

**IN THE MATTER OF
THE FACT FINDING BETWEEN**

Springfield Ohio Township : **SERB Case No. 12-MED-07-0661**
Employer, **12-MED-08-0662**

and :

**Fraternal Order of Police, Ohio Labor
Council, Inc.**

Union :

REPORT OF FACT FINDER JACK E. McCORMICK

DATED DECEMBER 11, 2012

DATE OF HEARING DECEMBER 7, 2012

Pursuant to an Appointment letter dated November 21, 2012 from the State Employment

Relations Board a fact-finding hearing was held at 10:00 am December 7, 2012 at the offices of Springfield Township, Ohio.

Present at the hearing were the following:

For the Employer: Robin L. Bell, Regional Manager, Clemans-Nelson Associates, Inc.

John Smith, Chief of Police, Springfield, Township

Ken Ray, Captain, Springfield Township Police

For the Employees: Hugh Bennett, Staff Representative, Fraternal Order of Police, Ohio Labor Council, Inc.

Brian Troyer, Springfield Township PD

John Lombardi “ “ “ “

Joseph Gaffney “ “ “ “

The parties were fully advised by the Fact-Finder of the applicable law as well as the Rules regarding fact-finding and waived a record hearing.

The Employee organization is the FOP/OLC. The Employer is the Springfield Township Police Department.

Springfield Township is located in the southeastern corner of Summit County with a population of 14, 644 down from 15,168 in 2000. The Bargaining Unit is comprised of police officers and sergeants. Presently there are 16 police officers and three sergeants. The collective bargaining agreement under consideration is for the years 2013 through 2015. The current agreement expires on December 31, 2012.

BACKGROUND

The negotiating teams have met five times beginning on August 14, 2012. There was a tentative agreement reached at one point, but it was rejected by the bargaining unit. However, they were able to reach tentative agreements on the following items, which are hereby adopted by reference as part of this report. Those are:

Article 14, Work Rules

Article 16, Shift Selection/Scheduling

Article 23, Sick Time

Article 26, Court Time

Article 35, Duration

The issues remaining open are Article 18, Pay Schedule and Article 20 Uniform Allowance.

WAGES

The union proposes a three percent (3%) wage increase for each wage step for the 2013-2015 CBA; the increase to take place on January 1 of each year.

The Employer initially proposed a wage increase of two percent (2%) in 2013, one percent (1%) in 2014 and a lump sum increase equal to one percent (1%) in the 2015. After the bargaining unit rejected the Employer's proposal the Employer modified its proposal to one percent (1%) in 2013 and 2014 and a lump sum increase of one percent (1%) in 2015. It had been with the understanding that if the bargaining unit rejected the first proposal that this would be the Employer's last best offer.

The Employer asserts an inability to pay the increases proposed by the Union for this CBA.

First the Fact-Finder will address the merits of any wage increase. To do so one must look to both internal and external comparables.

A review of the base wage rates for police departments in the Union's comparables indicates that this unit is at the bottom of the list. Those rates range between Fairlawn at \$64,423 for officers to 49,406 for this unit and \$72,467 for Fairlawn Sergeants to \$60,754 for this unit.

The Employers' comparables, although from different jurisdictions, show that this unit is near, or at the bottom in wage scales. The Employer's comparables show that the wages for this unit (\$49,400) for patrolmen is below that of Copley Township (\$63,869) and above Brunswick Hills (\$39,291). For the sergeants their current rate (\$55,494) is next to last in the Townships survey, which ranges from \$71,173 for Copley to \$51,085 for Brunswick Hills. Suffice to say based on these external comparables presented by both parties, whichever one may choose this unit is lagging their colleagues.

However, one also must look at internal comparables. Apparently the last wage increase granted to a bargaining unit in the Township was given to the Highway Department employees represented by the Teamsters. This increase was for 2%, 1% and 1%.

FINDING OF FACT

The Springfield Township patrolmen and sergeants merit a wage increase

Now the issue becomes: What should this increase be? What will it cost the Township? And can they afford it?

The police and fire departments in the township are funded by separate dedicated levies passed by the voters. The police department has three such levies. For reasons not known to this writer, the latest State of Ohio Auditor's report does not breakout the surplus amount of \$854,750 which he shows in "Special Revenue" in the audit dated December 31, 2011. That is, one cannot discern how much of this is for police, fire, etc..

However, we do know the police levies are static in nature. Furthermore the Trustees have an obligation to keep the expenditures within the parameters of the respective levies. To date they have been able to do so, in spite of the declining property values. Indeed the Police fund has been able to enjoy some year to year carry-over, but it has been minimal. Currently, as of November 30, 2012 there remains only slightly over \$400,000 left in the Police bank account, which must pay for the two remaining pay periods in this year and the first two in 2013, plus any current expense payables.

As to property values (on which these levies depend) Springfield Township is the fourth lowest in Summit County. In the current economic situation one cannot assume that property values in this county will rise significantly, or at all. Property tax revenue have fallen from \$334,692 in 2006 to \$310,408 in 2011. All revenue has fallen from \$1,027,356 in 2006 to \$875,964 in 2011.

Some members of the Bargaining Unit assert that the Springfield Trustees should use funds from the General Revenue Fund. This, of course is legal. They also cite numerous projects that the Township has completed that they assert could be used to supplement the police department.

The problem with that approach is that it would not only be unprecedented, but would set a dangerous precedent. Furthermore it would be contrary, at least implicitly, to the voters' mandate. The electorate of Springfield Township have, on three separate occasions, said, for better or worse, that they want to fund this department from dedicated funds, i.e. the police levies. Using General Revenue Funds, in addition to the funds from the levies defeats the voters' expressed preference that these levies shall be the funding mechanism for the police department. Thus, although the Trustees could decide to use GRF monies to supplement the police department, in doing so they would betray the explicit promise that the police department would be funded solely by the police levy.

If the police department wants, or requires additional on going operational funds, the Trustees must ask for a new or increased levy and allow the voters to decide if those funds are, indeed needed.

As to the wage proposals, the Fact-Finder finds neither to be sufficiently supported by the facts. As this is a fact driven exercise, the Fact-Finder therefore must reject both. The Employer's wage increase does not provide sufficient compensation to these employees to provide some level of parity with their colleagues in the surrounding jurisdiction. The Employees' proposal at a cost of \$136,496 would place an undue fiscal burden on the levies fund. The police department costs have increased from \$276,419 in 2005 to \$531,428 in 2012. That is a 47.9% increase while at the same time property taxes are declining. At some point in time something has got to give.

As to the ability to pay the Township had initially proposed a wage increase of two percent (2%) in the year 2013, one percent (1%) in 2014 and a lump sum payment of one percent (1%) in 2015. One must assume this offer was made in good faith and that as such the Township had conceded its ability to pay for that proposal.

FINDING OF FACT

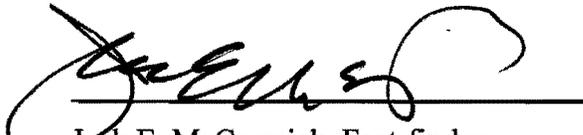
There are sufficient facts to adopt the Employer's initial proposal as set forth immediately herein above. That is, wage increases of 2% in 2013, 1% in 2014 and a lump sum payment of 1% of base pay in 2015.

UNIFORM ALLOWANCE

Currently Springfield officers receive a \$900.00 annual uniform allowance which has not been increased for some years. They assert that after taxes, federal, state, local and sales taxes this is not adequate. Inasmuch there has been clothing inflation some increase is justified.

FINDING OF FACT

There are sufficient facts to increase the Bargaining Unit's uniform allowance to \$950.00 per annum beginning in the year 2013.



Jack E. McCormick, Fact-finder
State Employment Relations Board

December 11, 2012

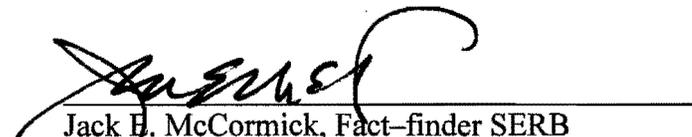
CERTIFICATE OF SERVICE

The foregoing was served upon the following via email pdf format on the 11th day of December 2012:

Hugh C. Bennet, Staff Representative FOP/OLC
hbennett@neo.rr.com

Ms. Robin L. Bell, Regional Manager, Clemans, Nelson &
Associates, Inc
rbell@clemansnelson.com

Mary Laurent , State Employment Relations Board
MaryLaurent@serbstate.oh.us



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FACT FINDER'S FEE STATEMENT :

Scheduling and review pre-hearing materials -	1.0hr - \$118.75
Travel and conduct hearing -	8.0hr - \$950.00
Mileage @ \$.50 x 250 miles -	\$125.00
Review materials and write report -	4.0hr - <u>\$475.00</u>
Total -	\$1,668.75

Township portion - \$834.38

Union portion - \$834.37



Jack E. McCormick
500 City Park Ave.
Columbus, OH 43215-5707
Tax ID 31-1410950 (W-9 attached)

**Request for Taxpayer
 Identification Number and Certification**

Give Form to the requester. Do not send to the IRS.

Name (as shown on your income tax return)
JACIE E. McCORMICK, Attorney

Business name/disregarded entity name, if different from above

Check appropriate box for federal tax classification:
 Individual/sole proprietor C Corporation S Corporation Partnership Trust/estate
 Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____
 Other (see instructions) ▶ _____

Address (number, street, and apt. or suite no.)
500 City Park Avenue

City, state, and ZIP code
Columbus OH 43215-5707

List account number(s) here (optional)

Requester's name and address (optional)

Print or type See Specific Instructions on page 2.

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

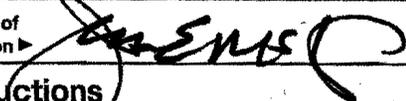
Social security number										
				-			-			
Employer identification number										
3	1	-	1	4	1	0	9	5	0	

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
- I am a U.S. citizen or other U.S. person (defined below).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 4.

Sign Here Signature of U.S. person ▶  Date ▶ **12/16/12**

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.