed part-time in the same classification. The employer in this matter is the City of Green (hereinafter "Employer" or "City"). Green is a progressive City located between Canton, Ohio and Akron, Ohio. The bargaining unit provides a vital service and plays an integral role in the central dispatch of fire and EMS units in service to the citizens of Green.

The Agreement expired on April 15, 2010; however, the parties continued to bargain and held mediation/fact-finding sessions on the date of August 18, 2010. The undersigned fact-finder is familiar with the parties and several years ago had the privilege of serving as their neutral mediator and fact-finder. As a result of a concerted effort to resolve issues initially brought to fact-finding, the fact-finder had an in depth opportunity to understand the basis and background for the parties' positions on the cornerstone issue in this dispute, Article 15, Shift Selection. Prior to and during fact-finding, the parties reached tentative agreement on several issues; however, Article 15 remained unsettled and was submitted to formal fact-finding via submission. The demeanor and conduct of the advocates and their bargaining teams exemplify the

responsibility with which the parties view their roles and the respect they have for the citizens of Green.

CRITERIA

OHIO REVISED CODE

In the finding of fact, the Ohio Revised Code, Section 4117.14 © (4) (E) establishes the criteria to be considered for fact-finders. For the purposes of review, the criteria are as follows:

1. Past collective bargaining agreements
2. Comparisons
3. The interest and welfare of the public and the ability of the employer to finance the settlement.
4. The lawful authority of the employer
5. Any stipulations of the parties
6. Any other factors not itemized above, which are normally or traditionally used in disputes of this nature.

These criteria are limited in their utility, given the lack of statutory direction in assigning each relative weight. Nevertheless, they provide the basis upon which the following recommendations are made.

General/Local Economic Outlook and Discussion of Issues

The economy in Ohio is still experiencing the effects of a national recession and a slow recovery. While officially considered to have reached an end, the impact of the recession upon Summit County's and Ohio's revenue stream is plain. In Ohio, unlike many other states, there has historically been a substantial lag time between a declared end to a recession and recovery from it. Yet, the current decline in revenue, caused by what many call the "Great Recession" is arguably far deeper and broader than those of the past, and it is severely testing even the most resilient of Ohio's public employers. At this point in time it is difficult to say that Ohio's path to economic recovery will be predictable. Every month on a national and state level there are mixed signals being provided by various sectors of the economy and by consumers. The most recent jobs report is again mixed, with more private sector jobs being created and the unemployment rate remaining stubbornly high. One of the more certain and troubling aspect to the current economic times are the job losses, particularly related to high paying skilled jobs that Ohio has experienced. They number in the tens of thousands and clearly underscore the existing structural problems of unemployment in areas such as manufacturing and construction. Moreover, conventional wisdom indicates that many of the losses of high paying manufacturing jobs are permanent, requiring a recovery in Ohio to take a very different course than it has in the past. All the news is not negative, there are indicators of recovery and some employers are doing well in this recession. The

stimulus funds while welcomed by many to sustain public services are a temporary fix that buys public employers a little time. Yet, looming on the horizon and what will most likely become a hotly debated matter following the November election cycle is the projected state of Ohio deficit. Currently estimated to be between five (5) and eight (8) billion dollars, all public employers in Ohio, regardless of jurisdiction have reason to be concerned. With the likelihood of less support from the federal government, the state of Ohio continues to struggle to find ways to fund the many obligations it shoulders such as Medicaid costs, education, job growth, and a myriad of other pressing economic demands. To their credit, public employee unions and employees in Ohio have, in the main, recognized and responded to their employers who continue to experience a shortfall in revenue coupled with rising costs. State employees and many county, city, and township public employees in and outside of Ohio continue to make unprecedented financial sacrifices in the form of layoffs, wage freezes, benefit givebacks, furlough days and in paying more for their medical coverage. The story is no different in the City of Green where the effects of the recession are felt, in spite of a well run City. The City's leadership and the continued balance of prudence and pragmatism, which this fact-finder has observed in working with AFSCME and with the City in the past, will be beneficial in dealing with the unpredictable times ahead for Ohio.

Issues: Article 15 Shift Selection; the fact-finder worked with parties to resolve this central issue, and the parties responded with a willingness to be

flexible. The parties moved closer to one another's positions, yet complete agreement was not reached. In general the Union is wishing to protect its seniority rights and its shift selection rights. The Employer is seeking more flexibility in scheduling employees, particularly in the case of filling in for employees who are absent from work with short notice. The dispatchers on the bargaining team made a compelling case for the preservation of their annual shift selection process and the use of seniority as currently provided for in Article 15. The Fire Chief stressed the importance of maintaining a dispatching service that is cost efficient. Greater efficiencies, according to Chief Calderone, are needed particularly as they relate to shift staffing under Section 5 of Article 15. Given the current composition of the workforce and the inherent advantage of operating a service with a sufficient number of full-time employees who are able to devote more hours to the City, it is reasonable to assume that full-time employees are an essential part of the staffing pattern. This is particularly the case if full-time employees are scheduled to be present on every shift. Again, understanding the distinction between full-time dispatchers exercising their seniority rights to be able to select their annual schedules, and the need for the Fire Chief to have more flexibility to cover absences from those shifts is central to recommending language that attempts to seriously address both needs. The facts presented by the City underscore the reality of the matter. The City in continuing to provide a viable dispatching service is being reasonable in its desire to make the language of Article 15 less cumbersome. In light of the fact that the parties,

prior to the fact-finding hearing, conceptually indicated a willingness to agree to modifications in Sections 2, 3, and 4 of Article 15, reasonable recommended changes in Sections 1 and 5, that call for both parties to give a little in order to gain what they need, is possible with modifications to Sections 1 and 5.

DETERMINATIONS (RECOMMENDATIONS):

Issue 1	Article 15 SHIFT SELECTION
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Section 1. Shift Selection. The Chief or his designee shall **determine which shifts are available for bid and** post a schedule of available shifts for each classification on November 1st of each year. Employees shall **be permitted to indicate their shift selection** from the available shifts based upon seniority within each classification prior to November 14th. **On each shift there shall be at least one (1) full time bargaining unit slot available for bid.** Any employee who fails to make a selection shall be assigned to a shift by the Chief or his designee.

Section 2 Non-Probationary Bidding. Shift Leaders and full-time dispatchers shall have the right to separately bid for shift preference within each classification, **subject to the review of the Employer, and adjustment if necessary, for its operational needs.**

Section 3 Probationary Shift Assignments. Shift assignments for probationary employees will be made by the Chief or his designee. Assignments of probationary employees shall not affect the schedules of non-probationary employees.

Section 4 Part-Time Permanent Shifts. The Chief/designee shall determine whether or not to utilize part-time permanent shifts, and if utilized, which shifts are available for bid. Should the Chief/designee determine that part-time permanent shifts will be utilized and are available; the part-time dispatchers will be given the opportunity to bid these shifts on a quarterly basis by bargaining unit seniority.

Section 5 Shift Staffing. The City agrees to maintain two (2) dispatchers on each shift.

TENTATIVE AGREEMENT

During negotiations, mediation, and fact-finding the parties reached tentative agreements on several issues. These tentative agreements and any unchanged current language are part of the recommendations contained in this report.

The fact-finder respectfully submits the above recommendations to the parties this ____ day of September 2010 in Portage County, Ohio.

Robert G. Stein, Fact-finder