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

And)

CITY OF WESTLAKE)

FACT-FINDING REPORT

STANLEY B. WIENER,
FACT FINDER

JULY 16, 1996

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A fact-finding hearing was held on June 28, 1996, at the City Of Westlake, City Hall, 27216 Hilliard Boulevard, Westlake, Ohio 44145, before **STANLEY B. WIENER**, Fact Finder.

Representing the FRATERNAL ORDER OF POLICE, OHIO LABOR COUNCIL, INC. ("Union") was HUGH C. BENNETT, Staff Representative. Appearing on behalf of the Union (consisting of Police Dispatchers, Secretaries, Jailers and Animal Control Officer) were JEFFREY HERNANDEZ (Jailer), CHRIS SCHUMANN (Dispatcher), DIANE MILLER (Secretary) and PEGGY MAYERHOFFER (Animal Control Officer).

Representing the CITY OF WESTLAKE ("City") was ROBIN R. LEASURE, Esq., Assistant Law Director. Appearing on behalf of the City was DENNIS M. CLOUGH, Mayor.

I. PAST NEGOTIATIONS AND MEDIATION

The bargaining unit consists of full-time Dispatchers, Jailers, Secretaries and one Animal Control Officer, for a total of 13 employees. This is an initial contract for this unit which was certified in May, 1995. Previously the City had recognized a unit

consisting of Dispatchers and Secretaries. The last contract terminated December 31, 1994.

Attempts were made to institute negotiations in late 1995. For various reasons negotiations were delayed until 1996. Extensive negotiations followed.

Mediation was attempted at the hearing. With fine cooperation of the parties, the following matters were resolved:

- A. Work week - Scheduled Hours
- B. Overtime
- C. Longevity
- D. Reference is also made herein to all of the tentative agreements initialed by the parties which are to be included in any contract executed by the parties.

II. ISSUES AT IMPASSE

After mediation the following issues remained at impasse:

- A. MANAGEMENT RIGHTS
- B. ARBITRATION
- C. VACATIONS
- D. COURT TIME
- E. HEALTH INSURANCE
- F. DURATION OF CONTRACT
- G. SHOW-UP TIME
- H. SHIFT DIFFERENTIAL

- I. UNIFORM ALLOWANCE
- J. WAGES

III. POSITIONS, FINDINGS AND RECOMMENDATIONS

As a Fact-Finder I am required to take into consideration certain factors, including but not limited to, past contracts, comparison of issues with employees doing like work in comparable cities, the interests and welfare of the public, the financial welfare of the public, and the financial ability of the City. I have done this with all of the issues at impasse discussed below.

The numerous exhibits and briefs furnished by both sides have been extremely helpful and I am impressed with the extensive preparation on the part of the City and the Union.

A. MANAGEMENT RIGHTS

UNION: Requests the same Management Rights Clause found in the contract with the Police Officers, Sergeants and Lieutenants. This language giving the Chief Of Police exclusive management of the department was upheld in a recent fact finding. This unit is part of the Police Department, the language governing them should be the same.

CITY: All of the contracts with the City, except for the Police Officers, have a Management Rights provision which specifically grants the Mayor the ultimate authority as provided for in the Charter and ordinances. The final step in the grievance procedure is the Mayor. The Union proposal is in conflict with the Chartered structure of the City.

FINDINGS: I find that the Management Rights Clause proposed by the Union is proper for the entire Police Department which includes this unit. I would not want to have one department subject to two (2) Management Rights Clauses. The fact that the last step in the grievance procedure (prior to arbitration) is the Mayor is not inconsistent with the Union proposal.

According to the Union's proposal the Chief Of Police management of the department is subject to the laws of the City and Civil Service rules and regulations.

RECOMMENDATION: I recommend that the Management Rights Provisions proposed by the Union be included in the contract. Said provisions are attached to this report as Fact-Finder's Exhibit "A".

B. ARBITRATION:

UNION: The Union proposes that the Arbitrator's fees be borne equally as it appears in the Police Officers' Contract.

CITY: The City is concerned about the filing of frivolous grievances. It therefore proposes the following:

"The fees and expenses of the arbitrator and the cost of the hearing room, if any, shall be borne by the party losing the grievance. All other expenses shall be borne by the party incurring them. Neither party shall be responsible for any expenses incurred by the other party. In the event of a split award, the arbitrator's fees and expenses shall be split between the parties."

FINDING: Municipal and private sector contracts are divided on this issue. The City admitted that this particular unit did not have a history of frivolous grievances. The City, in February of 1996, executed a contract with the Police Officers containing the request submitted by this unit.

RECOMMENDATION: The provision requested by the Union is accepted. Article XIV as contained in the Police Officers' Contract shall be included in the agreement between this Unit and the City. Said provision is attached to the Report as Exhibit "B".

C. VACATIONS:

UNION: The present management calls for 20 days of vacation from 11 to 18 years of service and 25 days from 19 years through retirement. They are asking for 20 days of vacation through 17 years of service; 25 days from 18 through 25 years. They also request 30 days from 26 years to retirement. The latter two provisions are in the Police Officers' Contract.

CITY: No justification for increasing vacation days was given. The current schedule is reasonable.

FINDING: The changes proposed by the Union would not affect any members of the unit except for one employee who would possibly fall within the last step during the life of the contract. The current arrangements are comparable to other cities. I see no reason why this unit should not have the same vacation time as others in the Police Department.

RECOMMENDATION: I would adopt the language proposed by the Union. Said proposal is attached to this Report as Exhibit "C".

D. COURT TIME:

UNION: The Union requests that its members receive the same Court Time as the Police Officers unit namely a minimum of three (3) hours. All members of the unit do spend time in court. They are entitled to the same treatment as the Police Officers.

CITY: The Union has not established a need for such a provision. On the few occasions that

employees go to court they will be paid for their time on an overtime basis.

FINDING: Many members of this unit appear in court. Contracts of comparable units have provisions for a minimum number of hours for court appearances. However, just because the Police Officers have a minimum of three (3) hours, does not mean members of this unit should receive the same. Generally the purpose for a member of this unit being called to court is different from the Police Officers, and generally entails less time.

RECOMMENDATION: Effective upon the execution of the Contract, the Court Time provision proposed by the Union should be adopted, except that the minimum additional time should be two (2) hours rather than three (3) hours. Said provisions are attached to this Report as Exhibit "D".

E. HEALTH INSURANCE:

UNION: The union objects strenuously to the unilateral changes put into effect by the City, effective March 1, 1996. The Union has filed an Unfair Labor Practice Charge with SERB. The Union alleged that the changes were initiated without notice or negotiation even though the Union filed notice to negotiate in October, 1995. The Union requests that the former health plan be reinstated.

CITY: The Health Insurance Plan effective March 1, 1996, has been accepted by all City employees.

The plan contains no premium contributions by employees. It does contain annual deductibles of \$100.00 per individual and \$200.00 maximum per family; with a 20% employee co-pay of the next \$1,000.00 of hospital/medical expenses each year per individual and \$1,500.00 for a family. Deductibles are increased to \$200/\$400 and co-pay to 20% for next \$2,000/\$3,000 for employees using non PPO providers. It further provides for prescriptions.

Health Insurance costs have increased dramatically. To control costs it was essential to

institute the above plan which is customary in this area. The plan has been agreed upon by all of the other bargaining units and all non-unionized employees. It would be impractical to arrange a separate plan for this unit.

FINDING: There is no need to belabor the fact that health insurance is one of the most serious problems confronting all employers, employees and the general public. All cities are faced with the difficult challenge to cut costs while providing adequate protection for its employees.

Upon careful review, I find that the City's plan meets this challenge, and is consistent with health plans found in this general area.

RECOMMENDATION: The City's Health Insurance Plan which presently covers all its employees should be included in the contract with the Union.

F. DURATION OF CONTRACT:

UNION: Three (3) year contract commencing January 1, 1996. The City originally proposed a contract commencing March 1, 1995, through February 28, 1998. The Union originally had no objection provided any wage increases be retroactive to March 1, 1995. The City has subsequently changed its duration proposal.

CITY: Three year contract commencing March 1, 1996, and ending February 28, 1999.

FINDING: Normally this is the easiest issue to decide. However, in this case the negotiation procedure has dragged on to such an extent that the proposals have been changed and modified.

RECOMMENDATION: The duration of this contract shall be for three (3) years, commencing January 1, 1996 and terminating December 31, 1998.

G. SHOW-UP TIME:

UNION: Union requests show-up time of two (2) hours at time and one-half (1/2). It also requests that the current practice of compensating employees two (2) hours at the Matron rate when they are acting in the capacity of Matrons. The Union also requests three (3) hour show-up time for the Animal Control Officer. The two (2) hour show-up time provision is found in the current Police Officer Contract.

CITY: This provision is unnecessary and excessive and lacks comparable evidence. If on the rare occasion employees are called in to work outside of regularly scheduled hours they will be paid at the applicable overtime rates.

FINDING: I find the Union request to be reasonable and in line with comparable contracts. No evidence was presented to require an additional hour for the Union Control Officer.

RECOMMENDATION: Effective upon the execution of the contract, the Show-Up Time provision shall read as follows:

"Any member of the bargaining unit called in or advised to show-up for any event related to the member's employment, other than court time as covered by this Article, shall be entitled to two (2) hours show-up time. This does not cover being held over from regularly scheduled shifts. The time compensation shall be computed at one and one-half (1-1/2) times the member's current hourly rate of pay"

"Employees called in under the above provision for Matron duty shall have their two (2) hours computed at time and one-half (1/2) based on the Matron rate."

H. SHIFT DIFFERENTIAL:

UNION: The Union requests a Shift Differential of 15 cents per hour for any member working after 3:00 p.m. The current contract with the Police Officers contains this differential. Police Officers and members of this unit, working side by side should be treated equally. The amount requested is not excessive.

CITY: A Shift Differential is not necessary and makes no sense for this unit.

FINDING: I find little reason for this unit to have a Shift Differential.

RECOMMENDATION: The Union request for a shift differential is rejected.

I. UNIFORM ALLOWANCE:

UNION: The present allowance is \$150.00 per year. The Union requests increases to \$400.00 per year for Dispatchers and Secretaries, and \$600.00 per year for Jailers and the Animal Control Officer. Costs of uniforms have increased substantially over past years. A shirt, trousers and a pair of shoes exceeds the present annual allowance. Jailers and the Animal Control Officer, being out in the elements more than the Dispatchers and Secretaries require additional clothing.

CITY: The allowance should remain the same. The City currently purchases the initial uniform upon hire. Clothing allowances should only be for those employees who will be required to wear uniforms.

FINDING: There has been no change in the clothing allowance since at least 1992. \$150.00 per year is substantially below comparable cities. I would prefer to treat all members of the unit alike. I do find merit in the City's position that the allowance should be only for employees requiring uniforms.

RECOMMENDATION: The provision for Clothing Allowance shall read as follows:

"Full-time employees required to wear uniforms shall receive annual uniform allowances as follows:

Effective January 1, 1997	\$250.00
Effective January 1, 1998	350.00"

"The City shall purchase each new employees' initial uniform upon start of employment."

J. **WAGES:**

UNION: The Union proposes a wage classification readjustment for 1995, and increases of four percent (4%) for 1996 and four percent (4%) for 1997. The Union has not received an increase since 1994. The present rates are substantially lower than in comparable cities.

The Union also requests step increases in wages. Other than increases gained by negotiations, the only other increase is gained by merit raises at the City's discretion.

CITY: The City proposes annual increases of four percent (4%) for 1996, 1997 and 1998. It strenuously objects to any adjustment of the present rates. The adjustment requested is excessive and unjustified. For example 15.67% for Secretaries; an average of six percent (6%) for Jailers; an average of 7.8% for Dispatchers; and 12.5% for the Animal Control Officer. The City objects to the proposal of classifying employees based upon years of service. City Council passes ordinances which set the pay ranges. There is no need for a classification schedule.

FINDING: I find that the time constraints placed upon me to publish this Report make it impractical to draft a step progression for wages. I do urge both sides during the term of this contract to seriously consider such a set up for the moral of

the employees. For example, two (2) employees both with three (3) years of service are more than \$1.00 per hour apart. Almost all other comparable cities have a time progression for wages.

There has been a long delay from the time the Union was certified in 1995. I find that the present rates of the employees, especially for Dispatchers, Secretaries, and the Animal Control Officer are substantially below those of comparable cities in the area, such as Avon Lake, Berea, North Olmsted, Lakewood, Strongsville, Middleburgh Heights, Broadview Heights, North Royalton and Rocky River.

RECOMMENDATION: The Union request for step progressions is rejected.

Taking into consideration that the employees received no increases in 1995 (which increases based on area contracts would have been approximately four percent (4%)); and taking into consideration that the present rates are for the most part substantially below the rates in comparable cities, I recommend an indcrease of eight percent (8%) effective January 1, 1996. I further recommend an additional increase of four percent (4%) effective January 1, 1997, and an additional increase of four percent (4%) effective January 1, 1998.

IV. SUMMARY

- A. MANAGEMENT RIGHTS - AS PROPOSED BY THE UNION.
- B. ARBITRATION - FEE SPLIT.
- C. VACATIONS - AS APPEARS IN THE POLICE OFFICERS' CONTRACT
- D. COURT TIME - MINIMUM OF TWO (2) HOURS.
- E. HEALTH INSURANCE - AS PROPOSED BY THE CITY.
- F. DURATION OF CONTRACT - JANUARY 1, 1996 THROUGH DECEMBER 31, 1998.
- G. SHOW-UP TIME - TWO (2) HOURS AT TIME AND A HALF; CALL IN FOR MATRON DUTY, RECEIVE MATRON PAY.

- H. SHIFT DIFFERENTIAL - UNION REQUEST REJECTED.
- I. UNIFORM ALLOWANCE - \$250.00 EFFECTIVE JANUARY 1, 1997; \$350.00 EFFECTIVE JANUARY 1, 1998 (FOR THOSE REQUIRED TO WEAR UNIFORMS).
- J. WAGES: - INCREASE OF EIGHT PERCENT (8%) EFFECTIVE JANUARY 1, 1996; ADDITIONAL WAGE INCREASE OF FOUR PERCENT (4%) EFFECTIVE JANUARY 1, 1997; ADDITIONAL INCREASE OF FOUR PERCENT (4%) EFFECTIVE JANUARY 1, 1998.

Respectfully submitted,

DATED:

July 16, 1996


STANLEY B. WIENER
Fact Finder