

**FACT-FINDING REPORT
STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD**

September 29, 2016

In the Matter of)
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City of Willowick)
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)
And)
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)
Fraternal Order of Police)
Lodge 16 (Dispatchers))

15-MED-09-0800

APPEARANCES

**For City of Willowick
Tom Grabarczyk, Consultant
Labor Relations Management**

**For Fraternal Oder of Police, Lodge 16
Robert M. Phillips, Esquire
Faulkner Hoffman & Phillips**

Fact-Finder, Marc A. Winters

BACKGROUND

The Fact-Finding involves the City of Willowick, (hereafter referred to as the “Employer”) and the FOP Lodge 16, (hereafter referred to as the “Union”). The Union’s bargaining unit is comprised of approximately eight (8) full-time non-classified Dispatchers in accordance with SERB rules.

In a letter, dated February 16, 2016, the State Employment Relations Board duly appointed Marc A. Winters as Fact-Finder for this matter under the Ohio Revised Code Rule 4117.14(C)(3).

The parties to this fact-finding have had an ongoing bargaining relationship. The most recent collective bargaining agreement between the parties, a three (3) year agreement, expired on December 31, 2015. The parties have met on several occasions to negotiate a successor agreement. However, unable to reach an Agreement, declared impasse and proceeded to Fact-Finding.

The parties have a signed extension agreement whereby they have agreed to extend the time period for the issuance of the findings of fact and recommendations of this Fact-Finder pursuant to the Ohio Administrative Code Rule 4117-9-05(G).

The Fact-Finding Hearing was conducted on Thursday September 15, 2016, in the offices of the City of Willowick. The Fact-Finding Hearing began approximately 10:00 A.M., and was adjourned at approximately 11:30 A.M.

Mediation at the Hearing was discussed and decided by all that any attempts to mediate, at this point, would not be productive.

This Fact-Finder would like to convey his appreciation not only for the courtesy and cooperation given to the Fact-Finder by both parties, but to each other as well.

The Hearing was conducted in accordance with the Ohio Public Employee Bargaining Statue set forth in rule 4117. Rule 4117-9-05 sets forth the criteria this Fact-Finder is to consider in making recommendations. The criteria are:

1. Past collectively bargained agreements, if any.
2. Comparisons 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, given 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 issue 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 determining of issues submitted to mutually agreed-upon dispute settlement procedures in the public service or private employment.

In addition to, the testimony given and the evidence presented, taking into consideration the Ohio Rule 4117 criteria, internal and external parity, this Fact-Finder studies and relies on various Collective Bargaining Agreements, Fact-Finding Reports and Conciliation Awards, as posted online by SERB, in writing this and any Fact-Finding Report.

Any and all items or proposals not previously agreed upon or specifically addressed within this Report are considered to be withdrawn. Any and all items or proposals agreed to and any tentative agreements made prior to the date of this Report that are not specifically addressed in this Report, are recommended to be incorporated into the new Agreement.

Except as recommended and/or modified below or mentioned above, the provisions of the predecessor agreement are to be incorporated into the new Agreement without modification.

Where this Fact-Finder recommends changes, it may be sufficient to indicate the change only without quoting the exact language of the party's proposals.

The following five (5) issues remained and are the issues that were considered during the Fact-Finding Hearing on September 15, 2016.

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|-----|-------------|----------------|----------------------|
| 1.) | Article 13, | Section 13.01 | Wages |
| 2.) | Article 13, | Section 13.06 | EMD Certification |
| 3.) | Article 14, | Section 14.03 | Health Insurance |
| 4.) | Article 18, | Section 18.01A | Overtime Premium Pay |
| 5.) | Article 19, | Section 19.05 | Uniform Allowance |

DISCUSSION

Demographic and Finance Overview.

The City of Willowick, with a population of approximately 14,300, is best described as a bedroom community with little industry. Excluding school districts, Willowick has the highest residential effective tax rate of any city, township or village in Lake County. The City's general fund budget is approximately 8 million.

While the City currently has a carryover from 2015 to 2016, the amount is the direct result of a number of one-time revenue receipts in 2015.

One-time receipts in 2015 include the following:

\$ 120,692	Delinquent Property tax above average
\$ 55,356	BWC Group Retro premium return
\$ 275,845	Sale of Lakeshore Blvd. property
\$ 25,000	Return of advance from Housing Rehab. Fund
\$ 200,000	Return of advance from Sewer Fund
\$ 198,510	Unclaimed funds
\$ 92,426	Delinquent trash assessment-2015 final year
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\$ 967,829	

One-time Expenses for 2016

\$ 350,000	Transfer-out to Earned Benefits Fund
\$ 150,000	27 th payroll
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\$ 500,000	

The City of Willowick has taken steps over the past few years to offset expenditures and generate revenue.

By way of a Charter change, the City was able to charge for trash pick up. The City tried to explain to the public, that the trash pick up only recouped some revenue that was lost by the States reductions.

The City incorporated charges for ambulance billing.

The tax base of the City of Willowick cannot sustain current expenditure levels and has resulted in reductions in staff and functions of the City. One full-time and one part-time Dispatcher were laid off and a private cleaning service for all of the Municipal buildings has been eliminated and is now being performed by the Service Department.

Fact-Finder's General Discussion

The position of both parties, for this Dispatchers Fact-Finding Hearing, is cast and tied to their respective positions for an upcoming Conciliation arising from a recent Fact-Finding Report, issued by Fact-Finder Colman Lalka, on August 10, 2016. Fact-Finder Lalka's Report involves two FOP represented units. One unit covering Police Officers and the second unit covering Sergeants and Lieutenants.

The issues, here, for this Fact-Finder's recommendations are more of either agreeing or disagreeing with the rationale of the August 10, 2016, fact-finding report for the similarly situated issues presented for this smaller FOP Dispatchers bargaining unit.

On one hand you have the City who wants to have control and constraints on their spending due to their legitimate concern over the General Fund and are opposing the Lalka Report.

While on the other hand you have a small FOP Unit who, with respect to wages and benefits, want to stay at the same levels with their internal comparables, while not lagging behind their external comparables, siding with the Lalka Report.

In addition to the criteria listed above, these recommendations that follow, not only takes into account the rationale of the August 10, 2016, Fact-Finding Report but City's need to maintain fiscal responsibility and curb spending while still being as fair as possible to the needs of the Dispatchers as well.

RECOMMENDATIONS

ISSUE NO. 1, Article 13, Section 13.01 Wages

Employer Position: 1% increase in each year of the three (3) year agreement.

Union Position: 2% increase effective January 1, 2016; 2% increase effective January 1, 2017, and a 1% increase effective January 1, 2018.

Fact-Finder's Recommendation:

Consistent with the testimony and evidence concerning equality with internal parity and the fact that these Dispatchers lag somewhat behind their external comparables, the recommendations is the same as the Police Fact-Finding Report for the Police Officers, Sergeants and Lieutenants. This recommendation also takes into account the increase in employee shared healthcare costs below.

Effective January 1, 2016, 2%.; Effective January 1, 2017, 2%; Effective January 1, 2018, 1%. For the term of a three (3) year agreement.

ISSUE NO. 2, Article 13, Section 13.06 EMD Certification

Union Position. The Union proposes increasing the Emergency Medical Dispatch proficiency pay from \$500.00 to \$1000 due to the significant increase of duties based on EMD protocols, duties as jail matrons and inmate observations as well as maintenance of all records.

Employer Position. The Employer opposes any increases.

Fact-Finder's Recommendation:

It is usually not the volume of work that dictates an increase in this type of pay but the increase in responsibilities and knowledge necessary to perform the essential duties of the job.

Based on the testimony of the Dispatch witness an increase is warranted and should be awarded, however based on other financial issues in this Report, and looking at the City's ability to pay, an increase of \$500 at this time is too high.

Effective January 1, 2017, the EMD proficiency pay will be increased from \$500 to \$750.

ISSUE NO. 3, Article 14, Section 14.03 Health Insurance

Employer Position: The Employer proposes to increase the employee's share of health care cost to 11% the first of the month following the execution of the Agreement, to 12% effective January 1, 2017 and to 13% effective January 1, 2018.

Union Position: The Union proposes the same as reported in the Police Fact-Finding Report which is 2016, 10%; 2017, 11% and for 2018, 12%

Fact-Finder's Recommendation:

This Fact-Finder's recommendation is based on agreeing with the rationale of the FOP's argument drawing parity with the August 10, 2016, Fact-Finding Report. Additionally the Union is correct that their proposal more closely reflects the geographical percentages based on the SERB report on Health Cost for Ohio Public Sector.

The employee's share of health care cost for this three (3) year agreement

will be 2016, 10%; 2017, 11%; and 2018, 12%.

ISSUE NO. 4, Article 18, Section 18.01A Overtime Premium Pay

Union Position: Modify the premium pay for members who work on New Year's Day, Easter Sunday, Independence Day, Thanksgiving Day, Patriots Day and Christmas Day to double their regular rate of pay or in lieu of compensation, compensatory time at employees' option. This proposal is based on keeping parity with the other FOP units who received this same benefit in their August 10, 2016, Fact-Finding Report.

Employer Position: No change as they are opposed to this type of increase.

Fact-Finder's Recommendation:

The Union's proposal in this area is fair and reasonable and should be adopted.

ISSUE NO. 5, Article 19, Section 19.05 Uniform Allowance

Union Position: Consistent with their duties as Jail Matrons and having uniforms soiled and to maintain parity within the police department, the Union request the following increase to their uniform allowance: To increase the uniform allowance from \$750 to \$1050.

Employer Position: No change as they are opposed to this type of increase.

Fact-Finder's Recommendation:

Since the evidence does not show that this bargaining unit is substandard with regards to uniform allowance: The status quo or no change at this time is this Fact-Finder's recommendation.

The testimony presented and the evidence produced at the Hearing support the conclusions and recommendations above.

Marc A Winters

Marc A. Winters