



**II. BACKGROUND**

This proceeding involves collective bargaining negotiations between the Fraternal Order of Police, Lodge 134 (Patrol Officers and Dispatchers) and the City of New Lexington, Ohio. The collective bargaining agreement expired on December 31, 1995. Prior to the first hearing, the parties had met and negotiated to impasse.

A fact-finding hearing was scheduled and held on December 29, 1995 at the Administration Building in New Lexington, Ohio. Prior to swearing in witnesses, the parties agreed to let the Fact-Finder attempt to mediate a settlement of the remaining issues. A tentative agreement was reached, but the City voted not to accept the recommended settlement. Accordingly, a second Fact-Finding meeting was scheduled and held in New Lexington on March 29, 1995.

The Police Officer unit is composed of all full-time police officers and dispatchers. There are ten (10) full-time employees in the unit.

**III. ISSUES**

During the course of good faith negotiations, the parties tentatively agreed to most issues and those mutually resolved provisions of the contract are hereby recognized and adopted by the Fact-Finder.

The only issues that remain at impasse are as follows:

<u>Issue 1</u> : Wages	Article 42
<u>Issue 2</u> : Duration	Article 43

**IV. FACT-FINDER'S REPORT AND RECOMMENDATIONS**

In issuing this Report and Recommendations, the Fact-Finder took notice of all the oral and written testimony presented by, and as stipulated by, the parties, as well as those six factors which the State Employment Relations Board requires Fact-Finders to consider, including but not limited to:

1. Prior collective bargaining agreements, if any, between the parties.
2. Comparison of the issues in the instant case with those issues involving other public and private employees doing comparable work, giving consideration to the factors peculiar to the area and classification involved.
3. The public interest and welfare, the ability of the employer to finance and administer the items involved, and the effect of the adjustments on the normal standard of public service.
4. The lawful authority of the public employer.
5. Any stipulations of the parties.
6. Such other factors, which are normally or traditionally considered in the determination of issues submitted to mutually agreed-upon dispute settlement procedures in the public service or in private employment.

In the preparation of this Report and Recommendations, the Fact-Finder did in fact consider these six (6) factors.

**Issue 1: Article 42, Wages.**

The contract, Article 42, provided that, effective January 1, 1995, the base annual rate of pay for unit members would be as follows:

Patrolman

Probationary	\$7.70/hour
Six (6) Months	\$8.13/hour
Twelve (12) Months	\$8.58/hour
Over two (2) Years	\$8.98/hour

Dispatchers

Probationary	\$5.68/hour
Six (6) Months	\$6.02/hour
Twelve (12) Months	\$6.48/hour
Over two (2) Years	\$6.88/hour

Union:

The Union proposed a three year contract, with across-the-board wage increases of \$.40/hour in the first year of the contract, \$.40/hour in the second year, and \$.40/hour in the third year, for a total increase of \$1.20/hour over three (3) years. Without roll-up costs, these proposed increases would amount to 5.8% in 1996, 5.5% in 1997 and 5.2% in 1998 for Dispatchers, and 4.45% in 1996, 4.3% in 1997 and 4.1% in 1998 for patrolmen.

The Union's proposed wage increase was based on extensive documentation. In that respect, the Union provided the following supporting data: comparable contracts of similarly situated police departments throughout Ohio show that New Lexington unit members are underpaid; the wages of Police Department employees in New Lexington only increased at the annual rate of 1.97%/year since 1985; since 1985, wage increases did not even keep pace with the rate of inflation; and, that during the past ten years, the duties of dispatchers have increased substantially but with no commensurate increase in compensation.

As to the ability of the City to pay, the Union stated that while it would not raise the issue unless the City did first, in Union Exhibit #4 ("Points to Consider"), it pointed out that the Police Department budget has only increased 11.8% since 1993. In addition, the City has seen fit to provide recent increases for selected administrators from 33-40% for the City Administrator, 5.8% per year for the Police Chief, and 15.6% over two years for the City's Finance Director. And, the Union states that the City Council recently raised its monthly pay from \$50 to \$100 and doubled the Mayor's salary from \$150/month to \$300/month.

As to external factors supporting its position on wages, on the basis of comparables alone the Union emphasizes that its proposed wage increases are relatively modest. It explains that the SERB Clearinghouse Report dated 1-25-96 illustrates that the statewide entry level wage average for dispatchers in comparable statewide police departments is \$9.09/hour (compared to New Lexington's \$5.68/hour), and the average top rate is \$11.07/hour (compared to New Lexington's \$6.88/hour). As to Patrolman's wages, the Union explain that the statewide entry level and top level averages are \$24,992.08 and \$30,849.62, respectively (compared to New Lexington's annual patrolmans' entry level and top wage rates of \$15,392 and \$18,054 respectively).

City:

In contrast, the City proposes a two (2) year agreement with wage increases of \$.15/hour in the first year of the contract and another \$.15/hour in the second year, or an annual 1.84% and 1.81% increase in wages respectively. The City calculated that if the Union's amended \$.33/hour annual increase was adopted, it would cost \$25,375 to fund over two years; while it would only cost \$11,973 to fund a \$.15/hour increase (a difference of approximately \$13,000 between the City's and Union's proposals).

The City emphasized that Perry County was an economically depressed area. In that regard, it provided data to show that of

geographically proximate Ohio counties, Perry County had the highest unemployment rate; was fifth from the bottom in average income among 88 Ohio counties; that among comparable counties it was at the bottom in the percentage of average federal adjusted gross income; that it enjoyed relatively low income but relatively high taxes; that Perry county was near the top of comparables in terms of its effective overall tax rate; that it was only in the middle in terms of assessed valuation; that it was third from the top of comparable counties in terms of tangible personal property rates; that it was at the bottom in permissive sales tax rates; that it is one of the few counties which has not voted in a school income tax levy (because of low average resident income it believes); and that among other, comparable counties, only four had higher city income tax rates.

In addition to its economic standing, the City encouraged the Fact-Finder to focus on the overall compensation of its police and dispatch employees, including benefits. With extensive supporting documentation, the City contended that by including the level of such indirect compensation items as insurance, pension benefits, shift differential & longevity rates, vacation accrual, holidays & other paid days off, and vacation accrual, police unit employees in New Lexington currently enjoy a competitive, overall total compensation package. The City explains that it is in a unique position of adequate wage rates but excellent benefits because it provided benefits in lieu of wage increases in prior years. As a result, New Lexington believes that it currently provides a better benefit's package than do the other comparable municipalities.

While the City did not technically plead a current inability to pay, it asked the Fact-Finder to recognize certain factors that cause some concern regarding its future financial health. In short, the City plead that it only had limited funds.

For instance, there are certain potential expenditures that, if realized, will cause a drain on the City's finances. One is the an EPA consent order that provides for monetary penalties should the City fail to meet certain deadlines over the next two (2)

years. Another is the belief that the City faces an uncertain income stream in the years ahead, coupled with volatile expenses. To illustrate, the City showed the following trend of year-end fund balances:

1991	\$80,000
1992	(\$60,000)
1993	\$11,000
1994	\$132,000
1995	\$85,000 -- since amended to \$80,476

The City provided this data to illustrate that it has no certain, healthy fund balances to rely on to either provide an increase greater than its proposal, nor to support more than a two (2) year agreement.

#### Union Rebuttal

The Union rebutted the City's data by pointing out that the City's own comparables showed that other municipalities were granting average wage increases in the 3.81-3.87% range, well beyond what the City was offering to its members. The Union also contended that since 1989, wage increases for its members have been "incredibly small" compared to the statewide average and have not even been "in the same ballpark" as other City's. Also, since 60% of its unit employees have less than 3 years seniority, the low wages have obviously contributed to the City's inability to keep experienced employees. The Union also questions much of the City's data since it was provided on a county-wide basis, not a municipality to municipality basis, that is, while Perry County might be economically distressed, the data did not support a showing that New Lexington itself was. The Union also mentioned that the information provided regarding its members' benefits does not change the fact that there still remains a significant wage disparity and that the adjusted gross income of Perry County is more than \$4,000 above that of the average police wages.

In conclusion, the Union believed that City has the ability to pay, has an \$80,000 carryover in the budget and that granting its request for a wage increase will have a minimal overall impact on the City's finances.

#### City Rebuttal

The City countered by emphasizing that its comparables were better than those provided by the Union because they were more geographically contiguous than the Union's admittedly state-wide data. The City also pointed out that while the benefits enjoyed by the unit were excellent, it had not asked for any diminution in the same during these negotiations. The City also asked the Fact-Finder to recognize that its AFSCME local had already agreed to \$.15/hour increase through 1996 and that as of 1997, the City would be losing a \$20,000/year C.O.P.S. Fast Grant (\$60,000 over three years).

#### Finding and Recommendation:

The Fact-Finder wishes to take a moment to recognize the professional manner in which Mr. Edsall and Mr. Cox presented their respective party's interests during the Fact-Finding hearing. Not only were their presentations cogent and well reasoned, but their supporting documentation was thorough as well.

This Fact-Finder takes notice of the fact that the City and the Union have a mature bargaining relationship marked by mutual respect and that both sides made a sincere effort to reach agreement during negotiations. My Report and Recommendations attempts to recognize this fact by setting forth recommendations which I believe are reasonable and fair and which both parties can recommend, although I realize that acceptance of the same would involve some degree of mutual sacrifice.

The Fact-Finder notes that, at the present time, ability to pay is not the determinative issue here. However, this Fact-Finder is certainly cognizant of this City's continuing duty to manage its finances responsibly.

With that in mind, the Fact-Finder recommends a three (3) year contract with a \$.40/hour wage increase in the first year of the contract and a \$.33/hour wage increase in the second.

There are a variety of factors that the Fact-Finder believes support a \$.73/hour wage increase over two years. First, the projected increase in the cost of living in 1996 alone will be approximately 2-3% and this unit's wage increases since 1989 have consistently been below the cost of living. In fact, the actual increases have been 0% in 1988, 2.8% in 1989, 0% in 1990, 0% in 1991, 2% in 1992, 0% in 1993 and 2% in 1994 (in other words, a wage freeze in four of the last seven years -- and five of the last ten!). This situation translates to an actual wage decrease to unit members over the past seven (7) years when loss of purchasing power is taken into account. And, while the Fact-Finder is required to consider settlements in comparable departments, the parties themselves recognized the difficulty in doing so given the dearth of similarly sized and geographically contiguous municipal departments. However, the City's own data on comparables shows that current police unit wage increases are averaging well over 3.5%; while a \$.15/hour increase amounts to an average increase that exceeds this average rate, this unit's current wages, both as to patrolman and dispatchers, are currently well below the minimums and maximums of these comparable departments, although the unit's indirect compensation (benefits) appear competitive.

Also, this Fact-Finder recognizes a glaring need to address the issue of internal equity. Referring to Union's exhibit #9 (Appendix 1), the Fact-Finder notes that as of December 23, 1995, entry level and six (6) month patrolmen's rates of pay were less than any other listed city employee including laborers, the one (1) year rate was only \$.12/hour more than a laborer's and the rate after two (2) years was only \$.06/hour more than that of a meter

reader. This Fact-Finder does not believe that such minuscule differentials adequately recognize the very real differences in training, responsibility and danger (and income generating ability) between a police officer and other city employees. Hopefully, \$.73/hour over two (2) years can begin to catch up and/or expand the differential.

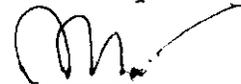
**Issue 2: Article 43, Duration.**

The Fact-Finder recognizes that Perry County is a distressed area, but that in this context the City has done an admirable job of managing its finances. Its proposal to increase wages \$.30/hour over two years indicates that it continues to be prudent regarding managing future income and expense projections. With this in mind, the Fact-Finder recommends a wage reopener in the third year of the contract. Therefore, rather than having the parties guess whether or not any of the contingencies the City referenced would come to pass, it would allow the parties to understand the City's actual and projected finances at that time and whether or not, and to what magnitude, it could fund an additional wage increase in the third year of the contract.

The Fact-Finder recognizes that these recommended increases are less than the \$.40/hour per year over three years that the Union formally requested but exceed what the City proposed. While accepting these recommended increases will require compromises by both sides, the Fact-Finder believes this recommendation to be equitable, both as to internal and external equity concerns, consistent with other comparable municipal police contracts, and in the best interests of the parties.

Issued April 11, 1996

Respectfully submitted,

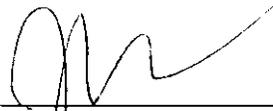


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Jared D. Simmer/Fact-Finder

CERTIFICATE OF SERVICE

I hereby certify that the above Fact-Finder's Report and Recommendations were served upon the following parties, to wit, the City of New Lexington, Ohio (via Mr. John Johnson) and the F.O.P. (via Mr. Paul Cox and Mr. Kevin Ratliff) by overnight mail service, and upon the Ohio State Employment Relations Board (via G. Thomas Worley) by first class mail, this day of April 11, 1996.



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Jared D. Simmer  
Fact-Finder