

FACT-FINDING REPORT

YOUNGSTOWN POLICE
RANKING OFFICERS (YPRO)

(UNION)

and-

SERB Case No:
2014-MED-01-0063

CITY OF YOUNGSTOWN

(EMPLOYER)

December 15, 2014

Proceedings before Jared D. Simmer in the role of Fact-Finder in the above-captioned case. Pursuant to the provisions of Section 4117-9-05 of the Ohio Revised Code, the Fact-Finder was officially appointed by the State Employee Relations Board of Ohio (SERB).

I. APPEARANCES

On behalf of the Union

Dennis Haines, Esq.

Kevin Mercer, YPRO President.

Jason Simon, YPRO Bargaining Team.

On behalf of the City of Youngstown

Michael D. Esposito, Esq., Clemans Nelson and Associates.

Martin Hume, Director of Law, City of Youngstown.

Rebecca Gerson, Deputy Law Director, City of Youngstown.

Kyle Misak, Deputy Finance Director.

II. BACKGROUND

This proceeding involves collective bargaining negotiations between the Youngstown Police Ranking Officers (hereinafter "Union" or "YPRO"), and City of Youngstown (hereinafter "City").

The City of Youngstown is the largest municipality within Mahoning county, Ohio. Like many other large manufacturing hubs in Ohio and elsewhere in the country, it now faces serious challenges with a decline in its population and erosion of its manufacturing base. Since 1960, the city of Youngstown has experienced a slow and steady decline in its population of about 60%, from 166,000 residents to less than 70,000 based on the most recent 2010 census figures. And, recent census estimates indicate that since 2010, Youngstown has lost about another 1,500 residents.

This, however, does not tell the whole story. Just between 2002-2010, data reveals that while the City has lost over 7,000 jobs, the loss has been at a rate twice as high as surrounding geographical areas. Not surprisingly, an environment of declining jobs and population loss leads to a corresponding decline in municipal revenues. To illustrate the point, revenues from tax supported funds are expected to continue to decrease over the next five years according to a comprehensive analysis performed by the PFM Group as part of a federal government program that assists cities in fiscal distress. Over this same five year frame that revenues are expected to decline, expenditures of these same funds are expected to increase, leading to an annual structural deficit of approximately \$5,000,000. And, this projected deficit continues to be exacerbated by actions at the state level such as elimination of the estate tax and significant reductions in Local Government Fund allocations upon which local governments such as Youngstown have come to rely upon.

Against this sobering revenue and expense picture, this Fact-finder has been charged with conducting a fact-finding hearing on a new contract involving employees in the City of Youngstown police department. This particular bargaining unit, which represents full-time ranking officers

occupying the positions of detective/sergeant, lieutenant, and captain. has approximately 43 full-time employees.

The collective bargaining agreement (hereinafter "Contract") expired on May 31, 2014 and the parties have been bargaining for a new agreement since its expiration. It should be noted that no waiver of R.C. 4117.14(g)(11) has been executed in this proceeding covering 2014.

A fact-finding hearing was held on December 5, 2014 in the offices of the City of Youngstown Law Department. Prior to the hearing, the parties had met in approximately six negotiating sessions and in the process had resolved a number of the outstanding issues. In fact, it is the Fact-finder's understanding that a proposed contract was presented to the parties' respective constituencies, but was not agreed to. That said, at the Parties request, the tentative agreements (TA's) reached during their earlier negotiating sessions are adopted by reference. It is the Fact-Finder's intent that his recommendations will reflect verbatim the Parties' mutually agreed-to changes, and incorporate by reference all other pre-existing contract terms not addressed in either the TA's or raised at the fact-finding hearing.

It should be noted that both Parties filed pre-hearing briefs setting forth their respective positions, and provided the Fact-Finder with well-researched briefing books at the hearing. Both were reviewed and given due consideration in the preparation of this Fact-Finding Report.

In light of the documents prepared for the Fact-Finder's consideration, and the representatives' presentation at the hearing, both Messrs. Haines and Esposito are to be commended for the professional manner in which they admirably represented their respective constituencies. That said, the three unresolved issues that the Fact-Finder has been asked to address are as follows:

Article 26 – Wages and Salaries

Article 27 – Insurance Benefits

Article 59 – Termination of Contract

Two things should be noted that in the following Report; one, the Fact-Finder has attempted to balance the respective equities of both parties in arriving at his recommendations. And, two, the Report recognizes that, while general economic conditions appear to be improving as the country continues to emerge from the Great Recession, local governments such as Youngstown continue to wrestle with rising costs accompanied by flat or falling tax revenues, and uncertain revenue streams going forward. For this reason, at least for the foreseeable future, these improving but still generally weak economic conditions must continue to constrain public sector employee's expectations of contract enhancements, and resistance to increased sharing of expenses.

As he prepared his Fact-finder's Report, in addition to consideration of overall economic conditions in general, and the City of Youngstown's finances in particular, another significant consideration involved health insurance. In this country, unlike the private sector, the provision of health insurance to public sector employees evolved differently than other benefits, which resulted in a bewildering patchwork of coverage as different categories of employees, both union and nonunion, now find themselves with different coverage, at differing costs, offered through different carriers. While this was an affordable luxury back when this insurance was still relatively inexpensive, today this mishmash not only results in unnecessary costs and complexity, it raises fundamental fairness issues as well. In response, the clear trend has been for public sector employers to begin adopting the private sector model wherein all employees are brought under a single unified plan¹, assume a greater share of premium increases, and partner with their employers to search out ways to help control costs going forward.

In light of improving but overall still weak general economic conditions, the uncertain nature of the City of Youngstown's budget, and

¹ Having all its employees under one plan increases the employer's bargaining power with insurance companies which in turn helps them negotiate lower rates.

the benefits to be realized by standardizing health coverage for all of its employee groups, my Report recommends the following modest changes to the contract between YPRO and the City.

FACT-FINDER'S FINDINGS AND RECOMMENDATIONS

Article 26 – Wages and Salaries

Union's Proposal:

The Union proposes that increases for the parties' successor agreement be 1.0% for the first year of the Agreement², 1.5% for the second year of the Agreement, and 1.0% for the third year of the Agreement

City's Proposal:

The City proposes similar increases; 1.0% effective January 1, 2015, 1.5% effective January 1, 2016, and 1.0% effective January 1, 2017.

Fact-Finder's Findings and Recommendations:

While the Fact-finder recognizes the Union's proposal to appear modest on its face, and largely mimics the City's, it would provide retroactivity at a time when no other City bargaining unit with a 2014 contract opening has received. All other City agreements opening in 2014 provided a 1.0% general increase in the first contractual year, followed by a 1.5% general wage increase in the second year, and a 1.0% general wage in the third year of the Agreement. Further, the Fact-finder notes that none of these agreements have provided retroactivity.

In addition, the City appears to be facing significant budget uncertainty. Its recent history of deficit spending has apparently been propped up by and large to recent one-time revenue streams that are due to expire in the near future. This has led to the City in

² But retroactive back to the earlier expiration date of the current contract.

its recent contracts to address rising insurance costs (to be discussed later).

For these reasons, the following recommendations are made: Effective January 1, 2015, bargaining unit members will receive a 2.5% increase, reflecting the pattern 1% general increase that all the other units have received for the first contract year, along with the 1.5% general increase that has been part of the overall City wage pattern in the second year. Effective January 1, 2016, the Union should receive a 1.0% increase, again consistent with the wage pattern for all settled bargaining units during that year.

This change is not only economically reasonable based on the record, but would act to align this bargaining unit's contractual raise date with the calendar year on which it was previously based. Last but not least, because these proposed dates would again harmonize this unit's future wage increases with the raise dates in the existing YPA contract, it would allow the City to more timely maintain the wage differentials between these two bargaining units called for in the YPRO agreement.

Recommendation – see the below contract language.

ARTICLE 26
WAGES & SALARIES

Section 1. Rates of Pay. Bargaining unit members will receive pay in accordance with the Wage Schedule, Appendix A, in the attached Collective Bargaining Agreement. Wage rates reflect a fifteen percent (15%) differential between the senior patrol officer and the 3rd year Detective/Sergeant; between the 3rd year Detective/Sergeant and the 3rd year Lieutenant; and between 3rd year Lieutenant and 3rd year Captain. ***Maintenance of the fifteen percent (15%) rank differential is provided for in Side Letter #6.*** ~~; except for the maintenance of the fifteen percent (15%) differential, unit members agree that from June 1, 2011, through May 31, 2014, there shall be no increase in the rates of compensation for unit members. Effective November 30, 2012, the Union may, with the consent of the City, reopen negotiations. The reopener shall include and be limited to wages and health insurance benefits. Wage rates for the year 2014 shall remain unchanged until such time as increases are~~

provided as set forth below. Increases in the rates of compensation shall be as follows:

Effective January 1, 2015: 2.5%

Effective January 1, 2016: 1.0%

Section 2. 1st Year/Out-of-Class Rate. During the course of the parties' agreement, bargaining unit members designated by the Employer to as acting out of classification/rank or promoted to a higher rank shall receive the 1st year rate for the applicable classification which shall be five percent (5%) below the 3rd year rate. Persons receiving a promotion shall advance to successive steps within the pay scale for the applicable classification based upon the years of service as described in Section 3, and listed in Appendix A.

Section 3. Wage Schedule Administration. The 1st year rate shall be five percent (5%) less than the 3rd year rate. After one (1) year of continuous, permanent service in the applicable promotional position, a ranking officer shall move to the next step of the wage schedule for the applicable classification, three and one-half percent (3.5%) below the 3rd year rate. After two (2) years of continuous, permanent service in the applicable promotional position, a ranking officer shall move to the next step of the wage schedule for the applicable classification, two percent (2.0%) below the 3rd year rate. After three (3) years of continuous, permanent service in the applicable promotional position, a ranking officer shall move to the permanent 3rd year rate for the applicable classification.

APPENDIX A, WAGE SCHEDULE

Wage Rates for Bargaining Unit Members shall be as follows:

Effective June 1, 2014 through December 31, 2014

<u>Classification</u>	<u>Years of Service</u>	<u>Annual Salary</u>	<u>Hourly Rate</u>
Detective/Sergeant	Entry Rate	\$59,414.24	\$28.5645
Detective/Sergeant	After 1 yr in Rank	\$60,352.35	\$29.0156
Detective/Sergeant	After 2 yrs. in Rank	\$61,290.47	\$29.4666
Detective/Sergeant	After 3 yrs. in Rank	\$62,541.30	\$30.0679

<u>Classification</u>	<u>Years of Service</u>	<u>Annual Salary</u>	<u>Hourly Rate</u>
Lieutenant	Entry Rate	\$68,326.37	\$32.8492
Lieutenant	After 1 yr in Rank	\$69,405.20	\$33.3679
Lieutenant	After 2 yrs. in Rank	\$70,484.04	\$33.8866
Lieutenant	After 3 yrs. in Rank	\$71,922.49	\$34.5781

<u>Classification</u>	<u>Years of Service</u>	<u>Annual Salary</u>	<u>Hourly Rate</u>
Captain	Entry Rate	\$78,575.32	\$37.7766
Captain	After 1 yr in Rank	\$79,815.98	\$38.3731
Captain	After 2 yrs. in Rank	\$81,056.64	\$38.9695
Captain	After 3 yrs. in Rank	\$82,710.86	\$39.7648

Effective the January 1, 2015 through December 31, 2015 (2.5% increase)

<u>Classification</u>	<u>Years of Service</u>	<u>Annual Salary</u>	<u>Hourly Rate</u>
Detective/Sergeant	Entry Rate	\$60,908.51	\$29.2829
Detective/Sergeant	After 1 yr in Rank	\$61,870.21	\$29.7453
Detective/Sergeant	After 2 yrs. in Rank	\$62,831.93	\$30.2077
Detective/Sergeant	After 3 yrs. in Rank	\$64,114.21	\$30.8241

<u>Classification</u>	<u>Years of Service</u>	<u>Annual Salary</u>	<u>Hourly Rate</u>
Lieutenant	Entry Rate	\$70,044.78	\$33.6754
Lieutenant	After 1 yr in Rank	\$71,150.74	\$34.2071
Lieutenant	After 2 yrs. in Rank	\$72,256.71	\$34.7388
Lieutenant	After 3 yrs. in Rank	\$73,731.34	\$35.4478

<u>Classification</u>	<u>Years of Service</u>	<u>Annual Salary</u>	<u>Hourly Rate</u>
Captain	Entry Rate	\$80,551.49	\$38.7267
Captain	After 1 yr in Rank	\$81,823.35	\$39.3381
Captain	After 2 yrs. in Rank	\$83,095.21	\$39.9496
Captain	After 3 yrs. in Rank	\$84,791.04	\$40.7649

Effective the January 1, 2016 through December 31, 2016 (1.0% increase)

<u>Classification</u>	<u>Years of Service</u>	<u>Annual Salary</u>	<u>Hourly Rate</u>
Detective/Sergeant	Entry Rate	\$61,517.59	\$29.5758
Detective/Sergeant	After 1 yr in Rank	\$62,488.91	\$30.0427
Detective/Sergeant	After 2 yrs. in Rank	\$63,460.24	\$30.5097
Detective/Sergeant	After 3 yrs. in Rank	\$64,755.36	\$31.1324

<u>Classification</u>	<u>Years of Service</u>	<u>Annual</u>	<u>Hourly</u>
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			<u>Salary</u>	<u>Rate</u>
Lieutenant		Entry Rate	\$70,745.23	\$34.0121
Lieutenant		After 1 yr in Rank	\$71,862.25	\$34.5492
Lieutenant		After 2 yrs. in Rank	\$72,979.28	\$35.0862
Lieutenant		After 3 yrs. in Rank	\$74,468.65	\$35.8022

<u>Classification</u>		<u>Years of Service</u>	<u>Annual Salary</u>	<u>Hourly Rate</u>
Captain		Entry Rate	\$81,357.00	\$39.1139
Captain		After 1 yr in Rank	\$82,641.59	\$39.7315
Captain		After 2 yrs. in Rank	\$83,926.17	\$40.3491
Captain		After 3 yrs. in Rank	\$85,638.95	\$41.1726

Article 27 – Insurance Benefits:

Union's Proposal:

The Union wishes that the current contract language remain unchanged relative to the cap on employee contributions, currently \$80 per month for single coverage, and \$150 per month for family. And, under the current contract, both single and family plan participants pay a 10% share of premium costs. The Union indicates a willingness to work with the City's insurance committee to help identify cost savings to minimize premium cost increases. That said, it believes that the City's request for uncapped contributions is premature, and not in line with the contributions already in place for the patrol officers bargaining unit.

City's Proposal:

Seeing it to be a fairness issue, the Employer proposes to insert identical committee language into the contract that has already been negotiated into the contracts of all other City bargaining units. That language would give the Committee broad authority to set benefits and plan design levels, and provide all bargaining units a voice in the area of insurance that is not found in most collective bargaining agreements. In order to achieve this, the City asserts that YPRO, which enjoys the most generous caps of any

City labor agreement, needs to adopt the uncapped insurance contribution that all other City employees, both union and nonunion, already have agreed to.

During the last round of negotiations (as Senate Bill 5 was being considered), the City and this bargaining unit agreed to an extension of the agreement that took them out of the normal bargaining cycle with the patrol officers' union and moved them back into the cycle behind other bargaining units in the City. As a result, this bargaining unit has now enjoyed the lowest insurance caps of any bargaining unit in the City (\$80 single/\$150 family). These caps have not only been frozen in place since 2009, in the meantime other units initially moved to a \$100/\$200 cap, and eventually to an uncapped contribution of 10%, the same arrangement the City proposes for this unit.

At the present time, this bargaining unit is the most highly compensated one in the entire City, and by virtue of its foresight, has been the beneficiary of the lowest insurance contribution structure as well. Given this, and the fact that the majority of City personnel are currently subject to moving to an uncapped contribution, in the interest of fairness and consistency, the City believes it appropriate that this unit begin contributing in a similar fashion, effective immediately in the new contract.

Fact-Finder's Findings and Recommendations:

As was the case with wages, the Fact-finder believes that some degree of uniformity across the City's various employee groups is desirable and appropriate. The City's proposal, however, actually seeks to apply to this bargaining unit language that goes beyond the true structure of the pattern in the City relative to insurance contributions. All bargaining units in the City served at least some defined period of time with a capped contribution structure prior to

moving to an uncapped schedule. To illustrate, the Patrol officer's contract enjoys capped contributions through the year 2015.

In this contract, it seems more reasonable to establish a schedule affording this bargaining unit that same capped structure for the year 2015 before moving them to an uncapped structure during the 2016 calendar year. In evaluating the appropriate time for the lifting of the caps, one might suggest that an ideal time would be the beginning of the year, to coincide with the final increase in the contract, but in this instance given that other settlements have not required a rigid adherence to this structure, May 1, 2016 would be more appropriate, all the more so given that this date would also serve to correspond to the 2016 insurance plan year.

While bargaining unit members may be understandingly hesitate to accept this change, it is important to remember that it would lead them to be treated in the same manner as all other members of the health insurance coverage pool benefit package, and costs and benefits would now be shared and apportioned equally among all City employees. But issues of equity aside, lack of standardized coverage would complicate the insurance committee's efforts to control costs, and conceivably place one group of employees paying less for their coverage against those who have agreed to pay more. As a result, such an outcome would not only increase tensions among employees, but may even result in higher premiums for all employees. For these reasons, I recommend the following:

Recommendation – see the below contract language.

ARTICLE 27
INSURANCE BENEFITS

Section 1. Medical and Hospitalization Insurance. The City of Youngstown shall continue to provide to each bargaining unit member and his family

medical, hospitalization and prescription insurance coverages and benefits comparable to the summary of coverages and benefits attached hereto as Appendix E ***or as otherwise established by a health insurance review committee (HIRC)***. In the event of a modification, the modified insurance coverage will be appended to the Agreement as Appendix E.

The Union acknowledges the Employer's right to determine to provide coverage through a selected insurance provider, a consortium, to self-insure, or to utilize a combination of the preceding.

The Union agrees that the City may create and maintain a health insurance review committee (HIRC) for the purpose of studying and recommending cost containment programs for medical, prescription, and dental coverages, reviewing usage, and recommending changes to the plan and benefit levels. Once created, the Union agrees to participate in the committee. The committee shall consist of one (1) representative from each of the bargaining units, one (1) non-bargaining unit employee, and a number of management representatives of the Employer equivalent to the total number of city bargaining unit representatives participating. The insurance committee shall have the authority to recommend alterations to the plan and benefit levels and/or recommend adjustments to coverage levels through majority vote.

Specifically, the committee may recommend any of the following options:

- A. To keep the same plan and/or benefit levels and pass on any cost increases to the parties consistent with the levels set forth in Section 5 of this article; or***
- B. To change the plan and/or alter the benefit levels so that there is no increase in the cost of the plan; or***
- C. To change the plan and/or alter the benefit levels to reduce or minimize the increase in the cost of the plan to be passed on to the parties.***

Recommendations of the committee will not be unilaterally changed by the City. Recommendations of the committee and Employer actions to carry out those recommendations are final and shall not be subject to the grievance procedure. If, however, the committee makes no recommendation by April 15 or fifteen (15) calendar days prior to the plan expiration date as applicable for the following plan year, the City may unilaterally adjust the plan and benefit levels, and cost increases, if any, will be passed on to the parties consistent with the levels set forth in Section 5 of this article. Recommendations of the committee and

Employer actions to carry out those recommendations, or actions of the Employer in the event that the committee fails to act, are final and shall not be subject to the grievance procedure.

Section 2. Vision/Dental Coverage. The City agrees to continue the program of providing single coverage for existing vision and dental insurance except that this benefit will be entirely funded and administered by the City, except as stated herein.

Section 3. Life/ADD Coverage. The City agrees to continue the program of life, accidental death and dismemberment insurance now in force except that it will be entirely funded and administered by the City. Effective January 1, 1999, its value will be twenty thousand dollars (\$20,000). The City will also continue to reimburse the Union the premium costs for an additional thirty thousand dollars (\$30,000) of accidental death & dismemberment coverage.

Section 4. Insurance Waiver. If any employee elects to refuse the coverage provided in Section 1, then that member shall be paid the premium saved by the City, not to exceed the amounts set forth below. Such election is contingent upon the employee documenting any and all existence of alternative health care coverage executing a waiver of the City's group plan and further waiving any action for damages and reimbursement resulting from such election. Payment for those employees making such an election shall be one hundred and sixty-eight dollars (\$168.00) per month for the duration of this agreement, payable in monthly increments.

Section 5. Employee Contributions. Effective January 1, 2009, employees shall contribute ten percent (10%) of the total premium for medical, hospitalization, prescription, vision, and dental coverage; however, employee contributions shall not exceed eighty dollars (\$80.00) per month for single and one hundred fifty dollars (\$150.00) per month for families. Any percentage exceeding the eighty dollars (\$80.00) or one hundred fifty dollars (\$150.00) contribution, as applicable, shall be paid entirely by the City.

Effective January 1, 2015, employees shall contribute ten percent (10%) of the total premium for medical, hospitalization, prescription, vision, and dental coverage however, employee contributions shall not exceed one hundred dollars (\$100.00) per month for single and two hundred dollars (\$200.00) per month for families.

Effective May 1, 2016, employees shall contribute ten percent (10%) of the total premium for medical, hospitalization, prescription, vision, and dental coverage.

Section 6. The City shall designate a full-time employee who will act as a liaison between the police officer and any insurance carrier for all insurance, Workers' Compensation and injured on duty pay.

Section 7. The City shall only be allowed to change health carriers after meeting with the Union to discuss the matter in any contract year. However, the City agrees that carrier changes shall not be made more than once in any given year. The parties agree that in the event of a carrier change, bargaining unit members will receive credit for monies paid toward the deductible amounts for that plan year.

Section 8. Each new police officer will be provided a full and complete copy of the insurance policy. Within thirty (30) days of any change of carrier coverage, the City will also provide each police officer with all such changes of coverage policy provisions.

Section 9. Alternative Plans. Notwithstanding Sections 1 and 2 of this article, the Union acknowledges that the Employer has the ability to offer alternative plans for medical, prescription, dental, and/or vision coverage. With respect to alternative plans, the Employer shall have the power to select carriers/providers, to establish benefit levels, determine costs, make mid-term plan adjustments, or otherwise determine the method of provision and coverage. At the employee's option, the participating employee may elect either single, with spouse, with children, family or other coverage offered under the plan(s).

Article 59 – Termination of Contract:

Union's Proposal:

The Union proposes a new three (3) year contract, effective retroactively back to June 1, 2014 and expiring May 31, 2017.

City's Proposal:

The City proposes a prospective contract, effective January 1, 2015 and expiring on December 31, 2017.

Fact-Finder's Findings and Recommendations:

The Fact-finder recognizes the party's concurrence on a new, three-year agreement, but, for all of the reasons mentioned, supra, recommends that the successor agreement run from June 1, 2014 through December 31, 2016.

Recommendation – see the below contract language.

**ISSUE 3, ARTICLE 59
TERMINATION OF CONTRACT**

Section 1. This Contract shall be effective ~~June 1, 2011~~ **June 1, 2014**, subject to ratification by both the Union membership and by City Council, and shall remain in effect through midnight ~~May 31, 2014~~ **December 31, 2016**.

Conclusion:

While this Fact-Finder realizes that neither party may be fully satisfied with these recommendations, he believes that this Report meets the standard of both Parties being equally unhappy with the results, and cognizant of the fact that lean economic times means that any changes to the existing contract must be made with the goal of balancing employee interests with the needs of the public employer to align its costs with revenues and adopt more modern insurance administration practices.

Issued: December 15, 2015

Respectfully submitted,
Jared D. Simmer, Esq.
Fact-Finder

CERTIFICATE OF SERVICE

I, Jared D. Simmer, Esq., hereby certify that the above Fact-Finding Report was served upon the following parties, to wit, the Youngstown Police Ranking Officers, via its representative, Dennis Haines, Esq., and the City of Youngstown, via its representative, Michael D. Esposito, Esq., by electronic mail this 15th day of December 2014, and similarly upon the Ohio SERB this same day.

Jared D. Simmer, Esq.

Jared D. Simmer, Esq.