

**FACT FINDING TRIBUNAL  
STATE EMPLOYMENT RELATIONS BOARD  
COLUMBUS, OHIO**

**STATE EMPLOYMENT  
RELATIONS BOARD**

**JAN 25 9 39 AM '99**

**IN THE MATTER OF FACT FINDING :**

**BETWEEN :**

**THE CITY OF SIDNEY, OHIO :**

**- AND - :**

**INTERNATIONAL ASSOCIATION  
OF FIREFIGHTERS,  
SIDNEY FIREFIGHTERS  
LOCAL 912 :**

**REPORT  
OF THE FACT FINDER**

**SERB CASE NUMBER:**

98-MED-08-0712

**HEARINGS:**

January 15, 1999; Sidney, Ohio

**FACT FINDER:**

David W. Stanton, Esq.

**PRINCIPAL REPRESENTATIVES:**

**FOR THE CITY**

Mark E. Lutz, Attorney

**FOR THE IAFF LOCAL 912**

Larry Logan, Fire Prevention Officer

**APPEARANCES**

**FOR THE CITY**

Jon Crusey, Assistant City Manager  
John Schwab, Personnel Analyst  
Tom Judy, Finance Officer  
Stan Crosley, Fire Chief

**FOR THE UNION**

Ed Forster, President  
Dennis Herbert, Firefighter

## **ADMINISTRATION**

By letter dated December 1, 1998, from the State Employment Relations Board, the Undersigned was notified of his mutual selection to serve as Fact Finder in order to facilitate resolution of those issues that remained at impasse between these Parties. In accordance with the mandates of the State of Ohio Collective Bargaining Law, these Parties engaged in the "fact finding" aspect of the statutory process in effort to bring closure to the impasse between them. The impasse resulted after attempts to finalize a successor Collective Bargaining Agreement proved unsuccessful. As indicated by the Parties', previous negotiation sessions were conducted wherein issues that remained at impasse were discussed and proposals were exchanged relative thereto, however, the issue concerning Wages contained in Article 14 of the Parties' Collective Bargaining Agreement, remained unresolved.

On January 15, 1999, a fact finding proceeding was conducted wherein mediation was offered to the Parties, however, such was declined. In accordance therewith, the Fact Finder proceeded forthright with the Fact Finding Proceeding. During the course thereof, each Party was afforded a fair and adequate opportunity to present testimonial and/or documentary evidence supportive of positions advanced. The Record of this Proceeding was closed upon the Fact Finders indication at the conclusion of the evidentiary proceeding. Accordingly, the Wage issue that remained at impasse, between the Parties, is the subject matter for the issuance of this report, including recommendations and rationale relative thereto, hereunder.

## **STATUTORY CRITERIA**

The following recommendation relative to Article 14 titled "Wages" that remains at impasse, is offered for consideration by these Parties; was arrived at based upon their mutual interests and concerns; and, is made in accordance with the statutorily mandated guidelines explicitly set forth in Ohio Administrative Code Rule 41 17.14, Paragraph G, Subparagraph 7, Subparagraphs (a) through (f), that direct the Fact Finder to utilize the statutory criteria considered and relied upon for evaluating the Parties' Fact Finding Proposals. The following

criteria in reaching this recommendation on the Wage issue at impasse herein are as follows:

- A. Past Collectively Bargained Agreements, if any, between the Parties;
- B. Comparison of the issues submitted to final offer settlement relative to the employees in the Bargaining Unit involved with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;
- C. The interest and welfare of the public, the ability of the public employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standard of public service;
- D. The lawful authority of the public employer;
- E. The Stipulations of the Parties’;
- F. Such other factors not confined to those listed in this Section which are normally or traditionally taken into consideration in the determination of the issues submitted to final offer settlement through voluntary Collective Bargaining Mediation, Fact Finding or other impasse resolution procedures in the public service or in private employment.

In accordance with the statutory criteria and in conjunction with the statutory impasse procedure, the Fact Finding Hearing was conducted on January 15, 1999 which commenced at approximately 10:30 a.m. and concluded at approximately 12:15 p.m. wherein the Wage Article Issue that remained at impasse herein was argued relative to the respective positions taken by each Party.

Moreover, it is the position of the Fact Finder, that the Party proposing any change, deviation, deletion, or modification of the “existing” Collective Bargaining language, bears the burden of persuasion and proof that such is indeed warranted. Failure to sustain that burden will result in a recommendation that the “status quo” language, however determined, be adopted, or if compelling reasons exist, then that proposed by the respective Party.

The following issue, as indicated by the Parties, will be the subject matter for the issuance of this report as follows:

Article 14, “Wages”.

**THE BARGAINING UNIT DEFINED; ITS DUTIES AND RESPONSIBILITIES TO THE COMMUNITY TO WHICH IT PROVIDES SERVICE; AND GENERAL BACKGROUND CONSIDERATIONS INCLUDING THE PARTIES' COLLECTIVE BARGAINING HISTORY.**

The City of Sidney, Ohio is located in Shelby County, Ohio, with a population, as set forth via the 1990 Census, at 18,700. The City's Fire Department provides fire and ambulance services with fire fighters who are full-time, employees excluding voluntary or part-time employees. The International Association of Firefighters hereinafter referred to as "The Union," Local 912 represents the Firefighter Bargaining Unit which includes three (3) Lieutenants, one (1) Fire Prevention Officer, and twenty-four (24) Firefighters. During the course of the Fact Finding Proceeding, it was raised that within the next thirty (30) days, the City intends to add three (3) new Firefighting full-time positions. The Department also includes three (3) Assistant Chiefs, one (1) Deputy Chief, and the Fire Chief, Stan Crosley, who testified very briefly at the Fact Finding Proceeding. The Firefighters work a 24-hour day on-duty schedule and two (2) 24-hour off-duty shifts. Within thirty-five (35) miles of the City of Sidney, there are approximately eight (8) other Cities which employ full-time Unionized Firefighters -- Bellefontaine, Greenville, Lima, Piqua, St. Mary's, Springfield, Troy, and Urbana. The population of these Cities range from 8,400 to 70,000. As the evidence of Record demonstrates, the average seniority of the City's Firefighters is approximately ten (10) years and with that, in comparison to comparable communities, earns an average of \$38,097.00 per year. In 1999, the City of Sidney will pay a Firefighter with ten (10) years of service, \$43,004.68. Such, as indicated by the City, represents a 12.9% increase more than the average of the eight (8) comparable communities previously indicated. The City notes that the rate for a ten (10) year Firefighter at Sidney exceeds that in any city within thirty-five (35) miles of the City of Sidney except for Piqua and Troy. The City of Sidney's 1999 rate for five (5) year employees is \$40,331.00 which represents 7.27% higher rate than the eight (8) City average previously indicated of \$37,629.00, and is exceeded only by Piqua, Troy and Springfield. The City of Sidney's 1999 twenty (20) year rate of \$43,603.00 is 11.6% higher than the eight (8) City

average of \$39,073.00, and again, is exceeded only by Piqua and Troy.

As the Record demonstrates, the Parties' engaged the Fact Finding and Conciliation aspects of the Statutory Process for the Predecessor Collective Bargaining Agreement, and consequently, Conciliator, Frank Keenan, accepted the 3.25% increase as proposed by the City for 1996, 1997, and 1998, wherein he stated:

It seems clear that 3.25% is the mainstream of the mid-90's pay increases. Additionally, such would maintain the Bargaining Unit and their relative position vis-a-vis the only true comparable shown, Troy, Piqua and Fairborne. The Union urged comparables, compared greatly varying population and jurisdictions, not geographically near.

The Union notes that during the course of Conciliation, Conciliator Weisheit awarded the FOP Bargaining Unit a 5% increase, for each of a three-year Agreement.

There exists no evidentiary basis, that this Employer, in any way, has demonstrated or argued "inability to pay." The Union has provided information indicating that indeed the financial wellbeing of this City is indeed intact.

Simply stated, the City is proposing a 3.25% increase for the first year of the three-year contract with 3% increases for each year thereafter, whereas, the Union is seeking 3.25% for first year in accordance with that proposed by the City, and 3.25% for each succeeding year of the three-year Collective Bargaining Agreement. At the conclusion of the Fact Finding Proceeding, by later dated January 15, 1999, the Sidney Firefighters Local 912, proposed and offered, an "alternative" position relative to the Wage Article at impasse between the Parties as follows: Effective 12/20/98 - 3.25% raise; effective 12/19/99 - minimum of 3% raise with a "me too clause"; and, effective 12/31/00 - minimum of 3% raise with a "me too clause." And, that the "me too clause would be if anyone or a group receives more than 3% raise (pay grade) in the year 2000 or 2001, the Firefighters would receive the same for each of the whole year." After consideration of this alternative position, the City returned to the Proceeding and indicated that it could not accept that alternative proposal.

Consequently, the following recommendation is provided to the Parties based on this backdrop for their consideration and further scrutiny by those who it effects.

### **THE UNRESOLVED ISSUE**

The following issue, as referenced to in the appropriate Collective Bargaining Agreement, Article and Title, where applicable, is the subject matter for the issuance of this report. The Parties' positions relative thereto shall be incorporated by reference within this report and references made to the Predecessor Collective Bargaining Agreement and/or the Evidentiary Binders presented by the Parties during the course of the Fact Finding Proceeding, as deemed relevant herein, shall be noted.

### **ARTICLE 14 - WAGES**

The City maintains that its proposed wage increases for the Successor Collective Bargaining Agreement will allow this Bargaining Unit to maintain its relative ranking among comparable communities. It notes that the 3.25% wage increase that the Firefighters received in 1998, matches the average in the eight (8) surrounding cities, and exceeds the 3% increases in Piqua, Troy and Springfield. It notes that in 1999, wages will increase in average of 2.96% in the six (6) survey cities that have reached agreement on 1999 wage increases, less than the 3.25% increase already agreed to by the City of Sidney. Five of the survey cities that have reached agreement on 2000 wage rates, will pay 3% increases, the same as proposed by the City of Sidney. Moreover, both of the survey cities that have negotiated 2001 wage rates, will pay 3% increases, the same proposed as by the City. No survey city has agreed to an increase of more than 3% in the years at issue here, and such has become the mainstream in comparable surrounding cities.

The City's Proposal, as it contends, is consistent with national trends. For all of 1998 the median first year wage increase received by State and Local Government Employees was 3%. For the same period, these Firefighters received a 3.25% and will receive that again in 1999. As such in the years 2000 and 2001 it is appropriate for the City's wage increases to moderate in conformance with local and national trends to a 3% increase. The City notes that there is a

continuing decline in inflation, and that past and present Consumer Price Index supports its proposal. While the Consumer Price Index rose 3.3%, 1.7%, and 1.5%, respectively, during the Predecessor Contract

years, the Firefighters have received a 3.25% increase in each of the three (3) years of the previous contract. Inflation is now under 2% for the second consecutive year, therefore, the 3% wage increase proposal is far more than fair.

For the 1997, 1998, and 1999 wage increases, Police and Firefighters both received a 3.25% increase each year. The annual compensation rates, including Longevity and Paramedic Pay for a Firefighter with five (5), ten (10), or twenty (20) years of seniority, actually exceeds the annual compensation rates with longevity of Police Officers with the same amount of seniority. The only discrepancy in this is that the Police Officers received 5% raises during 1994, 1995, and 1996, as a result of a Conciliation Award. The Firefighters reliance thereon was rejected by Conciliator, Frank Keenan, in the last Firefighter Conciliation of 1996 which resulted in 3.25% increases they now enjoy. In conclusion, the City maintains that true comparables are not the Police Officers, but are Firefighters employed by cities surrounding this City who perform comparable work. A comparison of those comparables clearly bear that out in support of the City's proposal of a 3% increase for the second and third year of the Parties' Successor Agreement.

The Union takes the position that the increase it is proposing is indeed reasonable in light of other City Employees, particularly the Police. The Firefighters indicate their wage rate for 1998 is approximately \$1,400.00 below what the Police receive following their increase. The Union contends that the City provided the Police Department more of an increase since the Firefighters engaged the Fact Finding and Conciliation Process. It questioned the Fire Chief who confirmed that indeed it was his understanding that indeed that was the situation. The Union contends its proposal is below the 3.33% average as set forth in its documentation provided to the Fact Finder. Moreover, it contends that overtime is not a guarantee and the comparables

provided by the City appear to include overtime considerations. Moreover, not all Firefighters receive a paramedic bonus. Of the twenty-four (24), nineteen (19) currently are paramedics, even though the City indicated that such training is available to all employees. It contends for the year 2000, the Police will get 3.25% based on the effective date of their increase, thus continuing the disparity.

As previously, discussed the Firefighters submitted an "Alternative Proposal" at the conclusion of the Fact Finding Proceeding which agreed in part to the 3.25% proposed by the City for year one, however, a minimum of 3% guaranteed the second and third years of the Contract with language that would provide them any increase above 3% if any other City group or City employee received a raise in excess of 3%, i.e., a "me too clause". It is based on this reasons that the Union is requesting that the Fact Finder accept their proposal.

#### **RECOMMENDATION AND RATIONALE**

As is apparent from the evidentiary packages presented by the Parties, particularly that of the Union, graphs indicate that historically employees have indeed received "heftier" increases in the past, however, recent trends, both local and national, as indicated by the Parties, reveal a trend near a 3% to 3.5% wage increase as being within the mainstream of the late-90's approaching the new millennium. Such is evidenced by analyzing City - Exhibit 10 which represents the Sidney Firefighter wage increases from 1991 through 1999. It is apparent that there is a consistent decline from 6% received in 1991, through and including, a 3.25% increase for 1999. The Assistant City Manager, Jon Crusey, testified that based on the information he had received from City Council, it was their objective in negotiations for other Bargaining Units within the City as well as for the Firefighters to seek increases for the year 2000 and 2001 that do not exceed 3%. Accordingly, that is what the City is proposing for this Bargaining Unit. Of the comparables provided, the Parties are in agreement with Greenville, Piqua, Troy and Urbana as being comparable to the City of Sidney -- whether by population; geographic proximity to Sidney; or, by the wage increases received. Based on the population guidelines set forth in City -

Exhibit 2, the Cities of Troy and Piqua, would have comparable population to the that of the City of Sidney. Based on the information provided, the City of Greenville, Piqua and Troy all are receiving wage increases for the year 1999 and 2000 of 3%. Only Lima and St. Mary's received higher 1999 increases than Sidney -- at 3.5% and 3.75%, respectively. Lima's population far exceeds Sidney's; while St. Mary's is far less. Piqua and Troy seem to provide the closest comparable likeness to Sidney. Those in the opinion of the Fact Finder are the true comparables that are represented based on comparability set forth in the statutory criteria under the Ohio Collective Bargaining law. As the data indicated, Piqua's and Troy's 5, 10 and 20 year rates exceed those of Sidney. This Bargaining Unit can only make modest improvement if they receive an increase exceeding that of Piqua and Troy -- two very similar geographically near jurisdictions.

It is apparent that the Parties do not disagree with regard to the initial year of the Successor Collective Bargaining Agreement, and that the Employees should receive a 3.25%. In this regard, such is recommended based on what appears to be the tentative agreement by and between the Parties. The aspect of the effective date did not seem to be troublesome to the City, therefore, it is recommended that the Parties' adopt the Union's proposal relative to the effective date of year one's wage increase of 3.25%, as well as the effective date for year two and three.

It is interesting to note that during the course of Fact Finding Proceeding, the Union questioned the Fire Chief relative to his involvement in past negotiations wherein when asked if the Firefighters would receive less than other City employees because of their utilization of the Fact Finding and Conciliation aspects of the statutory process, he responded "yes, that is my understanding".

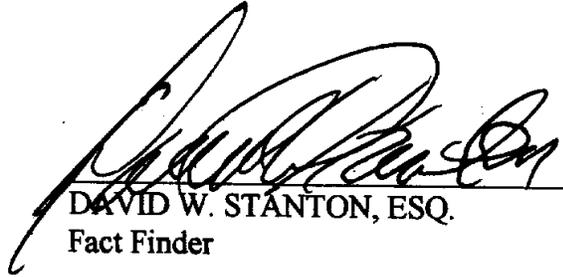
It is clear that this Fact Finding Proceeding gives the appearance of conciliation whereby indeed the Parties are very close to an agreement and are only .25% away relative to years two and three of the Successor Collective Bargaining Agreement and recommendation of either Proposal would not be unreasonable. If indeed the Chief's statement is accurate, then the

Collective Bargaining history of the Parties would suggest that the Firefighters receive more of a wage increase based on that consideration over what the true comparables of Troy and Piqua are to receive for 1999 and 2000, i.e., 3%.. Despite the clear indication that Piqua and Troy are receiving a 3% increase for 1999, less than the 3.25% sought by this Bargaining Unit, and 3% for the year 2000, with the 2001 yet to be determined, and importantly taking into consideration the testimony of the Chief, it is hereby recommended that the Parties' adopt for years two and three of this Successor Collective Bargaining Agreement, a wage increase of 3.15% and 3.1%, respectively. Such based on the 3.25% currently enjoyed, and agreed to for, 1999, it continues to be in the mainstream of the mid to late-90's pay increases recognized locally and nationally. Utilization of the statutory process should not be used to penalize employees in hope of bettering their financial status; nor should it be abused by taking additional proverbial "bites from the apple" where comparable data is compelling. As was indicated, a 1% increase equates to approximately \$600.00 per employee; or, currently \$14,400 ( $\$600.00 \times 24$  employees) or \$16,200 ( $\$600.00 \times 27$  employees) following the hiring of three (3) additional Firefighters within the next thirty (30) days. 25% of these figures represents a modest amount to be spread out over years two and three of the Successor Agreement. Based on the testimony of the Assistant City Manager, the Firefighters will also presumably maintain the internal comparability with other non-managerial employees if it achieves its goal of increases not exceeding 3%. In this regard, both internally and externally, this Bargaining Unit will maintain, and modestly improve upon, its relative position to the true comparables of Piqua and Troy based on the evidentiary considerations presented in Fact Finding.

### **CONCLUSION**

For reasons more fully set forth herein above, and in consideration of the aforementioned recommendations, the subject matter of this Report is offered for consideration by these Parties. This recommendation resulted from a careful and thorough analysis of the technical and complex issue presented, and is submitted with the intent that the Parties may reach some

amicable resolution to their contract impasse. The position statements presented, the evidentiary record compiled during the statutory process and the proceeding involving the Undersigned have recognized the mutual interests and concerns of the Bargaining Unit Members, the elected City Officials, the Governmental Entity as it exists, and the level of service this Unit provides to the Community of Sidney, Ohio; and, have assisted the Undersigned with the basis for this Report.

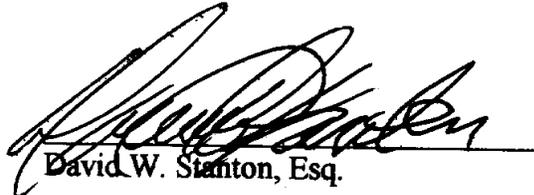


DAVID W. STANTON, ESQ.  
Fact Finder

January 22, 1999  
Cincinnati, Ohio

**CERTIFICATE OF SERVICE**

I hereby certify that the forgoing Fact Finding Report has been delivered via facsimile and overnight U.S. mail service to the respective advocates, Mark E. Lutz and Larry Logan. Moreover, said Report has been submitted via overnight mail service to G. Thomas Whorley, Administrator, Bureau of Mediation, State Employment Relations Board, 65 East State Street, Columbus, Ohio 43215-4213, on this 22nd day of January, 1999.



David W. Stanton, Esq.