



IN THE MATTER OF FACT FINDING

BETWEEN

THE CITY OF HIGHLAND HEIGHTS, OHIO

AND

OHIO PATROLMEN'S BENEVOLENT ASSOCIATION

SERB Case No(s). 12-MED-1120, 1121, & 1174

Robert G. Stein, Fact-finder

LEAD ADVOCATE(S) FOR THE UNION:

**Daniel J. Leffler, Esq.
OPBA
10147 Royalton, OH
North Royalton, OH 44133
Dj_leffler66@yahoo.com**

LEAD ADVOCATE(S) FOR THE EMPLOYER:

**James A. Budzik, Esq.
MANSOUR, GAVIN, GERLACK & MANOS CO. L.P.A.
55 Public Square, Suite 2150
Cleveland OH 44113-1994
jbudzik@mggmlpa.com**



INTRODUCTION

The parties to this matter are the Ohio Patrolmen's Benevolent Association (hereinafter "Union") and the City of Highland Heights, Ohio (hereinafter "Employer" or "City"). The Employer is located in northeast Ohio. The employees represented by the Union consists of three (3) separate collective bargaining units comprised of the following: Unit #1) sixteen (16) full-time Patrol Officers; Unit #2) five (5) full-time Sergeants; and Unit #3) four (4) full-time Dispatchers of the City of Highland Heights Police Department ("Employer"). The three Collective Bargaining Agreements (herein "CBA") and three attached Memorandum of Understandings ("MOU") between the Employer and the Union expired on December 31, 2012 and were for the term January 1, 2010 through December 31, 2012. The parties brought seven (7) unresolved issues before the fact finder. They are:

Article 10 – Sick Leave.

Article 11 – Vacations.

Article 12 – Holidays.

Article 20 – Insurance.

Article 21 – Rates of Pay.

Article 36 – Duration.



The parties, with the assistance of the fact finder, opted to attempt to mediate a resolution of the seven (7) unresolved issues instead of going directly to fact finding. The fact finder held an intense mediation session with the parties on February 1, 2013 that resulted in a significant narrowing of the differences between the parties, but in the end, the parties did not reach tentative agreement. They then, through submission of their positions, asked the fact finder to issue a fact finding report. The tenacity and creativity of the lead advocates, Mr. Leffler and Mr. Budzik was duly noted, as was the tireless efforts of their bargaining teams, who demonstrated pragmatic views of the issues. The mediator/fact finder would like to thank these experienced gentlemen and their knowledgeable teams for the stalwart representation of their constituents in this mediation session. These gentlemen, realizing the challenges facing the City, undertook the arduous task of making decisions that were in the best interest of citizens of the City of Highland Heights.

General/State/Local Economic Overview: Continued concern and general widespread uneasiness appear to be an apt characterization of the state of the current international, national and the local economies. Adding to the uncertainty in the United States are conditions of “Sequester,” which replaced the “fiscal cliff” that dominated the airwaves in December and early January. The Sequester has begun with no immediate hope of resolving what will become an increasing budgetary crisis in the not too distant future. The economy in Ohio continues to show signs of steady improvement from a very long and severe national recession that remains subject to the financial health of the United States and other countries, particularly those who are currently facing considerable debt in Europe, not to mention growing debt obligations of the United States. With the focus on other issues and countries, it remains to be seen if Greece, Cyprus and others will adequately address their economic problems and avoid being the next major crisis to plague the financial markets. It is remarkable and difficult to understand how the economic collapse of one very small European country can significantly undo months of economic recovery in the United States, but as we progress through spring, the stock market, which had reached an all-time high just days ago, is now showing signs of weakness, led by financial reports by banks and other notable companies. Uncertainty remains pervasive, as



does gridlock in Washington D.C., undermining the confidence of the American people and the world that our fiscal problems can be adequately and fairly addressed. On the bright side, the housing market continues showing signs of recovery, the auto industry had record sales for March, yet twelve (12) million people remain unemployed. And of course, the recovery, as expected, is uneven.

The City of Highland Heights has weathered the “great recession” well and through the continued application of responsible and prudent fiscal management, there is no evidence that this will not continue. Additionally, the salaries and benefits enjoyed by the bargaining units continue to compare very favorably with other municipalities. Yet, that is not to say that even a city currently as well positioned economically as Highland Heights does not have to take preventative measures to ensure continued solvency, and to be able to maintain a very competitive salary and benefit structure for its employees. The overall basis for the recommendations contained in this report are drawn from that context and the statutory framework provided in the Ohio Revised Code that governs fact finders.



CRITERIA

OHIO REVISED CODE

In the finding of fact, the Ohio Revised Code, Section 4117.14 (C) (4) (E) establishes the criteria to be considered for fact-finders. For the purposes of review, the criteria are as follows:

1. Past collective bargaining agreements
2. Comparisons
3. The interest and welfare of the public and the ability of the employer to finance the settlement.
4. The lawful authority of the employer
5. Any stipulations of the parties
6. Any other factors not itemized above, which are normally or traditionally used in disputes of this nature.

The recommendations contained in this report are listed in accordance with Articles that were open and the subject of mediation. For the sake of brevity the specific rationale proffered by the parties in support of their positions on each open issue can be found in Appendices A and B. However, in summary the parties' positions on the issues of wages and health care are as follows:



Summary of Union's and the City's Positions on all Open Issues: The complete versions of the Union's and the City's positions on the remaining issues can be found in each party's Position Statement (See Appendix A and B). However, in summary are the following positions of the Union on the open issues before the fact finder. **Rate of Pay:** The Union is seeking an across-the-board three percent (3%) pay increase for all pay steps for each of the three years of the contract for all three bargaining units. For these same bargaining units, the Employer proposes to increase wages by 1% the first year of the contract and increases of 1.5% and 1.75% the second and third years of the CBA. Similarly, the percentage increases proposed by either party are proposed to be added to Longevity, Firearms Certification (for Patrol and Supervisors) and LEADS Certification (for Dispatch). The Employer also proposes to maintain physical fitness pay at its current flat rate with no increases, or the same as the prior CBA. The Union placed less of a priority on this benefit versus others. **Insurance:** In this round of negotiations, the Union proposed to maintain the current employee contributions toward the deductible in the amounts of \$750/single and \$1,500/family for all three years of the contract. The Union also proposed language in the event the City reverted to a traditional PPO/HMO plan. In addition to the healthcare changes, the Union proposed to increase the life insurance policy amounts the Employer maintains for each employee. The current amount is maintained at \$25,000, the Union proposed to increase that amount to \$50,000. The City placed greater priority on health insurance and demonstrated a willingness to add to the life insurance benefit. The City proposed to modify the Insurance provisions as follows:

20.02 The Employer proposes that this Section be modified and to require employees pay premiums of 5% and 8% in years 2 and 3 of the contract, respectively.



20.03 HSA coverage will consist of deductibles of \$2,500/single and \$5,000/family for in-network and \$5,000/single and \$10,000/family for non-network with drug prescription co-payments contained in the plan.

20.04 Modify to provide the Employer will pay 50% of the deductibles of \$2,500/single or \$5,000/family in the HSA plan. The HSA plan will also mandate a 20% co-insurance payment by the employee. Employee out-of-pocket maximum would be \$4,000/single or \$8,000/family for in-network and \$8,000/single and \$16,000/family for non-network. The deductibles and co-insurance would be "embedded" for purposes of the family plan. AETNA plan, which is the City's proposal, is attached.

20.05 The Employer proposes to increase the life insurance by \$25,000 to a \$50,000 benefit.

Sick Leave: The Union proposed two changes to the Sick Leave Article. The first is an increase in the sick leave "buy-out" upon death or retirement. The second is an increase in the annual cash-out of sick leave. The City proposes to retain Section 10.11 and all of the current provisions of this Article. **Vacations:** The Union proposed to reduce the number of years to achieve the next tier of earned vacation. The City proposed to retain the current vacation accruals contained in Section 11.01. **Holidays:** The Union proposed to add one (1) additional holiday to the recognized list of holidays for all three units. The City proposed the retention of the current holiday schedule.

Duration: The Union proposes to adjust the Duration clause to reflect the current agreement and to apply the provisions effective January 1, 2013 through December 31, 2015. The City modified its original position to have only a one year agreement and during mediation/fact finding modified its position agreeing with the Union that the length of the Contract should be a three (3) year contract. However, the City proposes that the economic increases be effective the first full pay period in January each year.



Fact-finder's Overall Findings:

There is no question that the City has managed itself very well and has fortunately been able to recruit and maintain quality employees by providing them with a competitive wage and benefit structure, especially when compared to surrounding like jurisdictions. However, the current financial condition does not relieve the city from having to be prudent and deliberate in the future. This is especially true given the volatility of politics today and an increasingly educated public who are rightly demanding more accountability from public servants. At the same time competitive wages and benefits should be maintained in order to employ the best possible police personnel to serve the citizens of Highland Heights. It is important that the bargaining unit be able to maintain its historic competitive wage position relative to other comparable bargaining units in the area, making it necessary and reasonable to sensibly adjust wages upward and in line with average increases generally being offered in Ohio.

Regarding insurance, the Union asserts that per the terms of the 2007-2009 CBAs for all three units, the Insurance provision provided a framework for employee and employer duties and obligations regarding premium contributions, co-pays, deductibles, etc. The framework as negotiated was intended to apply to traditional PPO or HMO comprehensive medical coverage. Previously, employees did not pay a monthly contribution for premiums, had a deductible of not more than \$250/single and \$750/ family and had 100% co-insurance. In 2009, the City changed the healthcare plan and chose a high deductible plan ("HDHP") with the employer depositing each employee's cost of the deductible into a health savings account ("HSA"). The City initially funded the cost of each employee's



deductible. From 2010-12, the City elected a HDHP with a \$3,000 deductible and 100% co-insurance. The employees contributed an increasing amount toward the deductible from \$750 in 2010, \$1,000 in 2011 and \$1,500 in 2012 and the City contributed the difference into the employee's health savings account. There was no premium contribution for employees.

In the instant round of negotiations that ended in mediation/fact-finding, the Employer proposed to retain the HDHP but contracted with the healthcare provider for a \$5,000 deductible and an 80%/20% co-insurance. The Employer proposed that the employees pay 50% of the deductible or \$2,500 in deductibles from year to year. The Employee maximum out-of-pocket limit was also increased to \$8,000/family. The Employer proposed that employees pay the cost of any co-insurance up to the maximum out-of-pocket of \$8,000. Including the 20% co-insurance, the City proposed that the employees assume a risk of \$5,500 each year in healthcare costs or potentially \$458 per month. The Union rejected the plan arguing that an increase in the employee's HSA contribution and the inclusion of a co-insurance is unreasonable and would result in more than double the state average for out-of-pocket cost for employees.

In response to the Employer's position, the Union proposed to maintain the current employee contributions toward the deductible in the amounts of \$750/single and \$1,500/family for all three years of the contract. The Union also proposed language that in the event and employee exceeded the \$5,000 deductible, the City would reimburse the employee for any co-insurance. In addition to the healthcare changes, the Union proposed



to increase the life insurance policy amounts the Employer maintains for each employee. The current amount is maintained at \$25,000, the Union proposed to increase that amount to \$50,000. As previously stated, during the mediation process, the Employer agreed to this change. Based upon the facts and the City's currently healthy financial condition, there should be an adjustment in insurance benefits that reflects common and forward thinking practices of other like communities, but does not overly burden the bargaining unit in an onerous or unreasonable fashion. However, in assessing the issues of sick leave, vacations, and holidays and in consideration of the bargaining unit's overall compensation, including insurance benefits, the fact finder finds that these provisions, in general, are already competitive with other cities and support a recommendation of maintaining the status quo for this round of bargaining. Therefore, in careful consideration of the arguments made by the parties, the evidence in the record, and in application of the statutory criteria, the following recommendations are made in hopes that the parties will ratify a new agreement.

RECOMMENDATIONS:

ISSUE: Rates of Pay

- A. Effective and retroactive to January 1, 2013: 1.75% pay increase**
- B. Effective January 1, 2014: 2.0% pay increase**
- C. Effective January 1, 2015: 2.5% pay increase**



Longevity, range proficiency, uniform allowance, and educational pay shall be increased at the same time and by the same percentage as provided in A., B., and C. above. Physical Agility shall remain at the same flat rate as in the prior contract.

ISSUE: Insurance

For 2013, the Employer shall contribute seventy percent (70%) of the HDHP deductible for either the single or family plan, or \$1750 (single) and \$3,500 (family) into the employee's HSA. The employees' maximum contribution toward the deductible shall not exceed \$750 (single) and \$1500 (family). The Employer shall also reimburse employees for the first 50% of any co-insurance in excess of the \$5,000 deductible.

For 2014, the Employer shall contribute sixty percent (60%) of the HDHP deductible for either the single or family plan into the employees' HSA. The employee's maximum contribution toward the deductible shall not exceed \$1000 (single) and \$2,000 (family). The Employer shall also reimburse employees for the first 50% of any co-insurance in excess of the deductible.

For 2015, the Employer shall contribute fifty percent (50%) of the HDHP deductible for either the single or family plan into the employees' HSA. The employee's maximum contribution toward the deductible shall not exceed \$1250 (single) and \$2,500 (family). The Employer shall also reimburse employees for the first 50% of any co-insurance in excess of the deductible.

The life insurance policy amounts the Employer maintains for each employee shall be increased to \$50,000.

ISSUE: Duration

The Duration Article shall be adjusted to reflect the current agreement language and shall be effective from January 1, 2013 through December 31, 2015.

ISSUES: Sick Leave, Vacations, and Holidays

Maintain Current Benefit Levels



TENTATIVE AGREEMENT

Any tentative agreements reached by the parties as well as any current language that is not changed or not addressed above should be considered to be recommended in the successor Collective Bargaining Agreement.

The fact finder respectfully submits the above recommendations to the parties this ____ day of April 2013 in Portage County, Ohio.

Robert G. Stein, Fact finder