

Received Electronically @ SERB Jan 20, 2012  
4:58pm

**FACT FINDING REPORT**

**STATE OF OHIO**

**STATE EMPLOYMENT RELATIONS BOARD**

**JANUARY 20, 2012**

---

**IN THE MATTER OF:**

**The City of Chillicothe, Ohio**

**and**

**F.O.P., Ohio Labor Council, Inc.  
Local Lodge 59**

**CASE NO.**

**11-MED-09-1175, 1176,  
1177, and 1178**

---

**Report and Recommendation of Fact Finder**

**C. Forest Guest**

---

**Appearances**

**For The Employer:**

**Tammy Bochart  
Ed Behanna  
Tom Spetnegal**

**For The Union:**

**Brenda Goheen  
Chip Campbell**

## INTRODUCTION

The undersigned was selected by the parties, and was duly appointed by SERB by letter dated November 28, 2011, to serve as Fact-Finder in the matter of the City of Chillicothe, Ohio (hereinafter referred to as "City") and FOP Ohio Labor Council, Local Lodge 59 (hereinafter referred to as "Union") pursuant to OAC 4117. The parties agreed to extend the deadline for the Fact Finder's Report until March 1, 2012. Hearing was held at Chillicothe, Ohio on January 5, 2012. The Union was represented by Ms. Brenda Goheen, Staff Representative, and the City was represented by Ed Behanna, Negotiator and Tammy Bochard, H.R. Director.

## POINT OF ORDER

Upon arrival an offer to mediate was made to the parties and it was rejected with little interest by the Union. However, the city made the statement they thought that was why we were having the meeting. Confirming this was a Fact Finding, and not mediation, I asked if everyone had received the other party's pre hearing statements. The Union informed the Fact Finder that no opening statement had been received by the Union from the City and they were objecting to any submission the city wanted to make. The city confirmed that they had not followed policy by forwarding a pre hearing statement to the Union and were prepared to give the Union a copy at this time.

I confirmed the city had not complied with the policy as noted in OAC Rule 4117-9-05 (F).

*(Failure to provide timely this information to the other party and to the fact finder shall cause the fact finder to take evidence only in support of the*

*matters raised in the written statement provided prior to the day of the hearing).*

I noted the union's objection. I notified the city of the potential problem and probable determination. I decided to allow the city to make a presentation, but only after the Union had presented their positions on all issues. This "city presentation" would be held separate and the union would be able to exercise its right to rebuttal. We then delayed the fact finding so that the parties could meet with the fact finder in an informal mediation to discuss the issues. We were able to resolve some items that were not part of this fact finding, but failed to resolve these specific issues at hand except for the issue of duration. Finally, I asked the Union again if they were willing to waive their objection and they were not.

#### **Determination**

After reviewing the applicable language that pertains to this issue I am concluding that the city lost its right to make a presentation, under the above mentioned rule, and am therefore discarding any and all of the material presented. It will have no influence on these issues. However, although I am not allowing "presentation materials" to be considered, the city did not lose its right to comment or rebuttal the Union's presentation and those utterances will be considered.

#### **GENERAL**

Although the city was not able to formally present material to support its position, the union provided plentiful data that was of assistance in this case. The data included, but not limited to, a copy of the expired CBA, financials the city had provided the union which does indicate deficits in 2012, 2013, 2014. Also included were excerpts from negotiations showing what had been agreed to and what was either in disagreement or submitted as a union proposal, and

finally charts that provided information of current expenses and proposed future expenses.

I appreciate the information and also used previous fact finding reports for the Chillicothe FOP plus other materials supplied by SERB in making my recommendations.

### **FACTUAL BACKGROUND**

The City of Chillicothe is located in the central part of Ohio approximately 50 miles south of Columbus with a population of approximately 22,000. The employees in this bargaining unit are represented by one (1) local union, Local Lodge 59. There are approximately 45 members in this bargaining unit known as Local Lodge 59, FOP Ohio Labor Council, Inc. The Collective Bargaining Agreement (CBA) between the parties expired on December 31, 2011. The parties have met numerous times in collective negotiations and have reached tentative agreement on most issues with the exception of those scheduled for Fact-Finding.

The unresolved issues are as follows:

Article 24 - General Wage Increases

Article 24, Section 24.8 - Pension Pick-up

Article 25- Health Insurance

Article 32 - Duration

### **ISSUES**

**Issue 1: Article 24 - Wages**

**Union Position:**

The Union is proposing an increase to wages as follows:

1<sup>st</sup> year – 0%  
2<sup>nd</sup> year- 2%  
3<sup>rd</sup> year – 2%

The Union states that the City has told them previously that there were economic difficulties, but the city is in surplus. The union further states that in past years the members have given up wages (later returned), have joined new insurance programs to aide the city, and have also given up wages in lieu of pension payments from the city. The union feels this is a fair proposal and is not detrimental to the financial structure of the City.

The City, during rebuttal expressed concern that going forward they were expecting to see possible deficits as revenues were going to decrease. They were prepared to offer a first year 0% increase, second year 1% increase, and a third year 1% increase.

The City of Chillicothe is located in Region 4 of the State of Ohio. Reviewing the wage increases for 2010 in that region the union proposal appears to be at or less then the average increases. Furthermore, looking at other cities of comparable population (20,000 minimum/25,000 maximum) the pay and pay increase appears to be at the “mean” or less to what has been paid. Finally, these increases are far less then proposed or received in the previous CBA.

**Discussion:**

The union stressed that they had worked with the city and would continue to help in reducing expenses. However, the Union feels they are asking for a fair wage increase of 4% over a three year period which they feel is a responsible position since the city is in surplus despite previous calls of deficits.

**Recommendation:**

**The union's proposed language for Article 24 of 0% wage increase in the first year. 2% increase in the second year (2013). 2% increase in the third year (2014).**

*Note: During these discussions the city agreed to make applicable Step F for employees not previously included. Currently that affects 3 employees.*

## **Issue 2: Article 24, Section 24.8 – Pension Pickup**

**The union submits a proposal to change the current deductions or “pick up” the city contributes to retirement for the employees. This would require a roll over into wages the current 7% picked up by the City. The city will be removed from having to “pickup” any portion of the employees required contribution. In the future employees will pay their statutorily required amount. This will go into effect the pay period following acceptance of the fact finding report.**

**Currently the employee is required to contribute 10% of their income to Pension. For a number of years the city has “picked up” part of this contribution instead of paying wages. Currently, employees pay 3% of the 10% and the city contributes the balance of 7% of the 10% employee contribution. In addition the city must contribute additional amounts to the plan which is currently 21.5% according to testimony. The union proposes that the 7% of wages held for this contribution be returned to the employees and that the employee will contribute the full 10% from their wages. The union recognizes that Pension payments are based on income and by not receiving their full income, regardless of contribution rates, the employee will receive less in Pension payments. The union proposes that this be done within 30 days of agreement to the fact finder recommendation. The city's only objection to this appeared to be more about how this would be perceived as a 7% wage increase instead of a transfer of funds from one party to the other.**

**Discussion:**

The city rebuttal was directed to their concern that this would be considered a wage increase of 7% in the first year. The union countered that this was not an increase as it was already considered employee pay, but not given to them. Now, the employee would receive the pay although they would use that income to contribute to their Pension. It appears that during negotiations the city was proposing to have new employees pay the full 10%, so there is reason to believe this is a legitimate argument.

**Recommendation:**

It does appear that the 7% in question has always been considered wages and as such this is a transfer of funds and responsibility. The employee continues to use this money for pension contribution by statute.

To accept the Unions proposal and return the 7% pay to the employees. Employees will contribute their statutorily required amount to their Pension Plan. The city is removed from having to pickup any portion of the employee's contribution. This will go into effect the pay period following acceptance of the fact finding report.

This is not to be confused with wage increase. The 2% increase for the second and third year of the agreement is separate from this issue.

**Issue 3: Article 25 - Insurance**

**The Union is proposing specific amounts to be paid by employees for health insurance. Those amounts are as follows:**

<b>Year</b>	<b>Single</b>	<b>Dual</b>	<b>Family</b>
<b>2012</b>	<b>\$70.00</b>	<b>\$110.00</b>	<b>\$135.00</b>
<b>2013</b>	<b>\$80.00</b>	<b>\$120.00</b>	<b>\$145.00</b>
<b>2014</b>	<b>\$90.00</b>	<b>\$130.00</b>	<b>\$155.00</b>

**Additionally the Union proposes that the opt-out language be added to the contract and proposes the following rates (increases) be applicable for employees opting out.**

<b>Year</b>	<b>Single</b>	<b>Dual</b>	<b>Family</b>
<b>1-1-12</b>	<b>\$70.00</b>	<b>\$150.00</b>	<b>\$250.00</b>

**During rebuttal the City challenged the amounts proposed by the Union as not being responsible. The city feels they are being asked to accept all the risk of cost of health insurance and will not have the ability to protect itself. The city feels its position of employee contribution of a per cent amount is reasonable and fair. Their proposal is as follows:**

**2012 - 11%**

**2013 - 12%**

**2014 - 13%**

**The city states that there is no guarantee what rates will be from year to year when negotiating with the insurance providers. By having a percentage formula it provides for shared risk.**

**The Unions objection was using a per cent did not allow for employees to properly budget their income and that there is no cap on what the actual amounts would be.**

**There was no specific data on pricing provided or how either party arrived at their proposed amounts.**

**Discussion:**

**It was obvious that everyone was trying to limit exposure of cost regardless if it was for the individual or the city. All parties agreed that there is uncertainty with the cost of health insurance. This uncertainty is somewhat highlighted with the projections of reduced revenues and/or deficits in the previously mention next three years.**

**Recommendation:**

**Due to the uncertainty of Health Care Insurance costs it appears prudent to use a per cent calculation instead of a set figure regardless of cost. The city and Union are both trying to reduce cost with a HAS program and other programs, thus the recommendation.**

**The contribution will be based on a per cent formula as follows:**

**2012 - 10%  
2013 - 10%  
2014 - 10%**

**Furthermore, the op-out provision as proposed by the union should be rejected. (It is highly recommended the city and union continue to work together to expand the HAS program for employees).**

**Issue 4: Article 32 - Duration**

**During the unions presentation their was agreement to the dates between the city and union. Those dates will be as follows:**

**Effective date: January 1, 2012  
Expiration date: December 31, 2014**

*This agreement shall become effective at 7:00 A.M. on January 1, 2012 where practically possible and as provided by law and otherwise shall continue to be in full force and effect until 11:59 P.M. December 31, 2014. Unless either party hereto or before ninety (90) days prior to the above termination date shall give notice to the other party in writing of a desire to change, alter or amend any provision of this Agreement, or to terminate it, this Agreement shall extend automatically from agreement year to agreement year. Thereafter, should the notification express the desire to terminate the entire Agreement, all obligations hereunder shall cease upon the termination date of the contract, unless the parties mutually agree in writing to extend the Agreement for a period or periods certain while a new agreement is being negotiated, unless the parties mutually agree in writing to extend the Agreement for a period or periods certain while a new agreement is being negotiated unless the parties mutually agree in writing to extend the Agreement for a period or periods certain while a new agreement is being negotiated.*

#### **SUMMARY**

**The Fact Finder enjoyed meeting the parties and the conversation we conducted before and during the actual fact finding portion of our meeting. The mistake made by the city of not sending a pre hearing statement obviously had an effect on what the city wanted to present, but I have attempted to use what facts I was given by the parties, current contract language, and comparables that are representative.**

**This will affirm the foregoing Report consisting of 11 pages, and recommendations contained therein, are made in this matter of Fact Finding by the below signed Fact Finder.**

To the best of my knowledge, said Report and its recommendations complies with applicable provisions of ORC 4117 and related Rules and Regulations adopted by the State Employment Relations Board.

This concludes the Fact Finding Report.

Respectfully submitted and issued this 20<sup>th</sup> day of January 2012.



Dated: January 20, 2012

---

C. Forest Guest, Fact-Finder

CERTIFICATE OF SERVICE

The foregoing report was emailed to all parties this 20th day of January 2012.

Tammy Bochard – City- [tammy.bochard@ci.chillicothe.oh.us](mailto:tammy.bochard@ci.chillicothe.oh.us)

Brenda Goheen – Union – [bbbgh@live.com](mailto:bbbgh@live.com)

SERB – [MED@SERB.state.oh.us](mailto:MED@SERB.state.oh.us)



---

C. Forest Guest