

**FACT FINDING REPORT  
STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD  
November 20, 2012**

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

FRATERNAL ORDER OF POLICE,  
OHIO LABOR COUNCIL, INC.

CASE NO. 12-MED-08-0713

and

FACT FINDER: Howard B. Tolley Jr.

THE CITY OF GREENVILLE, OHIO

APPEARANCES

**FRATERNAL ORDER OF POLICE, OHIO LABOR COUNCIL, INC.**

Thomas J. Fehr, Staff Representative  
Douglas Flanery, Sergeant/Union President  
Rrik Kiryluk, Negotiator  
Jason Marion, Detective/Secretary  
Morissa Reed, Patrol/Treasurer/Negotiator

**CITY OF GREENVILLE**

Kelly Babcock, Labor Consultant, Clemans Nelson Associates  
Curt Garrison, Safety Service Director  
Michael Bowers, Mayor

## **Introduction**

The Greenville FOP currently has seventeen members in the classifications of Police Sergeant and Police Officer. The city in Darke County has a population of about 13,189 and has 87 employees, most in collective bargaining units -- IAFF, IUOE, AFSCME.

On October 9, 2012 the parties met to negotiate a wage reopener for increases to take effect in January 1, 2013, six months prior to the expiration of their 30-month collective bargaining contract, but were unable to reach an agreement.

The parties exchanged and submitted pre-hearing position statements that summarized their proposals. The parties prepared supporting documents for presentation at the hearing to address the criteria established by the Ohio Public Employees Bargaining Statute in Rule 4117-9-05:

- 1) Past collectively bargained agreements, between the parties
- 2) Comparison of unresolved issues relative to the employees in the bargaining unit with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;
- 3) The interest and welfare of the public, and the ability of the public employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standard of public service;
- 4) The lawful authority of the public employer;
- 5) Any stipulations of the parties; and,
- 6) Such other actors, not confined to those listed above, which are normally or traditionally taken into consideration in the determination of issues submitted to mutually agreed-upon dispute settlement procedures in the public service or in private employment.”

### **Fact Finding Hearing: November 15, 2012, City of Greenville**

The Fact-Finder conducted a hearing from 12 noon until 2:15 pm with presentation of evidence and argument limited exclusively to Article 12 wages.

## **Union Position ARTICLE 12 WAGES**

The FOP's pre-hearing statement proposed a 3% wage increase. When the parties met on October 9, the city offered 0% and then refused to negotiate any pay increase whatever. The FOP noted recent increases in violent crime and the decline in the number of patrol officers that increased their dangerous workload and public safety responsibilities more critical to the city than tasks assigned to other employees. In response to the city's pre-hearing statement offer of a one-time 1% lump sum payment in January 1, 2013 the union indicated that a 2% increase to the base would be acceptable.

### Comparables:

In response to the city's pre-hearing statement that in the prior two years the FOP employees "received four separate 1% pay increases on their base rate of pay, while nearly all other City employees, union and non-union, received no increase to the base rates" the union presented data showing significant increases to base pay for nearly all city employees.

The union presented data from nine other city and county public safety departments in the region showing wage increases in the 2% to 3% range for 2012 and 2013.

Ability to Pay: In support of its claim that the city had the ability to pay, the union noted that budget forecasts exaggerated the loss of revenue from the state and underestimated income from local sources. Economic conditions in Darke County were improving with job creation by new businesses, development certain to result in higher income tax revenues. Under state law, the city could transfer funds from restricted accounts that had large reserves.

The union's proposal for a 3% wage increase would cost the city only \$33,000 in 2013, a minimal expense in an \$8 million annual budget.

## **Employer Position**

Comparables: The city proposed a 1% lump sum payment rather than an increase to base salary because FOP members' 4% in wage increases over the two year period 2011-2012 had outpaced all the other Greenville employees who had not received any across the board increases. The union's data showing increases to base pay of other employees all resulted from individuals receiving different promotions, step increases, position reclassification and adjustments made to compensate for overtime loss. FOP members were the only union and non-union employees granted additional across the board increases. Over the three-year period 2008-2010 Greenville had granted all its employees annual wage increases of 3.9%. For 2013 the city seeks to restore equal treatment.

For external comparables the employer used ten cities and objected that the two county law enforcement departments offered by the union were not similar. The employer pointed out that the external comparables offered by the union included recent years when the Greenville FOP received considerably higher increases than granted to patrol officers in nearby cities and counties. The 2009-2011 SERB data for Annual Wage Settlements for the Dayton area, Ohio cities and Police all showed annual increases below the across the board raises that Greenville paid its FOP employees. U.S. Department of Labor reports of the urban consumer price index reveal cost of living increases for the past four years less than the raises paid to the Greenville police officers.

Ability to Pay: The city offered guidelines recommended by the Government Finance Officers Association (GFOA) that the "unrestricted fund balance in their general fund be no less than two months of regular general fund operating revenues . . ." In order to maintain an

adequate fund balance the city had significantly cut expenses during difficult economic times when revenues from the state's local government fund were being reduced and the estate tax scheduled for elimination. The union's projected benefits from new businesses failed to account for tax abatements. Individual income tax revenues for the four-year period 2009-2012 were lower for every year than those received in 2008.

While the city acknowledged that the employer could afford the cost of the union's proposed increase to base, it offered a lump sum payment in order to end the special across the board raises enjoyed by a favored group of employees.

## **Analysis**

### Comparables -- Increases:

The city provided data from 11 employers for 2012, and the union provided partial data from 12 employers that in some cases included prior years. The fact finder used 2009 data from 5 employers, 2010 data from 6 employers, 2011 data from 9 employers and 2012 data from 6 employers to calculate the average pay increase for each year, and the overall average pay increase for the four year period. The Greenville FOP averaged a 2.95% increase over the four year period compared to an average 2.26% increase in the other jurisdictions, and a 1.95% average for other Greenville employees.

### Comparables – Base Pay:

For purposes of comparing maximum Greenville FOP wages with salaries in comparable jurisdictions the fact finder used eight cities within 60 miles of Greenville, excluding Shelby from the list provided by the employer. Greenville's population of 13,189 is the second highest after Trotwood's 27,420. Eaton the smallest of the six other cities has a population of low of 8,132. Eaton paid the median maximum salary for patrol officers \$26.20 -- \$1.20 above the 2012 Greenville wage which also fell below the average. In 2012 the median maximum wage for Sergeants was \$0.32 below the Greenville rate. (Note: The employer only provided Eaton data for the patrol officer's wage, and stated at the hearing that the Eaton number was for 2011 not 2012.)

Ability to Pay: The city's unrestricted cash balance has exceeded the 16% reserve recommended by the GFA, ranging from a low of 20.5% in 2008 to a high of 28% in 2009. Greenville finished fiscal year 2011 with a 22% cash reserve and so has the ability to pay the \$8,952 cost of its lump sum proposal or the union's proposal of \$33,000.

## **Conclusion**

Given reductions in Ohio's financial support for local government, the impending elimination of the estate tax, and the decrease in income tax revenues the city understandably prefers a lump sum payment to a raise in base pay. The employer also must consider the need to restore staffing levels and to provide cost of living increases for unrepresented employees that would be shared by union members in units with a me too clause.

While FOP members have outpaced their Greenville co-workers with recent across the board increases, the patrol officers wages still remain behind the median wages paid in comparable jurisdictions. The 1% lump sum payment proposed by the city would result in Greenville's FOP members falling even further behind patrol officers in nearby smaller cities, and the city has the ability to make that payment part of the employee's base.

The four 1% pay increases granted to FOP members at six month intervals in 2011 and 2012 were affordable and appropriate. The same increase should be made for the final six

months of the contract. The fact finder concludes that FOP wages should be raised by 1% effective January 1, 2013 with negotiations in spring on additional wage increases for 2013 that could take effect with the new contract to begin on July 1.

**RECOMMENDED CONTRACT LANGUAGE ARTICLE 12 Wages**

~~Section 12.5. Either Party may reopen this Article for the purpose of negotiating wage only for contract year 2013. If the parties do not agree, the parties shall follow the impasse procedure outlined in O.R.C. 4117. Any agreement on wages shall be included as an Appendix to this Agreement.~~ Effective on January 1, 2013 full-time bargaining unit employees shall receive a one percent (1%) wage increase. The city shall prepare and distribute a wage addendum to union members.

Respectfully submitted,  
Howard Tolley, Jr.,  
Professor Emeritus, University of Cincinnati 11/20/12

**CERTIFICATE OF SERVICE**

I hereby certify that an exact copy of the foregoing Corrected Fact Finding Report has been served via electronic mail to Thomas J. Fehr, Staff Representative, FOP/OLC, [tfehr@fopohio.org](mailto:tfehr@fopohio.org), Kelly Babcock, Clemans Nelson & Assoc. [KBabcock@clemansnelson.com](mailto:KBabcock@clemansnelson.com), Mayor Michael Bowers City of Greenville, [mbowers@cityofgreenville.org](mailto:mbowers@cityofgreenville.org) and to the State Employment Relations Board, Columbus, Ohio [Mary.Laurent@serb.state.oh.us](mailto:Mary.Laurent@serb.state.oh.us) on this 20th day of November, 2012.

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Howard Tolley

November 20, 2012  
Date