STATE OF OHIO

STATE EMPLOYMENT RELATIONS BOARD

In the Matter of Fact-Finding Between:	)	
	)	
Ohio Patrolmen's Benevolent Association.	)	12-MED-09-0882,
	)	0883, 0884 & 0885
And	)	
	)	Fact Finder:
City of Findlay	)	John T. Meredith

FINDINGS, OPINION AND RECOMMENDATIONS
ISSUED MAY 3, 2013

INTRODUCTION

The parties to this Fact-Finding proceeding are the Ohio Patrolmen's Benevolent Association and the the City of Findlay. There are four bargaining units, covering a total of about sixty employees, involved: Lieutenants, Sergeants, Patrolman and Dispatchers. Each unit has been covered by a separate collective bargaining agreement between the OPBA and the City. These Agreements ran from January 1, 2010 through December 31, 2012. The parties agreed to consolidate bargaining for successor agreements, and, after brief, unsuccessful negotiations, they initiated fact finding. SERB appointed the undersigned to serve as Fact Finder.

By agreement of the parties, the Fact Finder held two mediation sessions on March 12 and April 11, 2013. During mediation, the parties reached and/or confirmed agreement for changes to the following articles: Preamble and Purpose, Recognition, Management Rights, Employee Rights, Discrimination, Credit Union, Promotion (Lieutenants), Labor Management Committee, Sick Leave, Bereavement, Holovac, Discipline, and Conformity to Law. The parties further agreed to retain current contract language for all articles except those included on the list of agreed changes or submitted to the Fact Finder for his recommendation.

At the conclusion of the second mediation session, Wages/Longevity and Health Insurance remained open. A hearing was convened on May 1, 2013. Witnesses testified, and the parties and their advocates also presented arguments and numerous documentary exhibits. Appearing on behalf of the Union were: Attorney Michelle Sullivan, Lt Scott Lowrey, Sgt. Ryan Doe, Detective Edward Von Stein, Dispatcher Jessica Rayle, and FPEA President Dan Harmon. Appearing for the City were: Attorney Gary Johnson, Law Director Donald Rasmussen, Mayor Lydia Mihalik and Safety Service Director Paul Schmelzer.

The Fact Finder has evaluated the proposals and evidence submitted by the parties. His recommendations for resolving each issue are fully explained in the Recommendations Section of this Report, infra. In making his recommendations, the Fact Finder has given consideration to the following criteria prescribed by the Ohio Collective Bargaining Law and listed in SERB Rule 4117-09-05:

(1) Past collective bargaining agreements, if any, between the parties.

(2) Comparison of the 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, 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.

> (6) Such other factors, not confined to those listed above, which are normally or traditionally taken into consideration in determination of issues submitted to mutually agreed-upon dispute settlement procedures in the public service or in private employment.

"Other factors" referenced in criterion no. 6 may include the desirability of maintaining a uniform insurance plan throughout a public employer's workforce, and equitable treatment among the various groups of the public employer's employees.

FINDINGS OF FACT

A. Financial and Demographic Profile

Findlay is a relatively prosperous city in northwestern Ohio. Its largest employer, Marathon, is doing well. Unemployment in Hancock County is currently 5.8%, below the state average. Findlay recently was identified by Site Selection magazine as the second best micropolitan area for business expansion projects in 2012.

Nevertheless, Findlay's municipal government is moving into a difficult financial period. Its principal sources of revenue have included interest earnings, local government funding (LGF) from the state, estate tax collections, and a 1.25% city income tax, which was among the lowest income tax rates in Ohio. The income tax had been 1.0% until 2009, when voters approved a .25% tax increase, subject to renewal in three years. The additional .25% generated approximately $4 million per year.

Unfortunately for municipal government, interest revenues have been in decline for several years due to the exceptionally low interest rate climate. The state of Ohio been reducing LGF payments to cities, and Ohio also abolished the estate tax effective 2013. Findlay's LGF payments in 2013 are expected to drop about $400,00 from 2012 levels. Annual estate tax revenues varied – the City generally budgeted for $800,000, but actually collected more than $1 million in seven of the last ten years. The combined loss of annual revenue from LGF cuts and elimination of the estate tax, therefore, will exceed $1.4 million. In addition, and most significantly, in November 2012 the voters narrowly rejected renewal of the .25% income tax levy, which will result in about a $4 million annual reduction in tax collection.

The City is not in immediate crisis. It has taken steps to reduce expenditures. For example, with employee and union cooperation and participation, progress has been made in health care cost containment during the past year. Moreover, due in part to unusually high estate tax collection in 2012, the City is starting 2013 with a healthy beginning balance. Although it inevitably will have an operating deficit, with prudent management it projects finishing 2013 with an unencumbered General Fund balance at or above the 12% level it needs to maintain. However, it cannot continue to run an operating deficit indefinitely beyond 2013. Except to the extent that lost revenues can be made up by new income from growth, the City is looking at reductions in services and/or general "belt tightening" over the next several years.

B. Wage/Longevity Comparability Data

The City submitted wage and longevity data for selected Northwest Ohio public employers, including Bellevue, Fremont, Fostoria, Mansfield, Napoleon, Perrysburg, Sandusky, and the Hancock County Sheriff. The longevity component of Findlay's pay very significantly exceeds the average longevity paid by these cities – almost 40% higher at year 10 and 24.6% higher at year 20. Findlay's total compensation (base wage + shift differential + longevity) also compares favorably to total pay in other jurisdictions, though the discrepancy is much less than when longevity is viewed in isolation – 9.5% above average at 10 years, and 9.1% at 20 years. Findlay's total compensation ranked third in the selected group, behind Perrysburg and neighboring Fostoria.

The Union questioned the City's "comparable" jurisdictions on grounds that most of the employers were smaller and/or less affluent than Findlay. It submitted a different list of comparable cities, which it selected based on population and comparable general fund revenue and expenditures. It also included two cities used for comparison for the State Performance Audit. The resulting cities, which are scattered around the state, are: Fairfield, Huber Heights, Lancaster, Lima, Marion, Middleton, Newark and Warren. The Union then compared the average compensation, including longevity, which would be received by an officer in each community during his/her first 20 years on the police force. Findlay patrol officers ranked in the middle of the group. Dispatchers were third from the top, but sergeants were only one up from the bottom.

C. The City's Workforce

Employees represented by the Operating Engineers have settled for a 0%/0%/ reopener wage package, as proposed in these negotiations. The Operating Engineers also agreed to proposed health insurance changes. Employees represented by the IAFF are currently in negotiations. Non-union employees have a wage freeze in effect for 2013 and will be subject tot the insurance changes proposed by the City herein.

RECOMMENDATIONS

A. Wages and Longevity

Both parties propose a wage freeze for 2013 and 2014, with a wage reopener for 2015. The Union proposes retaining the longevity provision of the current Agreements without change, but is willing to include longevity in a reopener for 2015 when wages also will be negotiated.

The City seeks longevity concessions. It proposes adding a new, lower longevity pay schedule to the Agreement. All current employees would be red circled at the dollar amount of longevity they currently are receiving. New hires and employees not now receiving longevity would receive longevity under the new schedule when they become eligible. Current employees now receiving longevity would continue to receive their current hourly longevity amount unless and until they reach a service point on the new schedule which would dictate an increase. The City justifies its proposal by arguing that the current longevity scale is excessive relatively to longevity paid by comparable employers. (See discussion at p. 4 of this Report, supra.) It also notes that a state audit suggested reviewing longevity as a long-term cost-cutting measure. It further points out that the red circle would protect all current employees from a cut in current pay.

The Union counters that the City proposal does assure a loss of future earnings for all current employees, which, in its view, is not justified by any immediate financial emergency. In addition, it emphasizes that longevity is just one component of wage compensation. While the City's longevity might appear to be high, its wage structure, with longevity included, is not out of line with wages paid by comparable communities.

Having reviewed the comparability data submitted by both parties, (see pp. 4-5 of this Report, supra), I conclude that the total wage compensation levels for Findlay officers are reasonable and competitive with similar communities. Longevity appears excessive only when viewed in isolation. While this may be a reason to consider restructuring wages if the parties wish to do so, it is not a problem requiring immediate attention. Longevity concessions are not appropriate in a year when employees are picking up additional out of pocket costs for health care. Therefore, I recommend no change in the current longevity provision. However, it is appropriate to include longevity in the wage reopener for 2015.

RECOMMENDATION: Wage freeze for 2013 and 2014. No change in

longevity. Both wages and longevity shall be subject to a reopener for 2015. The following language changes would implement this recommendation:

PATROL:

Section 35.01: Effective at the beginning of the first full payroll period in January 2013 and continuing through December 31, 2014, all employees shall be paid a base hourly rate according to the following schedule;

Step	A	B	C	D	E	F
Years	0	1-2	3-4	5	6	7+
Prob.	$18.51	$21.39				
Perm.	$22.42	$22.42	$23.42	$24.53	$25.72	$26.95

DISPATCHERS:

Section 34.01: Effective at the beginning of the first full payroll period in January 2013 and continuing through December 31, 2014, all employees shall be paid a base hourly rate according to the following schedule;

Step	A	B	C	D	E	F
Years	0	1-2	3-4	5	6	7+
	$16.97	$18.03	$18.91	$19.73	$20.66	$21.62
911 cert.	$17.32	$18.38	$19.29	$20.14	$21.05	$22.04

SERGEANTS:

Section 35.01: Effective at the beginning of the first full pay period in January 2013 and continuing through December 31, 2014, all employees shall; be paid a base hourly rate according to the following schedule:

During the 1st year in rank	$28.83
After the 1st year in rank	$30.72

LIEUTENANTS:

Section 32.01: Effective at the beginning of the first full pay period in January 2013 and continuing through December 31, 2014, all employees shall be paid a base hourly rate of thirty-four dollars and forty-one cents ($34.41).

ALL CONTRACTS:

<u>New Section</u>: Effective October 1, 2014, this Agreement may be reopened by either party for the purpose of negotiating rates of pay, longevity and Health Insurance for the calendar year 2015.

B. Health Insurance

Health insurance is a negotiations focus because Findlay's recent health costs have significantly exceeded state averages. The parties agreed to some changes, but several specific proposed changes remain unresolved. They are: 1) The City proposes an 80/20 employer/employee split on premium contribution beginning in 2014, unless employees meet wellness program criteria, in which case the current 90/10 split will continue to apply. 2) The City proposes that, beginning in 2014, employees who opt for the "Core" plan rather than the HDHP will have to "buy up" by paying the difference in premium cost between the two. 3) The Union proposes a contractual City minimum HSA contribution for employees who choose to take the high option plan. 4) The union proposes a $1250/year payment to employees who "opt out" of the City's health insurance coverage. Both parties agree that health insurance should be included in the reopener for 2015.

The current 90/10 employer/employee premium split is in line with public sector comparability data submitted by both parties. An 80/20 split would put a greater burden on the employee than in most other jurisdictions. However, the City is not really hoping for an 80/20 split. Rather, it wants to use the threat of higher contribution to strongly encourage all employees to participate in the wellness program, which presumably will reduce both City and employee costs over time. It would gently phase in the concept in 2014 with only two rather minimal participation requirements. The Union's concern about lack of specificity for 2015 is understandable, but should be eased by the fact that the wellness plan requirements will be developed by an employee committee with union participation and, of course, the whole issue may be revisited in the reopener for 2015 if development of the wellness plan has not progressed on schedule.

The "buy up" provision for the core plan is also reasonable to encourage employees to opt for the less expensive HDHP. However, a guaranteed minimum employer contribution to the HSA for employees who elect HDHP, as proposed by the Union, also should encourage HDHP selection. This should be set at the level of the Employer's current HSA contribution.

On the other hand, the need for a lump sum opt-out payment is not substantiated by the record. Comparability data is ambiguous – about half of comparable cities pay it, and half do not pay it. More important, the record contains no hard data to show what if any benefit a City would derive from encouraging "opt outs" with a bonus payment.

RECOMMENDATION: Contractual minimum Employer HSA contribution at least equal to current practice. Buy up to Core plan. No opt-out payment. Higher premium contribution for employees who do not meet wellness participation program requirements. Reopener for 2015. Revise Health Insurance to state:

> **28.01 Employer agrees to provide hospital/medical coverage during the term of this Agreement in accordance with the terms set forth herein. Employer agrees to provide employees with the option of selecting coverage from a "Core" plan or a "High Deductible Plan" (HDHP) which is accompanied by a health savings account. Nothing in this Agreement shall be construed to restrict the Employer from changing carriers or to self-insure providing the coverage is comparable.**
>
> **28.02 Effective January 1, 2013 the monthly premium cost of hospitalization and health insurance, regardless of plan selection or coverage tier, shall be shared on the following basis: Employer's share 90%, Employee's share 10%.**

28.03 Except as otherwise provided herein, effective January 1, 2014, the maximum monthly premium cost of hospitalization and health insurance for the HDHP shall be shared as follows: Employer's share 90%, employee's share 10%.

Employees hired prior to January 1, 2013 may choose to enroll in either the HDHP or the Core Plan. The Employer will contribute the same total premium dollar amount for the HDHP, represented by the forgoing percentages, toward the total premium cost of the Core Plan. The Employee will be responsible for paying the total cost of the Core Plan premium less the amount that the Employer contributes toward the HDHP premium if he chooses to enroll in the Core Plan. The Employer shall make a contribution to the health savings account of an employee who elects coverage under the HDHP Plan, minimum Employer contribution amounts to be equal to or greater than current practice through 2014.

Employees hired on or after January 1, 2013 may only choose to enroll in the "High Deductible Plan" (HDHP) which is accompanied by a health savings account. Employees hired after January 1, 2013 are not eligible to enroll in the "Core" health care plan.

In order to continue to qualify for the 10% premium contribution limit, employees must participate in the Employer's Wellness Program in 2014 and 2015. If an employee does not participate, then the Employer's share of premium contribution for the HDHP shall be 80% not 90% and the employee's share shall be 20% rather than 10%. The Insurance Committee will be responsible for developing participation criteria for earning the lower premium contributions. The developing of Wellness Program participation criteria shall encourage and reward healthy behavior and goal setting. For 2014, the only Wellness Program participation requirements will be to attend an annual enrollment meeting and to complete baseline testing on or before December 31, 2013.

28.04 In event health insurance costs increase by more than twelve (12%) Employer reserves the right to make plan design changes to lower the overall cost of the plan to twelve (12%) percent. Employer will be required to share any proposed changes with the Insurance Committee and seek input from the Insurance Committee prior to implementing any changes.

28.05 Effective January 1, 2013 through the remainder of this Agreement, employees will contribute the cost of the optional dental program, if they elect the coverage, as follows: Employer's share 90%, employee's share 10%.

28.06 Effective January 1, 2014, employee spouses are required to use the health benefits provided through their employer as their primary coverage. On an annual basis, for employees enrolling in family coverage, the employee and the spouse's employer will be required to sign a spousal form indicating

whether his/her spouse has access to health insurance coverage. Failure to complete the spousal form will result in the termination of the employee's eligibility for family coverage for the calendar year. If the spouse's monthly premium for employee-only coverage through his/her employer exceeds sixty (60%) percent of the total monthly premium of the City of Findlay's Core Plan for single coverage, then the spouse may remain on the Employer's plan at no additional cost, therefore paying the standard family rate.

28.07 The employee's share of the cost of providing hospital/medical, dental or vision coverage shall be deducted from the payroll of each participating employee.

28.08 An eligible employee's coverage under this Plan shall become effective on the date the employee has completed the Waiting Period under the plan provided he agrees to make an required contribution and makes written application to the Plan Administrator for coverage within thirty-one days of that date. Coverage provided under the plan for covered employees shall be in accordance with the employee's eligibility, effective date and termination provisions included herein and coverage classification (if any) under the plan. All coverage under the plan shall begin at 12:01 am standard time on the date such coverage is effective. Coverage effective first of the month following or coincident with completion of a thirty (30) day waiting period.

28.09 The Health Insurance Committee shall be comprised of thirteen (13) members consisting of two (2) representatives each from the Police department, Fire Department and Sewer Maintenance unions, six (6) representatives from the non-union departments, and one (1) representative of the Employer. The Mayor, City Auditor and/or other administrator of the Employer health care plan shall serve as ex officio members of the committee but shall not enjoy or exercise voting rights. In addition, Employer retains the right to invite advisory personnel to participate in all meetings for informational purposes only.

The function of the committee will be to conduct regular meetings aimed at discussing the function, cost and financial condition of the health care plan. Whenever changes to the health care plan are dictated due to an increase in health insurance costs of more than twelve (12%), section 28.04 shall control. Whenever changes to the health care plan are otherwise warranted or necessitated, the committee shall vote on which changes and/or provision(s) shall be implemented to achieve the desired effect.

A majority vote shall bind all employees/Unions. In the event that the committee cannot reach a majority vote after further discussion and consideration of said plan changes, then in that event only the proposed changes receiving a plurality of votes shall be considered and the plan receiving a majority of those votes shall bind all employees/Unions. In no event shall a plan change adopted by the committee impose a different effect

or outcome on any single employee or group of employees.

28.10 Employer agrees that if it provides a health insurance plan to any other bargaining unit or non-union employee which health insurance plan is more favorable or beneficial to said employees than the health insurance plan agreed to herein, that Employer will prospectively apply the more favorable or beneficial aspects of that health insurance plan to this bargaining unit.

INCORPORATION OF AGREEMENTS

The agreements reached by the parties prior to conclusion of this Fact Finding proceeding are incorporated by reference and made part of this Report.

These Findings and Recommendations are issued this 3rd day of May, 2013.

s/John T. Meredith
Shaker Heights, Ohio — John T. Meredith, Fact Finder

CERTIFICATE OF SERVICE

This is to certify that the foregoing Report was electronically filed with the State Employment Relations Board and electronically served upon the parties by e-mailing same to their representatives, listed below, this 3rd day of May, 2013.

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