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**STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD**

**FACT-FINDING PROCEEDINGS
CASE NO. 99-MED-10-0914**

**DANIEL N. KOSANOVICH
FACT-FINDER**

IN THE MATTER OF :
 :
FOP OHIO LABOR COUNCIL, INC . :
LODGE 93 :
 :
and :
 :
CITY OF URBANA, OHIO :

REPORT AND RECOMMENDATIONS OF THE FACT-FINDER

APPEARANCES

**FOP Ohio Labor Council, Inc.
Lodge 93**

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REPORT AND RECOMMENDATIONS

I. Background and Procedural History

The City of Urbana is located in Champaign County and has a population of approximately 11, 353. The City covers an area of seven (7) square miles. Urbana is a charter city with a Mayor Administrator Council form of government. There are several separate bargaining units within the City.

The bargaining unit in question consists of all full time Sergeants employed by the City. The unit was originally certified by the State Employee Relations Board. The current collective bargaining agreement was executed on May 14, 1997 and will expire pursuant to its terms on December 31, 1999.

Bargaining for a successor agreement began in October of 1999. During bargaining the parties reached tentative agreement on a number of outstanding issues. However, several issues remained unresolved. On December 1, 1999 the undersigned was appointed to serve as the fact finder for the FOP Ohio Labor Council, Inc. and the City of Urbana.¹

A fact finding hearing was conducted on December 16, 1999. The parties identified issues for submission to fact finding. Those issues were:

Article 15 Grievance Procedure

Article 16 Rate of Pay

Article 23 Medical Insurance

¹ The undersigned was also appointed to serve as the fact finder in two other units. The unresolved bargaining issues in the unit comprised of Patrolmen will be addressed in a separate fact finding report. The parties advised the fact finder that they had reached tentative agreement with respect to the outstanding issues concerning the dispatchers bargaining unit obviating the necessity for a third fact finding report.

At the outset of the hearing the fact finder offered to mediate the unresolved issues and the offer to mediate was not accepted. The issues submitted to the fact finder for resolution included: the Grievance Procedure; Rate of Pay; and Medical Insurance.

II. CRITERIA

In compliance with Ohio Revised Code Section 4117.14(G)(7) and the Ohio Administrative Code 4117-9-05(J), the Fact-Finder considered the following criteria in making the recommendations contained in this report:

1. Past collectively bargained agreements between the parties;
2. Comparison of unresolved issues relative to the employees in the bargaining units with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;
3. The interest and welfare of the public, the ability of the public employer to finance and administer the issues proposed, and the affect of the adjustments on normal standard of public service;
4. The lawful authority of the public employer;
5. Stipulations of the parties; and
6. Such factors not confined to those listed above, which are normally or traditionally taken into consideration.

III. FINDINGS AND RECOMMENDATIONS

Article 15 Grievance Procedure

FOP's Position

The FOP argues that the current Civil Service Commission system is wholly inadequate, largely because of the time that it takes to reach a final Civil Service Commission decision. The Union presented time lines for two relatively recent disputes as illustrative of their point. In one case disciplinary action was taken against the officer involved on January 7, 1999. An appeal was taken to the Director of Administration on January 10, 1999. The appeal to the Civil Service Commission was filed on January 26,

1999. The matter is still unresolved. The second incident a promotional challenge which was filed in August of 1998 and the appeal to the Civil Service Commission was taken in September of that year. The Civil Service Commission made its decision on August 16, 1999. The initiator was promoted to the rank of Sergeant on September 23, 1999 without backpay, which is now in dispute.

The Union proposes the following language for inclusion in the collective bargaining agreement: "Within 10 days of the Director of Administration's decision, the employee shall have the option of appealing the decision in writing to either the Urbana Civil Service Commission or file a demand for arbitration with the Director of Administration."

City's Position

The City argues in favor of the status quo. Primarily the City is resistant to any system which affects the control for decision making remaining in the community. Additionally, the City contends that the Civil Service Commission system works well and that the two illustrations presented by the FOP are exceptions to the rule.

Fact Finder's Recommendation

While the City's desire to maintain local control over the decision making is both important and understandable, it must be balanced against the need for efficient and final resolutions of disputes. The record indicates that the Civil Service Commission members are volunteers. Moreover, the only criteria for appointment to the Commission are that only two of the members of the Commission can be from the same political party as the Mayor. Finally, the Commission's decision is not final and binding. An appeal may be taken to the Court of Common Pleas.

As noted by the Union at the hearing, “justice delayed is justice denied.” Nowhere is the need for final and efficient resolution of problems more important than in the labor-management arena. It is unthinkable for the system to produce non-binding (and in some cases incomplete) results a year after a grievance is filed. As issues linger tension mounts. Unresolved issues tend to fester and in many cases take on a life of their own. They poison the water of cooperation and serve to provide another platform for confrontational bargaining.

I recommend that if the Civil Service Commission system does not produce a decision within the time frame provided, the dispute defaults to arbitration for a final and binding resolution. This recommendation takes into account the City’s desire to maintain local control while providing a mechanism for the parties to improve the efficiency of the system. The Commission would not be free to grant themselves additional time for decision making or for briefing. Perhaps, this default procedure will insure the selection of Commissioners who have the time and ability to serve the community.

The contract language will be modified to add a provision that reads: “ **If the Civil Service Commission fails to act within the time limits prescribed, the issue in dispute will default to a binding arbitration procedure. The parties shall meet and confer with one another within 10 calendar days of the default to attempt to mutually agree upon the selection of an arbitrator. In the event the parties cannot reach a mutual selection, the moving party shall notify the Federal Mediation & Conciliation Service and request a panel of qualified arbitrators. The parties’ representatives**

shall confer within 10 days of the receipt of the panel of arbitrators.² During the conference each party shall take a turn alternatively striking a name from the list provided, beginning with the moving party. The last name appearing on the list will serve as the arbitrator. The arbitration shall be governed by the FMCS rules.”

Article 16 Rate of Pay

FOP's Position

The FOP's position is that the base rate for all Sergeants should be increased by 4% in each year of the three year contract. In addition, the Union is seeking to extend the years of service referenced in the wage provision to include a 15 to 20 year step; a 20 to 25 year step; and a 25> step. The Sergeants would be compensated at the following rates for the extended years of service:

Years of service	2000	2001	2002
15 to 20	46,595	48,459	50,397
20 to 25	47,527	49,428	51,405
25>	48,478	50,417	52,434.

The differential between the new steps that have been proposed is 2%.

The Union notes that 3 of the 4 Sergeants have more than 10 years with the Urbana Police Department. After attaining the rank of Sergeant, employees have very little room for advancement. There is one position between the Sergeants and the Chief. The Union directs the Fact Finder's attention to statewide comparables provided by SERB to support its position.

² The parties may mutually agree upon another provider of lists of arbitrators such as the American

City's Position

The City proposes a 3% across the board wage increase in the base rate for officers in each year of the three year contract. To support its position, the City asserts that the top Sergeant with a straight 3% increase would receive a wage of \$44,592 which is 7.8% higher than all the municipalities surveyed. Those communities surveyed include: London, Kenton, Wapakoneta, Marysville, Bellefontaine, Washington, and Greenville.

The City does offer to create 15 and 20 year steps in the salary schedule, pointing out to the Fact Finder that no other group in the City has a salary step beyond 20 years of service. In addition, the City offers to provide a 1% differential between the new steps.

Fact Finder's Recommendations

The fact finder recommends that the patrol officers receive a 3.75% increase in their base rate of pay in each year of the three years of the contract. A 3.75% increase in the base rate of pay for all Sergeants is reasonable. While comparables are often helpful in these situations, drawing conclusions based on a different set of comparables results in the parties comparing "apples to oranges." I do find the comparables based on size and population more helpful than comparables that do not take those factors into consideration.

Additionally, I recommend acceptance of the City's proposal to create a 15 and a 20 year step in the wage scale. No other unit in the City exceeds the 20 year step. The wage differential between newly created the steps shall be 1%.

Arbitration Association, but that provider must be referenced in the contract.

Article 23 Medical Insurance

FOP's Position

The FOP seeks to maintain the status quo. It resists any attempt by the City to require employee contributions on premiums paid.

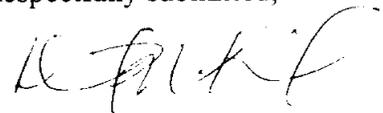
City's Position

The City proposes a 10% premium contribution from the Sergeants. According to the City, the City of Urbana is one of three communities of comparable size and population that pays 100% of the health insurance premium.

Fact Finder's Recommendation

The fact finder recommends that the parties maintain the status quo and the City continue to pay 100% of the health insurance premiums for the Sergeants. The record indicates that the City is in effect a self insured entity. Within the past three years or more, the premium contribution has held steady. The City is not advancing inability to pay as a reason for the proposed change. In fact, no compelling reason was advanced for the change proposed. In addition, no other bargaining unit in the City is required to contribute to the health insurance premium. Therefore, on balance I find it is reasonable for the City to continue to pay 100% of the health insurance premium for each year of the three year contract.

Respectfully submitted,



Daniel N. Kosanovich

12/20/99