

**STATE OF OHIO**  
**STATE EMPLOYMENT RELATIONS BOARD**

**April 2, 2013**

OHIO PATROLMEN'S BENEVOLENT  
ASSOCIATION (PATROLMEN)

CASE # 12-MED-10-1170

and

FACT FINDING REPORT

CITY OF WADSWORTH

APPEARANCES

For the Union

Kevin Powers,  
Dawn Schismenos

Attorney  
Chair Bargaining Committee

For the City

Benjamin Albrecht,  
James L. Kovacs,  
Matthew G. Hiscock

Attorney  
Human Resources Manager  
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## Introduction

This fact finding involves the full-time patrol officers (“Police”) of the City of Wadsworth represented by the Ohio Patrolmen’s Benevolent Association (“OPBA” or the “Union”) and the City of Wadsworth (the “City”). The Agreement between OPBA and the City expired December 31, 2012.

The undersigned was duly appointed Fact Finder. The fact finding hearing was set, by agreement of the parties, for March 20, 2013. Mediation resolved some issues. The remaining issues were discussed at length. The mediation and discussions commenced at 9:00 AM and were closed at approximately 3:00.

Both sides presented such evidence as they desired. All documents were received without objection from the other party. This includes the parties position statements.

In reaching the recommendations made in this report, the Fact Finder considered the criteria set forth in Ohio Administrative Code Rule 4117-9-05 which are:

- 1) Past collectively bargained agreements, if any.
- 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, and the ability of the public employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standards 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 the determination of issues submitted to mutually agreed upon dispute settlement procedures in the public service or private employment.

### **Facts**

The parties most recent agreement, covering the period 1/1/10 through 12/31/12, has expired. Wages have been paid to date in accord with the wages and hours under the expired agreement.

As to economic issues, the City asserts that its positions are based on sound, conservative financial management of the City's finances, recognizing both current economic conditions and the City's financial condition. The Union points out that the police accepted a wage freeze for 2010, 2% effective 1/1/11, 1% eff 7/1/11 and 3% effective 1/1/12.

It was agreed that we are dealing with a new three (3) year contract for the calendar years 2013, 2014, and 2015.

The City has 21 full-time patrol officers in the bargaining unit. The Sergeants and the Dispatchers bargain separately. The Dispatchers have accepted a tentative agreement which the Police and the Sergeants rejected. The City also has bargaining units that are represented by the IAFF, the IBEW and by AFSCME.

Prior to the fact finding hearing, it was unclear which issues were in dispute. After considerable negotiation and mediation, it was determined that four (4) issues remained at impasse.

With this background, we turn to the issues that were presented at the fact finding hearing, bearing in mind that the burden of proof is on the party advocating a change.

**Issue No. 1**

**Sick Occurrence**

**City's Position**

The City proposes to add a new section 18.8 to the agreement that would define a “sick leave occurrence” as any period of time an employee is absent from work for an allowable sick leave that is not supported by medical documentation. Two such occurrences within a six month period would result in a meeting with the Human Resources Manager which could result in a finding that the absences were justified and the “occurrence” be deleted. Three occurrences in a six month period may subject the employee to discipline.

The City argues such a provision is appropriate to better manage the use of sick leave and further, that more stringent provisions relating to sick leave occurrences exist in the agreements with other bargaining units.

**Union's Position**

Essentially, the Union says the current system works so why change it. The Union also points to the proposed language regarding a meeting with Human Resources Manager after two occurrences is being discretionary and unclear as to what criteria, if any, would be applied to the Human Resources Manager's decision.

**Analysis**

The Ohio Administration Code directs the Fact Finder to compare issues with what is provided for in the contracts with other bargaining units. There is a strong bias in favor of uniformity. However, we are also to give due consideration to factors peculiar to a particular bargaining unit. Here some units meet with Human Resources Manager after four occurrences

within a year while Fire Fighters meet after two occurrences in six months. However, we note Fire Fighters hours of work are different.

There are obvious problems in evaluating whether an undocumented sick leave is justified. Is an employer going to be required to see a Doctor to get a Doctor's note for a 24 hour flu? Would this not increase medical costs? What about taking time off to care for a spouse or a child? Is such time off justified?

However, despite these questions, some new language on sick leave occurrences is warranted.

### **Recommendation**

The following new provision is recommended:

**SECTION 18.8**      **SICK LEAVE OCCURRENCES**      *An occurrence is any consecutive period of time for which an employee is absent from work for an allowable use of sick leave which is not supported by medical documentation.*

*Should an employee reach five (5) occurrences in a six (6) month period in a calendar year, the employee may be subject to the provisions of the corrective action policy. Subsequent occurrences in the same six (6) month period shall also subject the employee to progressive corrective action, up to and including removal.*

### **Issue No. 2**

### **Sick Leave Payout**

### **City Position**

The City proposes to institute a two tier system for sick leave payout upon retirement. An Employee whose date of hire is prior to 1/1/13 would continue to be paid for accumulated sick leave up to 1280 hours. New employees would be limited to a maximum of 300 hours.

### **Union's Position**

A two tier system is destructive to morale. The Union would maintain the current payout for all employees.

### **Analysis**

Again, observing the treatment of other City employees in other bargaining units shows a reduced number of hours are paid for at retirement. Further, Ohio law, at Revised Code Section 124.39, caps sick leave payout at 240 hours. The current system exists at Wadsworth because it is grandfathered.

For better or worse, two tiered systems for many benefits have become common in both public and private sector. Observing what is common in the public and private sector is one of the criteria Fact Finder's are to take note of in reaching their conclusions.

However, there are two employees who were hired after 1/1/13. It does appear unfair to exclude them from this benefit.

### **Recommendation**

The language of the 11/30/2012 Tentative Agreement for Section 18.13 titled "Conversion at Retirement" is recommended except the dates of hire shall read "February 1, 2013" instead of "January 1, 2013."

### **Issue No. 3**

#### **Longevity**

### **City's Position**

Same as sick leave payout. Institute a two tier system.

**Union's Position**

Same as sick leave payout.

**Analysis**

As with sick leave payout, the City seeks to control long term costs by capping future payouts. Again, the two employees hired after 1/1/2012 should not be excluded from this benefit.

**Recommendation**

Adopt the language of Article 24 of the Tentative Agreement of 11/30/2012 except, change the dates in that Article to "February 1, 2013" instead of "January 1, 2013."

**Issue No. 4**

**Health Insurance**

**City's Position**

Raise the employees cost for the City's self insured health insurance coverage to 12% of the COBRA cost for health insurance.

**Union's Position**

Retain the current cost for health insurance which is 9% of the COBRA cost.

**Analysis**

As long as healthcare is provided in this country under the current system, the manner in which the cost of healthcare is shared between employers and employees will always be with us.

In this instance, the employees are receiving wage increases of 2%, 2.25% and 2.5% over the three year life of the new agreement. Increasing the employees contribution towards the cost of healthcare from 9 to 12% of the COBRA cost will increase the cost of single coverage by \$6.00 per pay period and by \$14.00 per pay period for family coverage.

The Fire Fighters and the Dispatchers are paying at the 12% rate.

**Recommendation**

Increase the employees contribution to healthcare costs to 12% of the COBRA rate effective 1/20/13 which the beginning of the first pay period in 2013.

**STIPULATION**

This new contract shall be for a three (3) year term commencing January 1, 2013 through December 31, 2015.

On all other issues, the Tentative Agreements previously reached between the parties as set forth in the Tentative Agreement of 11/30/2012 shall be incorporated into the final agreement.

*Robert M. Lustig*

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Robert M. Lustig  
Fact Finder  
Cleveland, Ohio  
April 2, 2013

CERTIFICATE OF SERVICE

A copy of the foregoing document was sent, by agreement of the parties, by email April 2, 2013 to:

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