

Susan Grody Ruben, Esq.
Arbitrator, Mediator, Factfinder
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**PURSUANT TO O.R.C. 4117.14(C)
UNDER THE AUSPICES OF THE
STATE EMPLOYMENT RELATIONS BOARD**

IN THE MATTER BETWEEN)	
)	
THE CITY OF CONNEAUT)	
)	
and)	FACTFINDER'S REPORT
)	SERB CASE NO.
)	12-MED-08-0754
FRATERNAL ORDER OF POLICE/ OHIO LABOR COUNCIL, INC.)	
)	

This Factfinding arises pursuant to Ohio Revised Code Section 4117.14(C). The Parties, The City of Conneaut (“the City”) and Fraternal Order of Police/Ohio Labor Council, Inc., representing the Police Unit of Patrol, Sergeants, and Lieutenants (“the Union”), selected Susan Grody Ruben to serve as sole, impartial Factfinder, whose Recommendations are issued below.

Hearing was held June 24, 2013 in Conneaut, Ohio. The Parties were represented by advocates and were afforded the opportunity for the presentation of positions and evidence. The Parties agreed this Report would be due on or before July 22, 2013.

APPEARANCES:

for the City:

**Tim Eggleston, City Manager, City of Conneaut,
City Hall Building, 294 Main Street, Conneaut, OH
44030.**

for the Union:

**Lucy DiNardo, Staff Representative, FOP/OLC,
Inc., 2721 Manchester Road, Akron, OH 44319.**

FACTFINDER'S RECOMMENDATIONS

Statutory Criteria

In reaching Recommendations on the open issues, the Factfinder has reviewed the parties' submissions, and the evidence and positions presented at the Factfinding Hearing. The Factfinder has analyzed this information in the context of the statutory criteria found in Ohio Revised Code Section 4117.14(G)(7):

- a) Past collectively bargained agreements ... between the parties;**
- b) Comparison of the issues submitted to final offer settlement relative to the employees in the bargaining unit involved with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;**
- c) The interests and welfare of the public, 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;**
- d) The lawful authority of the public employer;**

- e) The stipulations of the parties; and
- f) Such other factors, not confined to those listed ... which are normally or traditionally taken into consideration in the determination of the issues submitted to final offer settlement through voluntary collective bargaining, mediation, fact-finding, or other impasse resolution procedures in the public service or in private employment.

Bargaining Unit

There is one bargaining unit consisting of approximately 14 individuals.

Incorporated Articles

The Factfinder hereby incorporates into her Recommendations the following articles, with the changes, if any, agreed to by the Parties at the Factfinding Hearing:

Article 2 – Recognition

Article 3 – FOP Membership and Check Off/Dues Deduction

Article 5 – Longevity

Article 9 – Overtime/Minimum Overtime

Article 20 -- Layoffs

Article 21 – Sick Time

Article 29 – Non-Discrimination

Article 41 – Promotions

Issues

1. **Article 8 – Shift Differential**

Union Proposal

The Union proposes an increase of ten cents (\$.10) per hour for the second and third shift rotations, on the basis the current rate falls below comparables.

City Proposal

The City proposes status quo.

Factfinder’s Recommendation

Of the Union-offered comparables of Geneva, Mentor, and Ashtabula, Geneva appears is the most comparable in terms of population, though Geneva has only 6,147 residents and the City has 12,879. Geneva, though significantly smaller in population and square miles, has a \$.50/hour afternoon shift differential and a \$.50 night shift differential. The City currently has a \$.30/hour afternoon shift differential and a \$.40/hour night shift differential. Accordingly, the Factfinder recommends the Union’s proposal.

2. **Article 13 – Hospitalization**

Union Proposal

The Union proposes status quo.

City Proposal

The City did not submit its Pre-Hearing Statement within the statutorily-mandated time for submission. Accordingly, the Factfinder cannot consider the City's proposal on this subject.

Factfinder's Recommendation

The Factfinder is statutorily-mandated to recommend status quo on this subject.

3. Article 15 – Grievance Procedure

Union Proposal

The Union proposes to eliminate Step 3 mediation; increase the time limit for filing for arbitration from ten days to thirty days; send suspension and termination grievances immediately to Step 2 to the City Manager; and increase the permanent panel of arbitrators from three to five, including the names Harry Graham, Nels Nelson, Robert Stein, Jonathan Klein, and James Mancini.¹

City Proposal

The City does not oppose eliminating Step 3 mediation; does not oppose increasing the time for filing for arbitration from ten to thirty days; does not oppose suspension and termination grievances being sent immediately to Step 2 to the City Manager; and opposes the Union's

¹ The Union's proposal originally included Susan Grody Ruben as one of the five arbitrators. As Factfinder, she declined to serve on the arbitration panel.

proposed panel of five arbitrators, preferring to mutually agree on an arbitrator each time a grievance goes to arbitration, i.e., have no permanent panel at all. The City also proposes having a “loser pay” provision in the arbitration clause.

Factfinder’s Recommendation

Given that both Parties agree to eliminate mediation from the grievance process, the Factfinder recommends it be eliminated.

Given that both Parties agree to increase the arbitration filing period from ten to thirty days, the Factfinder recommends the increase.

Given that both Parties agree that suspension and termination grievances go directly to Step 2 to the City Manager, the Factfinder makes that recommendation.

The Factfinder recommends a panel of five permanent arbitrators, as named above, be listed in the collective bargaining agreement.

The Factfinder is statutorily prohibited from recommending the City’s late-offered “loser pay” provision in the arbitration clause.

Accordingly, the Factfinder recommends each side pay an equal share of an arbitrator’s fees and expenses.

4. Article 19 – Holidays

Union Proposal

The Union proposes Good Friday and the Friday after Thanksgiving be added to the current list of holidays, as these two holidays are given to non-bargaining employees. The Union also proposes the two current

personal days in the collective bargaining agreement be maintained, and that unused personal days be carried over to the following calendar year.

City Proposal

The City proposes status quo.

Factfinder's Recommendation

Based on the fact the Union-offered comparables of Geneva, Mentor, and Ashtabula all have different holiday policies from each other and from the City, the Factfinder recommends status quo.

5. **Article 23 – Retirement/Bereavement Leave**

Union Proposal

The Union proposes status quo.

City Proposal

The City did not submit its Pre-Hearing Statement within the statutorily-mandated time for submission. Accordingly, the Factfinder cannot consider the City's proposal on this subject.

Factfinder's Recommendation

The Factfinder is statutorily-mandated to recommend status quo on this subject.

6. **Article 35 – Salary Provisions**

Union Proposal

The Union proposes a 4.5% salary increase effective January 1, 2013, a 4% salary increase effective January 1, 2014, and a 3.5% salary increase effective January 1, 2015.

The Union also proposes a 10% rank differential officers and sergeants, and between sergeants and lieutenants.

The Union also proposes a stipend of \$750.00 be paid to all members of SWAT, Evidence Tech, Methamphetamine Lab Tech, and Detective Bureau.

The Union also proposes K-9 officers receive a stipend of \$15.00 per week.

The Union also proposes officers receive a stipend of \$800.00 per year for becoming LEADS-certified and for performing Jail and/or Dispatch duties as assigned.

City Proposal

The City proposes status quo, but is not opposed to the \$15.00 per week K-9 payment.

Factfinder's Recommendation

The City's General Fund carryover in 2012 was approximately \$871,000.00, approximately a 20% carryover. This was approximately \$100,000.00 more than the City's 2011 carryover.

The City's current top patrol wage rate is \$21.28/hour, compared to Geneva at \$22.57. Thus, the City's top patrol wage rate is approximately

6% below Geneva. Also, Geneva is in the midst of raising its current top patrol wage rate.

The Factfinder recommends 4%, 3.5%, and 3% and recommends a 10% rank differential (as is customary in comparable jurisdictions). The Factfinder does not recommend the Union-proposed stipends set out above.

7. **Article 38 -- Vacations**

Union Proposal

The Union proposes a five-day increase, from ten to fifteen days, for vacation bidding in Article 38(G). The Union also proposes language in Section G that provides, “Avoiding overtime would not constitute an emergency situation” for denying an already-approved vacation.

City Proposal

The City proposes status quo, but is not opposed to increasing the bidding period to fifteen days.

Factfinder’s Recommendation

The Factfinder recommends the Union’s proposal.

8. **Article 43 – Terms of Agreement/Duration**

Union Proposal

The Union proposes a three-year agreement from January 1, 2013 – December 31, 2015. The Union also proposes the following language be added to Article 43:

Written notice shall be given at least ninety (90) calendar days prior to December 31, 2015 by either party requesting a change or termination of this Agreement. If written notice is not given within this time period, this Agreement shall continue in full force and effect from year to year until such notice is given at least ninety (90) calendars days prior to December 31 of any subsequent year.

City Proposal

During negotiations, the City made no proposal regarding contract duration. The City is not opposed to the Union's 90-day proposal.

Factfinder's Recommendation

The Factfinder recommends the Union's proposal.

DATED: **July 19, 2013**

Susan Grody Ruben
Susan Grody Ruben, Esq.
Factfinder

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July 19, 2013

TO: Lucy DiNardo
Tim Eggleston

RE: Factfinding for FOP and Conneaut
SERB Case No. 12-MED-08-0754

INVOICE

1 Day of Factfinding	...	\$ 950.00
1 Day of Study and Writing	...	\$ 950.00
TOTAL	...	<u>\$ 1900.00</u>
½ to be paid by the City	...	\$ 950.00
½ to be paid by the Union	...	\$ 950.00

Thank you.