

**FACT FINDER'S REPORT  
AND  
RECOMMENDATION**

**IN THE MATTER OF:**

CITY OF NORTH CANTON

AND

OHIO PATROLMEN'S BENEVOLENT ASSOCIATION

Case Number: 2013-MED-01-0011

Before Fact Finder: Thomas J. Nowel

PRESENTED TO:

Timothy L. Fox  
Director of Law  
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and

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and

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State Employment Relations Board  
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Thomas J. Nowel was appointed to serve as Fact Finder in the above referenced case by the State Employment Relations Board on April 19, 2013 in compliance with Ohio Revised Code Section 4117.14 ( C ) ( 3 ).

Hearing was held on June 24, 2013 at North Canton City Hall. Prior to the fact finding hearing, the parties engaged in bargaining until impasse. The parties submitted pre-hearing statements in a timely manner. At the onset of the hearing, the Fact Finder explored the possibility of a mediated settlement, and the parties considered a number of potential options to resolve the matter. Nevertheless, the matter proceeded to hearing at approximately 12:30 pm.

This case involves a wage reopener pursuant to Article 27, Section 27.06. The term of the Agreement is August 1, 2011 to July 31, 2014. Section 27.06 states the following. "The Parties agree to re-open collective bargaining negotiations as to wages only in January 2013 for the contract year beginning August 1, 2013 and ending July 31, 2014." The parties negotiated wage freezes for the first two years of the Agreement although certain stipends were bargained for 2011 and 2012.

The bargaining unit includes all full-time patrol officers of the City of North Canton. There are currently fifteen patrol officers who are represented by the Union.

Those participating for the City at hearing included the following:

Timothy L. Fox, Director of Law  
Mike Grimes, Director of Administration  
Karen Alger, Director of Finance

Those participating for the Union at hearing included the following:

Kevin Powers, OPBA Attorney  
Mark Hipp, Patrol Officer

## BACKGROUND

In analyzing the position of the parties regarding the impasse over the wage reopener and then making a recommendation, the Fact Finder is guided by the principles that are outlined in Ohio Revised Code Section 4117.14 (G) (7) (a-f).

1. The past collectively bargained agreement between the parties.
2. Comparison of the issues submitted to fact finding 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.
3. 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.
4. The lawful authority of the public employer.
5. The stipulations of the parties.
6. Other factors, not confined to those listed above, which are normally or traditionally taken into consideration in determination of the issues submitted to final offer settlement through voluntary collective bargaining, mediation, fact finding, or other impasse procedures in the public service or in private employment.

During the course of the hearing, the parties each had full opportunity to submit exhibits, present testimony and engage in rebuttal of the submissions and arguments of the other party. The Fact Finder indicated that the Report and Recommendation would be transmitted, by way of electronic format, no later than thirty days from the date of the hearing if not earlier.

Discussion of the issue at impasse, positions of the parties and recommendation of the Fact Finder follows.

ARTICLE 27, WAGES  
SECTION 27.06, 2013 WAGE REOPENER

UNION POSITION:

The Union proposes an across the board wage increase, to be applied to the wage schedule, of 3% effective August 1, 2013.

The Union states that it agreed to wage freezes for the first two years of the Agreement based on a difficult financial climate although employees received \$500.00 lump sum payments during each of the first two years of the Agreement. The Union states that it is important to note that base wages were not increased during the first two years of the Agreement. Due to this, North Canton wage increases have fallen behind the state-wide average (Union Exb. 1). When comparing the wages of North Canton patrol officers with those of regional cities of comparable population (15,000 to 20,000), bargaining unit employees are in the bottom third, and annual wages are \$10,000.00 less than the average (Union Exb. 2). During the last five years the cost of basic needs for Ohio families has increased by 23% (Union Exb. 4). North Canton patrol officers are particularly impacted following wage freezes in 2011 and 2012. The Union states that the Government Finance Officers Association recommends that government subdivisions maintain unrestricted fund balances of no less than two months of regular general fund operating revenues or 16% of the general fund (Union Exb. 5). The Union argues that the Employer, in this case, maintains a healthy carry over and is able to afford its wage proposal as the unencumbered balance on January 1, 2013 was

\$1,896,394.00 (Union Exb. 6). The Union states that income tax receipts have continually increased by 9.8% since 2010 (Union Exb. 7), and the Union argues that the City has assigned more revenue to its capital improvements fund in 2013 than is required for planned projects. The Union argues that the City is “hiding” funding in its capital improvements fund in 2013. The Union states that the City is able to afford its 3% proposal as it budgeted for an overall 6% increase for Police Department wages in 2013 (Union Exb. 9). Additionally the Employer significantly increased salary and wage budgets in almost every department of the City for 2013. Finally the Union states that City Council approved pay increases of \$2400.00 for its members in 2013 (Union Exb. 10). The Union requests the Fact Finder to recommend its proposal of a 3% across the board increase for the third year of the Agreement effective August 1, 2013.

**EMPLOYER POSITION:**

The Employer proposes a wage freeze in the third year of the Agreement, August 1, 2013 to July 31, 2014.

The Employer states that multiple factors preclude a wage increase in 2013. Property tax revenues are projected to decrease by 7% in 2013 due to the Stark County Auditor’s property reappraisal. The Employer states that it is true that income tax revenue is projected to increase by 4% in 2013, but local government fund revenue was decreased since 2008 and inheritance taxes have been eliminated. Combined revenue from property tax, inheritance tax, local government fund and personal property tax was \$2,285,347 in 2008 and is projected to be \$1,136,960 in

2013 (Emp. Exb. C). The Employer argues that the elimination of the inheritance tax will result in a significant decline of the General Fund from 2013 through 2015. The Employer states that the General Fund balance in 2012 was \$1,896,394, but it is projected to be only \$497,034 at the end of 2013. The Employer projects a \$716,065 General Fund deficit at the end of 2014; a deficit of \$2,178,916 at the end of 2015; and a deficit of \$3,899,013 at the end of 2016 (Emp. Exb. F). The Employer states that there has been an increase in income tax revenue over the last two years, but General Fund expenditures are significantly greater than the projected income tax revenue for 2013 (Emp. Exb. I). And while the Union argues that income tax revenues have increased over the past few years, they still do not match the high point of collections in 2000 (Emp. Exb. J). The Employer states that it currently has a liability of over \$1,483,000 for unfunded compensated absences. This figure is based on the projected retirement of all employees who are eligible. The Employer states that its comparable list of cities is more relevant than those presented by the Union as they are region based which is the criteria suggested by ORC Section 4117 (Emp. Exb. Q). North Canton Patrol Officers are the highest paid among six regional city jurisdictions. In addition, North Canton employees enjoy various pay supplements such as longevity and double time and one-half pay for holiday work. Due to this, overall pay for bargaining unit employees increased by 8.5% in 2011 and 15.4% in 2012 in light of the fact that wages were frozen both years. The Employer states that wages have exceeded the aggregate of the consumer price index since 2000. The Employer infers that productivity may be an issue as traffic violations have decreased 50% from 2002 to 2011 (Emp. Exb. R), and calls for

service have decreased by 28% during the same time period (Emp. Exb. S). The Employer argues that a 3% wage increase is not justified based on reduced productivity. The Employer states that it is true that members of city council approved a wage increase for themselves, but it will not occur until the next council is elected, and there had been no increase in eleven years. Non bargaining unit employees have not received an across the board wage increase since 2008, and the Employer was forced recently to lay off a Firefighter. The Employer states that it is important to note that other bargaining units have agreed to wage freezes with no lump sum payments in 2013 including unionized clerical employees, unionized service workers, Firefighters Union and unionized water plant workers. The Employer requests that the Fact Finder recommends a wage freeze for 2013.

DISCUSSION:

Both parties, the City and OPBA, made strong arguments for their positions, and they have provided well prepared exhibits for consideration of the Fact Finder. They worked hard in an attempt to resolve the matter prior to hearing.

The City of North Canton, like many other public jurisdictions, has been impacted by the recession and loss of revenue. Loss of property tax through county reassessment, loss of local government funding, elimination of the estate tax, and declining income tax revenue have all made balancing the books, while maintaining public services, a daunting experience. The loss of the Hoover Company a number of years ago has a lasting effect on the health of the City budget. The OPBA recognized the Employer's plight and agreed to wage freezes during the first two

years of the three year Agreement. The Employer, recognizing the importance of providing an economic benefit in lieu of wage increases, agreed to provide two lump sum payments of \$500.00 each during the first two years of the Agreement pursuant to Section 27.05.

The Employer argues that it faces a deficit balance in the General Fund beginning in 2014 unless expenditures are reduced and sources of revenue are increased. The Union argues that income tax receipts have continually increased since 2010 as the economy is in recovery, and the City enjoys a healthy carry-over balance.

The Employer will not allow its General Fund budget to go into deficit at the end of 2014. While income tax receipts have improved, they are not at pre-recession levels, but the carry-over balance currently appears to be moderately healthy. Certain projected expenditures in 2013 may be somewhat excessive, as pointed out by the Union. The City argues that productivity has declined and the Union wage demands, therefore, lack justification. It is difficult to truly measure productivity based on the lack of traffic violations and service calls, and these stats are not given significant consideration in the development of the recommendation of the Fact Finder. The Employer also reminds the Fact Finder of the “me too” clause in other collective bargaining agreements and the fact that other Unions at the City have agreed to a wage freeze in 2013. Negotiated wage freezes by other bargaining units is a significant factor, but the “me-too” provision affecting the Police Department supervisory staff impacts only a small number of employees.

In light of the projected increase in the income tax in 2013; a generally improved economic climate; the fact that the bargaining unit has experienced wage freezes in 2011 and 2012; and based on pre-hearing discussions, the Fact Finder's recommendation is as follows. An additional \$500.00 stipend in the third year of the Agreement payable in the first half of December, 2013 and a 1% across the board increase effective August 1, 2013.

**RECOMMENDATION:**

**Article 27 - Wages**

**Section 27.05 All employees hired on or before August 1, 2008 obtaining and/or maintaining minimum applicable state firearms qualifications and/or certifications and obtaining and/or maintaining all other minimum continuing education shall receive in 2011, 2012 and 2013 a \$500.00 stipend payable in the first half of December.**

**Section 27.06 (To replace current language) All bargaining unit employees shall receive a 1% across the board wage increase effective August 1, 2013.**

CONCLUSION

After review of the pre-hearing statements of the parties and all facts presented at hearing, the Fact Finder recommends the modifications to Article 27 as contained in this report. The foundation of the Report and Recommendation is based on the criteria enumerated in Ohio Revised Code Section 4117.14 (G) (7) (a-f).

Respectfully submitted and issued at Cleveland, Ohio this 11<sup>th</sup> Day of July, 2013.

A handwritten signature in cursive script that reads "Thomas J. Nowel". The signature is written in black ink on a light-colored background.

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Thomas J. Nowel  
Fact Finder

CERTIFICATE OF SERVICE

I hereby certify that on this 11<sup>th</sup> Day of July, 2013, a copy of the foregoing Report and Recommendation of the Fact Finder was served upon Timothy L. Fox, representing the City of North Canton; Kevin Powers, representing the Ohio Patrolmen's Benevolent Association; and Donald M. Collins, General Counsel, State Employment Relations Board, by way of electronic mail.

A handwritten signature in cursive script that reads "Thomas J. Nowel". The signature is written in black ink on a white background.

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Thomas J. Nowel  
Fact Finder