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IN THE MATTER OF FACT FINDING

BETWEEN

FRATERNAL ORDER OF POLICE, OLC, INC.

AND

THE CITY OF NORTH RIDGEVILLE, OHIO

**SERB CASES # 13-MED-09-1099, 1100, 1101
(Sergeants and Lieutenants, Patrolmen, Full-Time Dispatchers, Administrative
Secretaries, Records Custodians, and Police Secretaries)**

Robert G. Stein, Fact-finder

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INTRODUCTION

The parties to this matter are the Fraternal Order of Police, OLC, Inc. (hereinafter “Union,” or “bargaining unit”) and the City of North Ridgeville, Ohio (hereinafter “Employer” “City,” or “Department”). The City is one of the larger cities in Lorain County, which is located in Northeast, Ohio. The City has an approximate population of about 29,500 residents. The Collective Bargaining Agreement (hereinafter “Agreement”) runs from January 1, 2012 through December 31, 2014. In the negotiations leading to instant fact finding, the parties were engaged in reopener negotiations for the purpose of establishing wage rates for the 2014 calendar year. By mutual agreement the three (3) FOP bargaining units and the City agreed to engage in multi-unit negotiations. The parties met two (2) times in negotiations prior to declaring impasse. The City signed a G (11) waiver as part of the negotiations process. (City Ex. 2)

General/State/Local Economic Overview: A mixture of prolonged uneasiness and continued hope for signs of improvement have characterized the mood of the country during the years since the “great recession,” was declared to have ended on a national level. Of course, what is often declared to be ended nationally does not always translate immediately at the local level, particularly in Ohio, which has had more than its share of job losses prior to and as a consequence of the great recession. Recovery has been painfully slow since 2008, when job losses in Ohio were the second worst in the nation, behind Michigan. However, there appears to be cause for optimism during the first half of 2014. In the last several years the nation and state have been marked by uneven job growth and were unaided by considerable national political discord, which earlier in the year showed signs of a thaw in the long-existing failure of Washington to agree on

legislation (e.g. Farm Bill, Budget Bill passage), but has returned to gridlock over issues like immigration reform and foreign policy as the mid-term elections approach. In spite of the long-drawn-out lack of agreement in Congress over many important issues that did little to relieve economic uncertainty, the private sector has continued to lead the way with stronger profits, and in adding jobs but in uneven numbers geographically. In June the national unemployment rate was 6.1%, a drop from 6.7% in the prior month. And in June an additional 288,000 jobs were created. And, while the jobless rate has returned to pre-recession levels in number, what is different is the fact that in Ohio over these many years more people have entered the job market and a sizeable percentage of the jobs that have returned are lower paying jobs, with little or no benefits, in the service industry. In Ohio the April rate was 5.7%, which was approximately the rate in 2008 (May's rate has yet to be announced). Yet, how much of that decline is due to new job creation rather than the effect of people dropping out of the labor market remains unclear. The stock market had a banner year in 2013, but experienced some retrenchment during the first two months of 2014. In May and early June that temporary downturn has reversed and the stock market has demonstrated considerable strength, reaching records highs at the end of June and in the first week of July. The job's report coupled with record stock market highs fully reflect a national economy that is steadily gaining sustained momentum, with hopes growth will be sustained. However, anyone who makes it their business to pay attention to these matters will readily admit the U.S. economy remains vulnerable to national and international events such as instability in Iraq, Syria, and Russia's renewed ambition in the Ukraine and possibly beyond. At the end of 2013 some economists predicted that *"There's still a sizable amount of pent-up demand in the consumer and corporate sector,"* and that may be "signaling strong demand at home and abroad that could boost growth prospects into next year." (WSJ, 12-3-13). If the sales of automobiles in May are any indicator, this prediction is certainly holding up as we enter the second half of 2014. (Associated Press, 6-4-2014) What remain to be seen long term are the depth, breadth, and strength of the recovery across a broad array of sectors in the economy, and most importantly the creation of good paying jobs in an economy largely driven by consumerism.

Infrastructure issues along with recovery from record severe weather will be a challenge for cities and states across the country and in Ohio for the foreseeable future. Business continues to learn how to be more efficient and do more with less or with part-

time rather than full-time employees. In the experience of this neutral, public sector entities in Ohio, having to have endured multiple rounds of severe reductions in state assistance in recent years, are following the lead of the private sector and are very leery to again be put in a position to have to cut back services, make drastic cuts in staffing, reduce benefits, and freeze or reduce wages just to balance their budgets. In Ohio the majority of manufacturing jobs are related to transportation, which has experienced sustained recovery. Yet, caution still exists and there is still cause for concern in the number of people unemployed and underemployed. Many of the jobs being created in Ohio, as in other parts of the country are not the same well-paid jobs, with good benefits that in the past created and sustained a vibrant middle class. Currently there are several million people who have been unemployed for 6 months or more. Complicating the future in another manner is the fact that for millions of workers income has not changed markedly for several years. ("Incomes are Flat, Reflecting a Slowdown in Job Growth, but Consumer Spending Rises," Associated Press, 2-2-14) What affect this will eventually have on markets and the willingness and ability of citizens to be able to financially support their communities is a question only time will answer.

As previously stated Ohio's economic picture has been slowly improving, painfully slow for many, but hopeful signs of improvement from a very long and severe national recession appear to be gaining momentum. Substantial activity has been initiated in the areas of shale gas and oil exploration, with a promise of billions of dollars of added income to Ohio in the future. ("Shale gas and oil will add \$5 billion to Ohio's economy by 2014, say economists" by John Funk, Plain Dealer, 2-29-12) And some would argue that jobs created from this exploration provide more employment for out of state workers than those who live in Ohio. ("Fracking: So where's the economic boom that was promised?" by Spencer Hunt and Dan Gearino, Columbus Dispatch, January 28, 2014) But, as previously stated, the May unemployment rate in Ohio is the lowest it has been since 2008 and it is hoped that most of that is a result of new job creation. What holds for the remainder of 2014 is not certain on a national or statewide perspective, yet signs of a sustained recovery remain hopeful.

The local economy in northeast Ohio is a mixed bag of prosperity, recovery, and continued austerity. Depending upon location some municipalities are prospering, while others are still finding difficulty in adjusting to substantially less revenue from the state of

Ohio, the elimination of the estate tax, lower property values, etc. The City of North Ridgeville, like many others in Ohio, has been a passenger on a rollercoaster ride marked by the plunge of severe job losses and foreclosures, and the long, slow, and bumpy ride that has been in motion since the declared end of the recession in 2009. That ride was initially steepened by incremental elimination of loss of tangible personal property tax, and then made more jarring through severe “turns” of state legislation that drastically reduced local government funding and eliminated estate taxes, forcing many local governments to hang on while they figured out where to go from here while possibly coping with revenue related to decreases in real property value. Again, not all municipalities experienced the same ride. Those who were better off economically were able to cushion their revenue losses with large funding balances and/or growth that were fostered by demographic and economic growth advantages through a combination of effort and fortune that came with being located in a prosperous geographic location in Ohio. The City of North Ridgeville appears to have been able to take steps to lessen the effects of these changes, with a combination of necessary budget cutting, while receipts stabilized and began to improve over time. (See City’s Pre-hearing Statement, p. 8-11)

The items specifically addressed by the fact finder in this report are based upon the evidence and arguments proffered by the Union and the City. The recommendations contained in this report conform to the statutory criteria that all fact finders must follow, but are somewhat limited in their utility in that there is a lack of statutory direction in terms of assigning each relative weight.

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.

MAIN ISSUE: Summary of the Parties' Positions and Discussion:

The Union's and the Employer's detailed position and rationale on the unresolved issues can be found in their respective Pre-hearing Statements and in evidence in the record. However, in summary the proposed position of each party on the main issue is as follows:

ISSUE 1 ARTICLE 26 WAGES

UNION: For all three bargaining units the Union is proposing the following (changes in **bold**):

January 1, 2014 (retro) 3.5%

ARTICLE 26 WAGE RATES

26.01 All employees shall receive a two percent (2%) wage increase in accordance with the following schedule effective January 1, 2012, Effective January 1, 2013, all employees shall receive a two (2%) percent wage increase which shall be added to the January 1, 2012 rate of pay. **Effective January 1, 2014 there shall be a three and a half (3.5%) percent wage increase added to the January 1, 2013 rate of pay.**

2014	<u>CLASS C</u>	<u>CLASS B</u>	<u>CLASS A</u>
Lieutenant			\$37.87
Sergeant			\$33.52
Patrolmen	\$ 26.91	\$ 28.21	\$29.65
Administrative Secretary			\$22.54
Records Custodian/Clerk			\$21.99
Dispatcher	\$20.04	\$20.81	\$21.44
Police Secretary	\$ 18.40	\$ 19.12	\$ 19.86

26.04 Patrolmen and Detectives, who are directed to and actually work as the shift officer in charge, shall be paid at the rate of Sergeant for each hour worked.

26.05 There shall be a two and one-half percent (2.5%) shift differential between Dispatcher A and Records Custodian and a two and one-half percent (2.5%) shift differential between Records Custodian and Administrative Secretary.

26.06 Starting on January 1, 2005, there shall be a thirteen percent (13%) rank differential between promoted units.

26.07 Field Training Officers (FTO) for all Sworn and Non-Sworn personnel shall be paid an additional one dollar and fifty cents (\$1.50) per hour when actually training other employees. In order to be eligible to receive this pay, the employee must first have been formally trained as an FTO, or be designated by the Chief or his designee to train another employee. The FTO must perform the proper documentation and or evaluations expected of the position while working in the capacity of a trainer. If for any reason an employee not formally recognized as an FTO trainer should have to train for purposes of replacement to their current position, they too shall be entitled to FTO pay while acting in the capacity of a trainer.

26.08 Any Dispatcher assigned by the Chief of Police or his/her designee the duties of the Records Clerk (in her absence) will receive Record's Clerk rate of pay for each hour worked in that capacity. Any Dispatcher assigned by the Chief of Police, or his/her designee the duties of the Administrative Secretary (in her absence), will receive the Administrative Secretary's rate of pay for each hour worked in that capacity.

The **Union** makes several arguments regarding the issue of proposing a three and one-half percent (3.5%) wage increase. It contends that at no time in negotiations, prior to fact finding, did the City make the argument regarding its ability to pay.

It also asserts that there has been a good relationship between the City and the FOP bargaining units and that the FOP has cooperated with the City in the past in accepting wage freezes and furlough days, when the City was struggling financially.

The Union further argues that at the current salary level the Department is losing good employees to surrounding jurisdictions whether it's through individual initiative or aided by other cities recruiting North Ridgeville officers. (See Todd Hilty and Beverly Jackson testimony) While the Union recognizes the fact that other bargaining units and non-union employees in the City have accepted a two percent (2%) increase for 2014, it avers that this level of increase is not sufficient to stem the turnover rate, which is affecting the quality of law enforcement personnel in the Department. The Union argues that the City's financial condition and bond rating is better than that which is being described by the City. The Union also indicates that during this reopener, Union leadership went to the bargaining unit three separate times and was informed that a greater than two percent (2%) increase was being sought.

CITY: The City is proposing the following:

Wage increases for the all 3 FOP bargaining units:

January 1, 2014 (retro) 2%

The City fundamentally argues that its proposed increase of two percent (2%) is not without concern regarding its financial affordability, but is intended to “*accomplish its longstanding objective of maintaining internal parity among all bargaining units.*” (See City’s Pre-hearing Statement, p. 3, 12)

The City argues it made this proposal when negotiations commenced, because it represents the same increase provided to AFSCME and the IAFF, as well as to non-union City personnel. The City also emphasizes the fact that all bargaining unit and non-union personnel made considerable sacrifices in terms of wage freezes from 2010 through 2012, and in terms of agreeing to Cost Saving Days in 2011 and 2012. In an effort to keep the City financially viable, the paid hours sacrificed by employees other than the FOP were as follows: IAFF, 144 hrs (.0545% of 2,640 hrs), AFSCME, 120 hours (.0576% of 2,080 hrs), Non-Union, 120 hours (.0576% of 2,080 hrs). In support of its proposed increase the City notes that these employees sacrificed 50% more hours than the 80 hours absorbed by the FOP, (.0384% of 2018 hrs) over the same period. The City avers this should be as an important consideration in determining what is fair and reasonable in terms of the 2014 wage rate over this eight (8) year period of time. (See City’s Pre-hearing Statement, p. 15)

The City points out that on an external comparable basis Lorain County has historically represented an area of comparability, and the FOP bargaining units are paid a competitive wage in this comparable context. Finally, the City strongly asserts that the state of its financial condition warrants considerable caution as it moves forward. In summary, the City points out that the amount of General Fund revenue from the state of Ohio it has permanently lost from 2007 through 2012 is substantial. It asserts that in spite of experiencing an upswing in personal property tax collections in 2014, what it has experienced in the last several years and continues to experience has left the City in a position of having to face continued financial uncertainty.

DISCUSSION

The City’s proposed re-opener wage increase of two percent (2%) is substantially supported by the evidence, when viewed in the context of the statutory criteria, bargaining history, and in consideration of the principle of shared sacrifice. However, the arguments made by the City regarding equity of sacrifice in terms of cost sharing days in 2011 and 2012, should be put to rest with this re-opener, due to the fact that cost savings implemented by municipalities are influenced by many factors such as minimum levels of safety needed in the community, attrition, unit strength at the time the cost saving days are implemented, etc. From 2007 through 2013 salaries for AFSCME and IAFF have been increased by 13%, or an average of 1.857% per year. The average for non-union employees was 1.847% during this seven (7) year period, which is statistically similar. This seven (7) year period included three (3) years of no wage increase, and two years of monetary

sacrifice in the form of cost saving days. The evidence also demonstrates that the City has taken firm and decisive action to cut its expenses and manage its revenue in the face of relative swift and substantial revenue cuts imposed by the state of Ohio on it and all municipalities. The City's resoluteness in the face of this transformation imposed by the state of Ohio needs to be acknowledged. There is little question that City officials have struggled, juggled, and creatively managed what has been a cascading series of revenue cuts imposed on the City from a variety of sources and as a result of a severe national economic downturn. (See testimony of Auditor Costin, City Ex. 11-13) Yet, much of this effort could not have been accomplished without the financial sacrifice made by the employees of the City. These sacrifices, which represent lost and unrecoverable income due to cost saving days over this same period, are commendable personal sacrifices that need to be recognized. Every employee has to manage his/her family budget and in spite of a reasonable level of inflation during this period of time, household expenses for these dedicated employees also had to be juggled and managed.

The Union's case was compelling in terms of what appears to be a real recruitment and retention problem. Union witness, Hilty, a 28 year veteran officer, made a strong argument for a higher wage to shore up a recruitment and retention problem that he has experienced firsthand. While external comparable data within Lorain County finds that the bargaining units are paid a competitive wage, the proximity of the City to Cuyahoga County's wealthier suburbs appears to be causing difficulty with retention and recruitment. This problem most likely exists in other parts of the City as well and will possibly need to be addressed during a full round of negotiations. However, given what the City has had to go through during the past several years in order to maintain quality City services reveals that it currently has little financial latitude. Barring any additional unexpected influx of revenue, tough decisions regarding ways to raise more revenue will have to be undertaken given the "new reality" of municipal financing. Unfortunately, the data indicates the City is still adjusting to the aforementioned "new reality" and currently does not have the financial means to ameliorate problems of retention for the FOP bargaining units, or for any other City employees.

According to the Bureau of Labor Statistics, the CPI from 2007 to 2013 was 12.35% so that a \$50,000 dollar salary in 2007 would equate to a \$56,176.99 in 2013 in order to maintain its value over time. Over this period of time the data finds the City employees negotiated salary increases of 13%, keeping the relative value of salaries even with inflation, but without any measureable gain. If during this period other cities provided greater salary increases that exceeded the rate of inflation that most likely made law enforcement salaries in North Ridgeville less competitive with surrounding jurisdictions. It is also noted that the safety bargaining units have full pension pick-up, which is a significant benefit that many municipalities do not provide or have negotiated out of their contracts in favor of a conversion to wages. The City by proposing a two percent (2%) increase is matching the rate of inflation that is running around 2.1%. (See BLS) The City has reasonably followed the historical pattern of treating all employee groups in a similar fashion.

RECOMMENDATION (including any prior TAs):

Wages (FOP units): Effective January 1, 2014 2% (retroactive to January 1, 2014)

TENTATIVE AGREEMENT

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

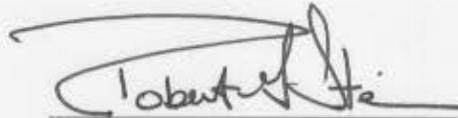
The fact finder respectfully submits the above recommendations to the parties this ____ day of July 2014 in Portage County, Ohio.

Robert G. Stein, Fact finder

TENTATIVE AGREEMENT

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The fact finder respectfully submits the above recommendations to the parties this 16th day of July 2014 in Portage County, Ohio.

A handwritten signature in black ink, appearing to read "Robert G. Stein", with a horizontal line underneath it.

Robert G. Stein, Fact finder