

**STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD**

In the matter of Fact Finding between:

**FRATERNAL ORDER OF  
POLICE, OHIO LABOR  
COUNCIL, INC.**

SERB CASE Numbers  
**2014-MED-07-0908  
2014-MED-07-0910**

Employee Organization

and

**CITY OF UHRICHSVILLE,  
OHIO**  
Employer

**FINDINGS  
AND  
RECOMMEDATIONS**

Stephen Kubic  
Fact-Finder

Date of Issuance of Report – May 20, 2015

**Appearances:**

For the Fraternal Order of Police:

Chuck Choate, Staff Representative  
Sgt Doug Hines, Uhrichsville PD  
Patrolman Mike Hickman,  
Uhrichsville, PD

For the City of Dover

Brett H. Hillyer, Law Director  
Terry Culbertson, Mayor  
Joe Bollon, Service Director  
Julie Pearch, Auditor

## 1. INTRODUCTION

In compliance with the Ohio Revised Code 4117.14 (c), the State Employment Relations Board appointed Stephen Kubic to serve as Fact Finder in the above referenced matter. The Fact Finder was notified of the appointment by e-mail dated November 26, 2014.

A hearing was held on this matter on April 29, 2015, in the chambers of the Dover, Ohio City Council. The fact-finder must commend the parties for the manner in which they conducted themselves at this hearing. Information and positions conveyed by the parties at that time contributed greatly to his ability to understand the issues and arrive at the recommendations contained herein.

Pursuant to the Ohio Revised Code and Administrative Rules, a good faith effort was made to resolve the remaining issues through mediation. At the outset of the hearing the fact-finder offered to mediate the remain unresolved issues, this offer was rejected by the parties.

The Union timely filed the required pre-hearing position statements pursuant to section 4117-9-05 of the rules of the State Employment Relations Board (“hereinafter SERB”). However, the fact-finder did not receive the City's pre-hearing position statement until approximately two hours prior to the hearing<sup>1</sup>. From the Union's pre-hearing position statement, as well as, information provided by the City, it was clear the remaining unresolved issues were economic in nature.

## 2. BACKGROUND

Uhrichsville is a city in Tuscarawas County, which is located in Central Ohio with a population of 5,413 people<sup>2</sup>. The parties have bargained several successive Collective Bargaining Agreements (CBA). One of these CBAs had effective dates of November 1, 2001 through October 31, 2014. That agreement contained no pay increase for these officers. The City's financial condition

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<sup>1</sup> This matter will be discussed in greater detail later in this document.

<sup>2</sup> 2010 US Census

worsened and the parties meet again in early 2012. At that time they negotiated a Memorandum of Understanding. It contained language which required the officers to pay a larger portion of the employees' contribution to the employee's pension fund. This resulted in a net decrease in pay for members of the bargaining unit.

The parties last bargained CBA expired on October 31, 2014. At that time, the parties executed a Memorandum of Understanding which extended the term and conditions of that CBA through the remainder of the year. That extended CBA expired on December 31, 2014. However, the parties have agreed to successive contract extensions while bargaining continued.

The Bargaining Unit is described in Article 2 of the parties CBA as;  
**... all sworn full-time police officers employed by the City of Uhrichsville excluding the Chief of police ...**

The parties engaged in two bargaining sessions and a phone conversation between each parties representative. No agreement was reached during these sessions. The parties then jointly requested the fact-finders intervention.

### **3. Discussion and Recommendations**

At the outset of the hearing the Union's representative offered a motion to have the fact-finder disregard the position statement of the City. Ohio Administrative Code Section 4117-9-05 (F) reads as follows:

**Pursuant to division (C)(3)(a) of section [4117.14](#) of the Revised Code, upon notice of appointment of the fact-finding panel and no later than five p.m. on the last business day prior to the hearing, each party shall submit via electronic mail to the fact-finding panel and the other party a position statement. A failure to submit via electronic mail such a position statement to the fact finder and the other party no later than five p.m. on the last business day prior to the hearing, shall cause the fact-finding panel to take evidence only in support of matters raised in the written statement that was submitted prior to the hearing.**

The Union's advocate indicated that, as of the time the motion was made, he had not received a copy of the City's position statement. The fact-finder had only received the City's position statement approximately two (2) hours before the hearing. One hour of which was spent driving to the hearing. The fact-finder decided to bifurcate the Union's motion. The City's position statement contained, in addition to its position, several pages of financial statements. One of the Union's proposals included a wage increase. The fact-finder reasoned that the City would be able to introduce the financial information in an attempt to rebut claims made by the Union in regard to the wage increase. Therefore, these financial statements would be admitted into the record, however, the Union's objection is sustained in regard to the remainder of the City's position statement and will be disregarded.

## **ARTICLE 18**

### **PAID LEAVE**

The Union proposed changes to this Article, in the areas of vacation and compensatory time off. For the purpose of this paper they will be considered individually.

#### **Section 02. VACATION**

The Union's proposal regarding vacation sought three changes.

1. Employees ability to carry over two (2) weeks of vacation annually.
2. Employees ability to cash out 1 week of vacation time annually.
3. Move all employees in Bargaining Unit to same vacation accrual schedule.

In the expired CBA employee's had the ability to carry over vacation, but only with the permission of either Safety Director or City Council, depending upon whether one read Subsection B or Subsection K of the appropriate language. Uncontested testimony revealed that during the term of the expired CBA no

Bargaining Unit member had been refused the carry over of vacation. This was primarily do to the small number of police officers and, therefore, the need to keep a full compliment of officers on duty as much as possible. Ultimately, the City did not object to this provision.

However, the parties were not in agreement regarding the ability of an officer to cash out one week of vacation each year. This provision would require the City to incur a cost which is not part of the expired CBA. The Union was adamant that these officers had not had a pay increase in five (5) years, the same shortage of staffing discussed in the vacation carry-over language applied, as any week cashed out would result in another week the officer would be on duty.

The fact-finder finds that having two subsections of the CBA relating to vacation carry-over is, at best, unclear. As officers have not previously been denied requested vacation deferment, the manner in which the parties have previously applied the language is more akin to the language proposed by the Union than the language of the expired CBA. In addition, the fact-finder is cognoscente of the fact that these officers have not had an increase in pay during the term of the expired agreement or its extension. Therefore, he recommends that the language of Article 18, Section 02, Subsection B will be as proposed by the Union.

There are two separate vacation accrual schedules in the current CBA. Subsection A outlined a vacation schedule and then Subsection J provided a modified accrual schedule for those officers hired after January 1, 2004. The parties agreed that most members of the Bargaining Unit were already on the vacation accrual schedule mandated by Subsection A of Section 02. Therefore, the effect of moving all employees to that vacation schedule would not have a severe impact on the City's finances and is so recommended by the fact-finder.

**Section 03. COMPENSATORY TIME**

The parties indicated that compensatory time off was provided to these officers in two different manners. Some of the officers' compensatory time off was in accordance with the provisions of the Fair Labor Standards Act, however some of the officers' compensatory time off was not mandated by that act. The Union indicated that the language it proposed was not intended to change the manner in which such time off is granted, and fully expected the City to continue complying with the FLSA. However, this language was intended only to clarify that this the language applied to the Non-FISA compensatory time. The City did not raise an objection to this change, therefore, the fact-finder recommends that the proposed addition of the term "Non-FISA" be included as proposed.

**AQUATICS CENTER**

The Union proposed that language which would provide officers and their families free admission to the City's Aquatics Center in a Memorandum of Understanding, dated May 11, 2012, be continued into the CBA. There are a number of benefits to both parties in this proposal. It would seem that this form of family entertainment would provide an outlet for individuals involved in stressful police work. One could easily believe that such an officer would be an asset to the City. Therefore, the continuation of the aquatics center language, as it appeared in paragraph five (5) of that Memorandum of Understanding is recommended.

**ARTICLE 21  
WAGES**

The Union proffered two proposals regarding this section, one was for a two percent (2%) wage increase in each year of the CBA. The other was to provide officers with a two hundred and fifty dollar (\$250) increase in their annual clothing allowance. The City objected to both.

A review of the financial documents provided by the City indicates two important things. One, the City had an unexpended balance at the end of its last two fiscal years. Two, a lesser unexpended balance continued at the time of the hearing. The lesser amount is due to the manner in which the City receives tax revenue. Taxes are not collected throughout the year and must be collected before they are shown on the financial documents. This creates cycles in the financial condition of a city.

The City did not claim, nor did the documents reveal, that it had the inability to pay the increase proposed by the Union. However, it did maintain, throughout the hearing, that both the Union proposal to cash out a week's vacation and the increase in the officers' uniform allowance would provide added costs to the City.

Finally, the evidence reveals that these officers have gone several years without a pay increase. In fact, due to the language which requires them to make a larger contribution to their pension funds, their net pay is less than it would have been in 2011. The City still has financial concerns, however, the record indicates that a modest pay increase can be sustained.

Based upon the foregoing, the fact-finder makes the following recommendations.

1. There shall be no increase in the officers' clothing allowance.
2. Pay increases

Effective January 1, 2015	0%
Effective January 1, 2016	2%
Effective January 1, 2017	2%

**ARTICLE 30**  
**DURATION**

In accordance with the one tentative agreement reached by the parties concerning a three year agreement, the fact-finder recommends an effective date of January 1, 2015 and expiration date of December 31, 2017.

**4. TRANSMITTAL**

This report, regarding the finding of facts and recommendations on the unresolved issues, is hereby transmitted by e-mail to the Employer, the Union, and the State Employment Relations Board.

Issued at St. Clairsville, Ohio on May 20, 2015



Stephen Kubic  
Fact-finder