

ORDINANCE NO. 59-20

AN ORDINANCE ACCEPTING THE REPORT AND RECOMMENDATIONS OF THE FACT FINDER FOR THE OHIO PATROLMEN'S BENEVOLENT ASSOCIATION REPRESENTING THE POLICE COMMUNICATIONS DIVISION, PATROL OFFICERS AND THE SERGEANTS DIVISIONS, AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEDINA, OHIO:

- SEC. 1:** That the Report and Recommendations of the Fact Finder for the Ohio Patrolmen's Benevolent Association representing the Communications Officers, Patrol Officers and the Sergeants Division is hereby accepted.
- SEC. 2:** That a copy of the Report and Recommendations is marked Exhibit A, attached hereto and incorporated herein.
- SEC. 3:** That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law.
- SEC. 4:** That this Ordinance shall be considered an emergency measure necessary for the immediate preservation of the public peace, health and safety and for the further reason to act on said Fact Finder Report within the required period of time; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and signature by the Mayor.

PASSED: March 23, 2020

SIGNED: John M. Coyne, III
President of Council

ATTEST: Teresa Knox
Acting Clerk of Council

APPROVED: March 24, 2020

SIGNED: Dennis Hanwell
Mayor

ORD. 59.20
EXH. A

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

IN THE MATTER OF FACT-FINDING BETWEEN:

City of Medina)	
)	
and)	Factfinder: Colman R. Lalka
)	
Ohio Benevolent Association)	
Communications)	2019-MED-08-0653
Patrol Officers)	2019-MED-08-0654
Sergeants)	2019-MED-08-0655
)	

HEARING

Date of Hearing: February 27, 2020
Location of Hearing: Medina, Ohio

ATTENDANCE AT HEARING

For the Employer:

Jon M. Dileno, Esq.
Dennis Hanwell, Mayor and Safety Director
Dave Birckbichler, Lieutenant and Acting Chief

For the Union:

George E. Gerken, Esq.
Danielle Chaffin, Esq.
Patty Miller, Dispatcher
Patrick Sloan, Sergeant
Jeff Smith, Detective
Daniel Warner, Patrol Officer

MEDIATION

Prior to the commencement of the fact-finding hearing, mediation was requested by the parties. The Factfinder acted as mediator with all outstanding issues being negotiated. No outstanding issues were resolved.

CRITERIA

After giving thorough consideration to the evidence and argument of the parties, the criteria used by the Factfinder in resolving the disputed issues were those set forth in Rules 4117-9-05(J) and (K) of the State Employment Relations Board, to wit:

4117-9-05(J). The fact-finding panel, in making findings of fact, shall take into consideration all reliable information relevant to the issues before the fact-finding panel.

4117-9-05(K). The fact finding panel, in making recommendations, shall take into consideration the following factors pursuant to division (C)(4)(e) of section 4117.14 of the Revised Code:

4117-9-05(K)(1). Past collectively bargained agreements, if any, between the parties;

4117-9-05(K)(2). Comparison 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 giving consideration to factors peculiar to the area and classification involved;

4117-9-05(K)(3). The interests 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;

4117-9-05(K)(4). The lawful authority of the public employer;

4117-9-05(K)(5). Any stipulations of the parties;

4117-9-05(K)(6). Such other factors, not confined to those listed above, which are normally or traditionally taken into consideration in the determination of the issues submitted to mutually agreed-upon dispute settlement procedures in the public service or in private employment.

BACKGROUND

City of Medina recognizes the Ohio Patrolmen's Benevolent Association as the bargaining representative for certain employees comprising three Bargaining Units. The three Bargaining Units involved in these proceedings are: 1) Patrol Officers, 2) Sergeants, and 3) Communications, each with twenty-nine, seven, and ten sworn members respectively. The Bargaining Units are duly certified by the State Employment Relations Board and each had a Labor Agreement in effect that expired on October 31, 2019.

The Parties agreed to joint bargaining with the City bargaining simultaneously with the three Units. When impasse was reached, the Parties requested the Factfinder convene a hearing,

attain relevant facts, and prepare a report and recommendations in keeping with ORC 4117 and related Rules and Regulations adopted by SERB. The hearing was convened on the date and in the City indicated above. At that time the parties were provided the opportunity to present evidence and argument in such a manner that would allow the Factfinder to render a report and make recommendations on the issues at impasse.

INTRODUCTION

The City is on a sound financial footing resulting from measures designed to curtail costs. The measures included layoffs and the elimination of a number of positions. Additionally, there has been a reduction in the number of hours of its sixty part-time Employees from thirty-five to twenty-nine per week. The City adds that it did not impose such cost-cutting measures on any of the members of the within three Bargaining Units. The City has also deferred capital improvements for the past ten years.

In 2004 the voters approved an income tax increase, and the City enjoyed a \$3 million increase in tax collections over the past four years. As a result, the City maintains favorable fund balances. The City does not assert an inability to pay, but maintains that its capital needs, which have gone unaddressed, require fiscal restraint.

The City claims that the three within Bargaining Units presented an aggressive plate of demands that rendered it impossible to resolve the negotiations while keeping within the bounds of fiscal reasonableness. As a result, the City states, it commenced negotiations with the Teamsters, representing the Employees of its Service Department.

That Bargaining Unit is comprised of thirty-two full-time Employees, versus twenty-nine Employees in the Patrol Officers Unit, the largest of the three Units of the within Fact-Finding. In addition to its size, there is nothing before this Factfinder indicating that the Teamsters Union was bargaining from a position of weakness.

Thus, if considering a pattern of internal comparisons, the City's Teamsters Union may be considered a "bell-cow" Union. It must be borne in mind, however, that the Teamsters is a strike-unit compared to the OPBA being no-strike with the requirement of conciliation as opposed to, some might argue, the less desirable alternative of striking should negotiations reach impasse.

Discussion below of the provisions at impasse will be in the order presented at the Fact-finding Hearing.

Article 16, Section 2
Patrol Officers

Duty Hours

Under the language of the preceding Collective Bargaining Agreement, if a Patrol Officer is assigned as the Officer-in-Charge, the Officer must work in that position for a full ten hours or more to be compensated at the 5% premium over his¹ normal salary, provided he actually works as the OIC. The Union points out that an Officer who actually works in the position of OIC for nine hours, only to be replaced by a Supervisor for the last hour, is compensated at his normal salary for the nine hours as OIC. The Union desires to remove the ten-hour requirement, permitting an Officer to be compensated for all time worked as OIC, regardless of the amount of time in that position.

The City is not totally opposed to the Union's proposal. The City's objection is based on the entire elimination of the length-of-time requirement. The City desires to avoid the added administrative burden, and concomitant costs, associated with an Officer being placed in the OIC position for a short period of time, as, for example, fifteen minutes. The City requests that if the Union's proposal is recommended, a minimum time requirement of two hours be used.

In the view of the Factfinder, both positions have merit for the reasons advanced by the Parties. It is the recommendation of the Factfinder that Article 16, Section 2 of the Patrol Officers Successor Agreement read:

Section 2. If a bargaining unit employee is assigned as the Officer-in-Charge (OIC), and actually serves as OIC for a full two (2) hours or more, then he will be paid for such hours actually worked as OIC at his normal salary plus a five percent (5%) premium. There shall only be one (1) person assigned as OIC per shift.

¹ As in the Predecessor Agreements, the use of the masculine gender herein is for convenience and is intended to encompass both genders.

Article 17, Section 2
Patrol Officers
Sergeants
Article 16, Section 2
Communications

Overtime Pay and Court-Time

The Predecessor Agreements, at the Articles and Sections noted immediately above, provide that that when a Patrol Officer, Sergeant, or Dispatcher is called back to work on a normal work day, on a regular day off, or on a holiday, the Patrol Officer, Sergeant, or Dispatcher is paid at the rate of time-and-a-half. The Union points out that Employees working a scheduled holiday are paid time-and-a-half and feels that Employees called in on an unscheduled holiday should be compensated at the double-time rate.

The City counters by noting that police work is a twenty-four-hour per day, seven day per week operation. Working holidays is a known requirement of police work, the City continues, of which applicants are aware when seeking employment. Double time, the City contends, is unusual in the public sector and is a waste of public funds. In support, the City presented comparators from seventeen jurisdictions and notes that of those seventeen only four have a double time provision for working holidays.

The Factfinder notes that of the four jurisdictions having a double time provision, one pays double time when working a scheduled holiday, and Medina Township pays double time when working the holidays of Christmas Day, July 4th, Thanksgiving Day, and New Year's Eve. The remaining two jurisdiction pay double time to Employees called in to work an unscheduled holiday. None of the thirteen jurisdictions, as the City points out, has a double time provision for Employees called in to work an unscheduled holiday. The Union counters by noting that the two jurisdictions in Medina County, Medina Township and Wadsworth, have double time provisions.

Both Parties presented cogent argument in support of their respective positions.^v The Factfinder is inclined to agree with the Union's proposal, in that, unscheduled time has the added benefit, in addition to time off to simply "decompress," of permitting family time. This is especially so on holidays, as, for example, Christmas, or other holidays where family time is especially desirable. Unscheduled Employees called in on such days deserve compensation at a rate above the contractual normal rate of holiday pay.

It is the recommendation of the Factfinder that Article 17, Section 2 of the Patrol Officers and Sergeants Successor Agreements read:

Section 2. All time worked when called back after normal daily working hours or on a regular day off, and actual time spent engaged in appropriate police work within the City of Medina which requires immediate action, shall be compensated at the rate of one and one-half times his regular rate of pay, or the employee may elect to receive compensatory time, pursuant to Section 3. Employees called in to work on an unscheduled holiday shall receive double time for each hour worked on the holiday. Employees on medical-related or personal leave (excluding vacation, holiday, personal day or comp-time) for three (3) or more consecutive days shall not receive any additional compensation for appearing for court time or other work-related call-in, until such date on which the employee is cleared to return to work. Employees appearing for court time or call-in time during such leave shall not have sick time deducted for the actual time of appearance.

It is the further recommendation of the Factfinder that Article 16, Section 2 of the Communications Successor Agreement read:

Section 2. All time worked when called back after normal daily working hours or on a regular day off shall be compensated at the rate of one and one-half times his regular rate of pay, or the employee may elect to receive compensatory time, pursuant to Section 3. Employees called in to work on an unscheduled holiday shall receive double time for each hour worked on the holiday.

Article 17, Section 6
Patrol Officers
Sergeants
Article 16, Section 6
Communications

Overtime Pay and Court-Time

In the Predecessor Agreements, the three sections provide for call-in pay of two hours. The Union proposes modifying call-in pay to three hours. The City feels two hours is adequate.

In the view of the Factfinder, insufficient background was provided for the Factfinder to recommend the requested increase in call-in pay. The Factfinder recommends that the language of the of the Predecessor Agreements in the Sections noted immediately above be carried forward into the Successor Agreements.

Article 17, New Section 7
Patrol Officers
Sergeants

Overtime Pay and Court-Time

The City staffs three Detectives and one Detective Sergeant. The Department's four Detectives are required to be in on-call status between eleven and thirteen weeks per year. When in on-call status, Detectives are required to respond to calls in a timely manner. The

Union notes a Detective receives the minimum two hours call-in pay, however, this does not account, nor compensate, for the inability to travel out of the area or consume alcohol of any kind during social events, and so forth.

The City argues the Detective position is a sought-after assignment by Patrol Officers due not only to the interesting work, but also resulting from Detectives being assigned to a Monday through Friday day-shift schedule. Patrol Officers are aware of the working conditions of a Detective and are not required to apply for, nor accept, the position. At the time of the last Detective vacancy, five Patrol Officers applied to fill the position, and only one resigned from the Detective position and that was at the request of the City to fill a different position.

The City points out that the Detective who lives farthest from the City of Medina is about one-half hour away. This is the approximate distance to the City of Cleveland, and the City continues, permits a Detective a wide geographic area while on call. The City also points out that if a Detective wants to attend a function where alcohol may be consumed, as a wedding reception for example, the Detective can trade the on-call time with another Detective. Moreover, the City concludes, a Detective is assigned an unmarked City vehicle for travel to and from work.

The Factfinder is of the opinion that the City's arguments outweigh those of the Union's. The prerequisites associated with the position of Detective, the Monday through Friday day shift schedule, the use of an unmarked City vehicle, the ability to trade on-call time, and the wide geographic area a detective may travel while in on-call status, far outweigh the requirements raised by the Union as being undesirable aspects of the position. The Factfinder recommends the Union's proposed new Article 17, Section 7, not be incorporated into the Patrol Officer's Successor Agreement.

Article 18, Section 3
Patrol Officers
Sergeants
Article 17, Section 3
Communications

Holidays

The Parties' Predecessor Agreements provide payment for working all holidays established by the City at the regular rate of pay, and, in addition, holiday pay not to exceed eight hours. The Union proposes increasing the cap of eight hours to ten. This additional time, the

Union argues, is consistent with the ten-hour schedule and permits those Employees to receive holiday pay for their entire shift.

The City notes that Patrol Officers have been on ten-hour shifts for decades, and the current system of compensation for holidays has likewise been in place for decades. There are eleven recognized holidays for City Employees, and, the City points out, Officers working a five-day per week schedule receive more holidays off than a shift Officer. If a holiday falls on a Monday, the five-day per week Employee receives the eight hours off. The shift Employee receives his regular pay plus the holiday rate for eight hours. What the Union is asking for, the City argues, is an additional twenty-two hours of pay per year for shift Employees.

Moreover, the City points out that ten-hour shifts were strongly supported by the membership when first negotiated into the Labor Agreements. Part and parcel to the change in schedules was the understanding that the change would not result in an increase in Officers' holiday hours. The City argues that now that time has elapsed, Union is now renegeing on that commitment.

While it seems the removal of the eight-hour cap is consistent with the hours actually worked on a holiday, the Fact-Finder finds more compelling the City's argument that the eight-hour cap on holiday pay retains the parity between shift Employees and Monday through Friday Employees. The Factfinder recommends the removal of the eight-hour cap not be implemented, and the language of the above three Sections of the Parties' Predecessor Agreements be carried forward into the Successor Agreements.

Article 20, Section 4
Patrol Officers
Article 20, Section 3
Sergeants
Article 19, Section 3
Communications

Sick Leave

The above Sections of the Predecessor Agreements provide for annual paid sick leave for all absences resulting from injury or occupational disease sustained or contracted in the course of employment for the City. The City initially argued this benefit should be deleted from the Successor Agreements, stating that it is unaware of any other jurisdiction providing this benefit and that Employees have Workers' Compensation as well as accrued sick leave in

the event of injury or illness. At the Hearing the City changed its position to clarify that this benefit be used after accrued sick leave has been depleted.

In order to prevent a future dispute over usage of this benefit, the Factfinder agrees clarifying language is called for and recommends the following sentence be inserted at the end of the above Sections:

The additional sick leave provided in this Section is to be used only after accumulated sick leave as provided elsewhere in this Article has been depleted.

Article 20, New Section 6
Patrol Officers
Article 20, New Section 5
Sergeants
Article 19, New Section 5
Communications

Sick Leave

The Union proposes a new Section to the Articles of the Successor Collective Bargaining Agreements providing for Sick Leave. The proposal provides that Employees who have accumulated six-hundred or more hours of Sick Leave be permitted to cash in up to eighty hours each year to be paid in June. Additionally, the Union notes, at the time of retirement Employees can cash in 37.5% of their unused sick leave up to four-hundred hours.

The Union argues that its proposals would act as an incentive for Employees to use less Sick Leave for illness of a less serious nature. This, the Union contends, would result in the City expending less money by cutting down on overtime costs. Other Cities in the county provide for such a benefit, the Union states, with the City of Wadsworth providing for a 100% cash-in at retirement of unused Sick Leave up to a maximum of 1,280 hours.

The City points out that the current Labor Agreements provide for two Stress Days per year. That is, the City notes, in addition to Sick Leave, Employees may call off two days per year even if not sick. Moreover, the City continues, even if Employees are not sick, they are entitled to convert two days of unused Sick Leave to Stress Days every six months the Employee does not use Sick Leave.

The Factfinder notes that the City of Wadsworth, while providing for a 100% cash-in of sick leave upon retirement, applies that benefit to Employees hired prior to February 1, 2013. For Employees hired after that date, the cash-in is capped at three-hundred hours. Thus, it

appears the City of Wadsworth modified its Sick Leave cash-in to be more in the area of Medina's current policy. Absent any further argument for the increase in expenditure of taxpayer funds caused by the insertion of the new Section into the Sick Leave Articles of the Successor Labor Agreements, this Factfinder recommends the new Section proposed by the Union not be included.

Article 20, New Section
Patrol Officers
Sergeants
Article 19, New Section 3
Communications

No-Fault Attendance Policy

The use of No-Fault Attendance Policies is widespread in private industry, and the City proposes adding a No-Fault Attendance Policy to the Successor Agreements. It is difficult to discipline anyone for sick leave abuse, the City feels, almost requiring fraud to be established. The Union states there is no problem of sick leave abuse, and there is no reason to change the existing policy. The City counters by stating that if there is no abuse of sick leave, the Union should have no problem with a No-Fault Policy.

The Union also points out that the Teamster Labor Agreement does not have a No-Fault Attendance Policy, even though such a policy was proposed during the last round of negotiations. The City argues the proposal was withdrawn during the Teamsters negotiations as part of the give-and-take of negotiations, and agreements on other outstanding issues being resolved.

The City offered four public sector Collective Bargaining Agreements for review. Two of the four Collective Bargaining Agreements provide for the right to establish No-Fault Attendance Policies after negotiations with the Union. Should negotiations fail to result in agreement, the Parties will submit to matter to arbitration. The third grants the public Employer the right to implement a No-Fault Policy, with the Union having the right to grieve its reasonableness. The fourth Labor Agreement has a No-Fault Policy in effect.

In that, at present, there is no problem with sick leave abuse, and in that the Parties have numerous other issue upon which to focus during this round of Factfinding and possibly Conciliation, the Factfinder is of the opinion implementation of a No-Fault Attendance Policy is best left unaddressed until the next round of negotiations at the expiration of the Successor Agreements.

The Factfinder recommends against adding a No-Fault Attendance Policy to the Successor Agreements.

Article 21, Sections 1 through 3
Patrol Officers
Sergeants
Article 20, Sections 1 through 4
Communications

Stress Days

The Parties Predecessor Agreements permit Employees, with prior approval of the Chief, to take two Stress Days per annum, with the opportunity to earn four additional Stress Days per annum pursuant to the Sick Leave provisions of Article 20 for Patrol Officers and Sergeants, and pursuant to the Sick Leave provisions of Article 19 for Dispatchers.

The City feels and proposes the additional Stress Days be deleted from the Successor Agreements. The Union indicates that this is an earned benefit for Employees and feels this benefit should be left in place in the Successor Agreements.

As with the No-Fault Attendance Policy, there is no record of abuse of this policy, and no compelling reason was presented for removal of the Stress Days provisions. The Factfinder recommends carrying the Stress Days provisions of the Predecessor Contracts forward into the Successor Labor Agreements.

Article 25, Section 7
Patrol Officers
Sergeants
Article 24, Section 7
Communications

Travel, Telephone and Educational Benefits

The Parties' Predecessor Labor Agreements for Patrol Officers and Sergeants provide that Police Patrolmen or Officers who have earned an associate degree in law enforcement or a four-year baccalaureate degree from an accredited university, receive an additional annual stipend of \$350.00. For Communications, the Predecessor Labor Agreement contains the same provision for associate or baccalaureate degrees, and also for a Communications Employee having earned and maintained an EMT certification.

The Union proposes the additional annual stipend of \$350.00 be deleted, and alternate compensation be inserted. The alternate stipend is proposed to be forty cents per hour added to base pay for the associate degree, eighty cents per hour for the baccalaureate degree, and eighty

cents per hour for honorably discharged veterans who served three or more years in any branch of the United States military, three or more years on reserve duty, or three or more years in the Ohio National Guard.

The Union argues that its proposal places Officers with military service on a par with those Employees who have post-secondary education. The ex-military Employees, the Union believes, have experience, education, and discipline gained from their military service consistent with the benefits gained from additional schooling. The Union also points out that the City places emphasis on military service along with college during the hiring process.

The City states that Civil Services provides extra points as an assist in hiring to applicants who are military veterans and applicants with desired education. This does not mean those applicants should receive additional pay. Moreover, the City continues, this benefit will affect a large number of Employees, and is tantamount to a wage increase. Eighty cents per hour, the City points out, costs-out to \$1,600.00 per year, up from a benefit of \$350.00. Finally, the City notes that of its list of seventeen comparable jurisdictions, none has additional compensation for military service.

The Factfinder notes that of the City's seventeen comparable jurisdictions, eight provide an additional stipend for associate's and bachelor's degrees and, as the City noted, not one for military service. The Factfinder is also aware, however, that in light of the ongoing engagement in combating terrorism for close to two decades, through the use of the military, and the sacrifice of members of the military, more and more recognition in various forms is provided to our military veterans. Furthermore, in that the work of our civilian safety forces is to some extent based on military procedure, military experience is not without application to police work.

The Factfinder is also mindful of the City's emphasis on the increased costs for each Employee affected by deleting of the \$350.00 annual stipend and substituting eighty cents per hour in its stead. The Factfinder agrees with the City's argument that this \$1,600.00 per annum, per affected Employee, is tantamount to a pay increase and amounts to more than an ancillary benefit. The Factfinder believes a compromise between the two positions is called for, and recommends the following language be inserted as the new section in the three Successor Agreements:

Section 7. Upon receipt of, or proof of having earned, an associate degree in the law enforcement field, a four (4) year baccalaureate degree from an accredited university, or upon proof of an honorable discharge after having served three (3) or more years in a branch of the United

States military; or upon proof of having served three (3) or more years on reserve duty for a branch of the United States military or three (3) or more years in the Ohio National Guard, a police patrolman or officer shall receive additional compensation in the amount of Three Hundred Fifty Dollars (\$350) payable semi-annually in July and December of each contract year.

For clarification, the Factfinder notes that the Patrol Officers Collective Bargaining Agreement contains a typo in that there are two Article 25 sections enumerated as Section 6. It is the Factfinder's recommendation that the above recommended Section 7 be inserted as the replacement for the second Section 6 in the Patrol Officers Successor Agreement.

Article 26, Section 1
Patrol Officers
Sergeants
Article 25, Section 1
Communications

Group Hospitalization

A Wellness Program has been established as part of the City's Group Hospitalization Plan. Pursuant to the Predecessor Agreements, Employees participating in the Wellness Program contribute 12% toward the hospitalization premiums, while non-participating Employees contribute 16%. These 12% and 16% levels have been in effect since 2017. Effective January 1, 2018 and January 1, 2019, and in the event the City's premium costs increased by 1%, the Labor Agreements provided for a 1% increase in Employee contribution.

The Union notes that not only have the premiums for the City not increased, they have actually gone down. According to an email from the Mayor commending Employees for their participation in the Wellness Program, and emphasizing the success of the Program, it was noted that the 2019 premium decreased 4.5% from 2018 and 7.5% over the period of 2016 to 2018 for a total of 12%. The Union points out that, despite facing 1% premium increases each year for 2018 and 2019 and despite the 12% reduction in premium costs to the City, its membership did not enjoy the same decrease in its premium costs.

The Union points to SERB data for cities with population of 25,000 to 99,000, and notes the Employee contribution is 12.4%. This coincides with its proposal of maintaining the same 12% Employee contribution for Wellness participants over the duration of the Successor Agreements. Non-participants contribution will be 18%. In summary, the Union argues, when premiums went down, Employee contribution remained the same, and, now that premiums are increasing, Bargaining Unit Members should continue the same 12% to make up for not having shared in the benefit of the previous premium decreases. Moreover, Union concludes, with

Employee contribution of 13% the City will be contributing less than its current 88%, and Employees continuing their 12% contributions will not cause a hardship for the City.

The City points out that historically Employee Health Care contributions have been uniform among the City's unions. The City proposes for the three OPBA Bargaining Units the same contribution levels ratified by its Teamsters Union. Regarding the decrease in premiums since 2016, the City points out that Employee contribution is a percentage, thus when the City's contribution decreased, Employee contribution also decreased.

With its Wellness Program, the City contends, the objective is a healthy workforce, and premium savings is a secondary benefit. Compliance with the Wellness program is not difficult to meet, the City states, in that compliance is not outcome oriented, but is based on participation. That is, an Employee is not, for example, required to participate in a marathon for compliance, but simply must participate in certain activities as well as have a blood test.

The City never sees the results of the blood test, which the Employee can have drawn at a local hospital or by his own physician. The benefit of the blood test, the City states, is that unknown health problems are brought to the Employee's attention, as, for example, high blood pressure or pre-diabetes. The Wellness Program activities, enumerated in Appendix B of the Predecessor Agreements, are educational. The Employee must complete three seminars of his choice over the time periods provided in Appendix B. Thus, the Wellness Program accommodates Employees who are unable to meet the challenges of certain physical activities.

The City proposes that commencing April 1, 2020 participants in the Wellness Program contribute 13% of Group Hospitalization premium costs, with the City the remaining 87%. Non-participants are to contribute 20% and the City is to pay the remaining 80%. Each succeeding year for the duration of the Agreements, if the City's premium costs increase by 1% or more, Employee contribution is to increase by 1% with contribution capped at 14% and 20% for Wellness participants and non-participants respectively. As in the Predecessor Agreements, the requirements of the Wellness Program must be met by September 1 of the preceding year and compliance is to be based on the same Appendix B.

The City points out that statewide averages for Employee contribution are slightly over 13%, and that its proposal of up to 14% is a little over averages for cities of comparable population. However, the City emphasizes, its Group Plan provides vision and dental benefits, and the Plans in the comparators gathered by SERB do not. Also, the out-of-pocket maximums

paid are on the low side compared to statewide averages, and on the low side for City averages within the state. Deductibles are \$500 and \$1,000, which appear to be mid-range compared to in- and out-of-network averages.

The City argues that there is no reason for an Employee not to participated in its Wellness Program and to enjoy the lower premium contribution. In that regard, the Factfinder notes that the Union presented no reasons for non-participation, nor were the number of Employees affected by the 20% contribution noted. Taking that into consideration, along with the benefit to Employees in being made aware of previously unknown health issues, or potential health issues, coupled with the City's unobtrusive posture regarding the Wellness Program, it is the view of the Factfinder that participation is to be encouraged.

Additionally, maintaining a semblance of uniformity between the City's Unions is desirable from the standpoint of maintaining labor peace and Employee satisfaction across Unions. Other than the Union addressing it not receiving decreases in premium contribution as did the City, no real reason was advanced for breaking from following the agreement reached by the Teamsters. The Factfinder notes that as the premiums decreased, in that Employees contribution was based on a percentage, the dollar contributions of Bargaining Unit Members also would have decreased although, it is noted, not in the same amount had the contribution been lowered by a percentage point. All told, the arguments advanced by the City hold sway with the Factfinder and the City's proposals are recommended, to wit:

Section 1. The City shall provide group hospitalization, surgical and dental insurance coverages or options to bargaining unit employees (except short-term temporary employees and those employed less than thirty (30) hours per week). A summary of insurance benefits that the City shall provide is set forth in Attachment A.

The premiums for such plan shall be paid as follows:

- A. Effective April 1, 2020, the City shall pay eighty percent (80%) of the premium costs, and the bargaining unit member shall pay twenty percent (20%) of the premium costs through payroll deduction. Employees who satisfy the wellness program obligations (see, Attachment B) will be eligible for a "wellness" discount and will pay thirteen percent (13%) as their premium contribution for 2020. In order to qualify for the reduced premiums in 2021 and 2022 the employee must satisfy the wellness components identified in Attachment B by September 1st of the preceding year.
- B. Effective January 1, 2021, if the City's insurance premium costs increase by one percent (1%) or more, employees satisfying the wellness program obligations shall pay fourteen percent (14%) of the premium costs through payroll deduction. Employees failing to satisfy the wellness program obligations will not be eligible for a "wellness" discount and will pay twenty percent (20%) as their premium contribu-

tion. The employee premium contribution percentage shall remain at the 2020 percentage (13% or 20%) for 2021 if the City's insurance premium costs do not increase or increase by less than one percent (1%).

- C. Effective January 1, 2022, if the City's insurance premium costs increase by one percent (1%) or more, and the employees are still paying a thirteen percent (13%) premium contribution, the employees satisfying the wellness program obligations shall pay a premium contribution one percent (1%) higher than the 2021 rate (an increase to 14%) of the premium costs through payroll deduction. Employees failing to satisfy the wellness program obligations will not be eligible for a "wellness" discount and will pay twenty percent (20%) as their premium contribution. The employee premium contribution percentage shall remain at the 2021 percentage for 2022 if the City's insurance premium costs do not increase or increase by less than one percent (1%).
- D. Newly hired employees are not eligible for the reduced Wellness premium rate until the January 1st following successful completion of the September 1st to August 31st Wellness requirements.

The remaining Sections of Article 26 are recommended to remain as in the Predecessor Agreements.

Article 27, Sections 1 through 3
Patrol Officers
Article 27, Section 1
Sergeants
Article 26, Section 1
Communications

Wages

The Union points out that the City contracted with the contiguous Township of Lafayette to provide police coverage. Lafayette Township, with a population of 5,827, added 23.7 square miles to the Police patrol area. This added to the workload and responsibilities of the Department. Arrests increased from 738 in 2017 to 797 in 2018, and motor vehicle accidents increased to 770 in 2018 from 701 in 2017.

The workload of the Communications Center likewise increased, from 28,620 calls for Police in 2017 to 43,010 in 2018. The Center is also responsible for Fire Department dispatch in Medina, although calls for the Fire Department have decreased from 1,474 in 2017 to 1,338 in 2018. The complement of Dispatchers is budgeted for ten and is understaffed at nine. An additional Dispatcher, however, is scheduled to be added to the complement on March 1, 2020, and, as of the date of this Report, that Dispatcher should be in place.

Normally, there are three Patrol Officers per shift, the Union states, now a fourth Officer is patrolling the entire area of Lafayette Township alone. Response times for backup or other

emergency assistance have increased, making the job more hazardous. Thus, the Union emphasizes, the City of Medina is paid by Lafayette Township for the added coverage, placing more responsibility and stress on Employees without additional recompense.

The Union proposes three annual wage increases of 3%, commencing January 1, 2020. The Union notes that while the Teamsters settled for 2.5%, 2.5%, and 2.75%, their workload did not increase, while the workload of OPBA members did. Moreover, SERB data shows that for 2018, the statewide average for Police wage settlements was at 2.5%. With the increased workload and responsibilities, the Union believes, its proposal of three 3% increases over the life of the Successor Agreements is reasonable.

The City points out that most of Lafayette Township is rural, and the rural population is generally in the western area of the Township. It is the eastern portion of Lafayette that is contiguous to the Medina City patrol area, and it is that area where most of the population resides. Moreover, the City points out that the Highway Patrol responds to injury accidents on state routes, and there are multiple surrounding jurisdictions to respond if Officer backup or assistance is needed. Additionally, the number of Patrol Officers, while down in the past, is at the full complement of twenty-nine. While Police work is hazardous, during shift overlap as many as eleven Officers are on duty during the evening and early morning hours, the busiest and most hazardous times. The City pointed out that roadworkers in the Teamsters face hazards on the job as well.

The City notes that the Union presented a proposal of three 3% increases along with numerous other enhancements, and emphasizes the Teamsters ratified a Successor Agreement at 2.5%, 2.5%, and 2.75% without added enhancements. Moreover, the City points to the same SERB data as the Union, noting that its, the City's, proposal of three increases at 2.5% is in keeping with the statewide average for Police. Of nine comparable jurisdictions in Medina County, the City notes, Medina ranks second in 2019 Top Level Wages and Other Benefits for Patrol Officers. Of seventeen jurisdictions from surrounding areas, Medina Patrol Officer ranked fifth in 2019.

For Dispatchers, of four jurisdictions in Medina County, Medina Dispatchers ranked second in Top Level Wages and Other Benefits in 2019. Of seven comparators in the surrounding area, Medina Dispatcher ranked third. The City believes that the Union has not made a case warranting the large wage increase proposed. For Dispatchers, as with the Police, the City

proposes annual wage increases of 2.5%

As the City points out, the number of Patrol Officers and Dispatchers, while down in the past, is now at the full complement for both Bargaining Units. Thus, the increase in workload is spread over a larger number of Employees. Furthermore, as the City noted, Medina Patrol Officers are not responsible for injury accidents on state routes, and there are multiple jurisdictions to respond in Lafayette Township in the event Officer backup or assistance is needed.

The City also presented nine Medina County comparators for Wage Increases in 2020 and 2021. For 2020, three had "n/a" for the 2020 wage increase. Of the six remaining, not one was over 2.5%. For 2021, wage increases were listed for three of the comparators, and each was at 2.5%. The same result carries forward for seventeen comparators from the surrounding area, that is, no wage increase is above 2.5%. Finally, a February 13, 2020 Factfinder Report involving the Medina County Sheriff's Office shows a recommendation of three annual increases of 2.5% for 2020, 2021, and 2022.

Based on the evidence before this Factfinder, 2.5% wage increases are the norm. The 2.5% norm notwithstanding, to maintain parity between the City's Unions, as in the case of Employee contributions toward Group Health, the Factfinder feels that, despite enhancements recommended for these Employees, the same wage increases granted to the Teamsters should also be recommended for these Bargaining Unit Members. The Factfinder recommends, retroactive to January 1, 2020, a wage increase of 2.5%, 2.5% again on January 1, 2021, and 2.75% on January 1, 2022.

The Union also proposes modifying Section 1 of the Sergeants Labor Agreement to increase the Rank Differential between Sergeants and the top step of a Patrol Officer from fifteen percent to fifteen-and-one-half percent. No rationale was provided for the increase, and, in light of the general wage increase, the Factfinder recommends the current language of Article 27, Section 1 of the Sergeants Predecessor Agreement be carried forward into the Successor Agreement.

Article 27, New Section 5
Patrol Officers
Sergeants

Detective Pay

The Union proposes that Officers assigned to the Detective Bureau receive an additional \$1.00 per hour added to their base pay. Detectives, while working under the Job Description of a Patrol Officer, in reality perform different functions, from handling background checks for new applicants to investigating sexual assaults, as well as the other myriad duties a Detective performs. Moreover, the Union continues, the Detective case load has increased from 329 in 2018 to 417 in 2019.

The Union argues that there is a substantial stress level associated with the position of Detective. The stress level of a Detective is sustained, the Union states, with the Detective constantly thinking of cases being investigated. This, the Union argues, differs from the short-term stress faced by Patrol Officers.

The Union also argues that an Officer loses money by transferring to the Detective Bureau. This is the result of a loss in overtime and shift differential. Also, a Patrol Officer works four days per week, while a Detective works five. A Patrol Officer, the Union points out, can work a side job while remaining in a five-day workweek. To work a side job, a Detective works a six-day week. Additionally, the Union concludes, in that court time occurs during a Detective's normal working hours, overtime for court appearances is lost.

The City points out that a Patrol Officer is more likely to be assaulted while on duty than is a Detective, and a Patrol Officer faces the additional hazard of being in traffic while responding to vehicular accidents. Detectives, the City points out, work a five-day week on day shift, which, the City believes, is more desirable than working rotating shifts. The City also points out that there were five applicants from Patrol Officer for the last Detective opening, and Detectives do not request being placed back on Patrol.

The City also contends that Detectives do, in fact, work overtime and off-duty details. Additionally, when Patrol Officers are compensated above their normal rate for court appearances, it is the result of working added hours outside of their normal shift hours. The City also notes that Detectives are permitted to work overtime on basic Patrol.

The evidence adduced at the hearing convinces this Factfinder that the Detective position is desirable. The City has no difficulty filling a Detective position when a position opens,

and there is no evidence of Detectives voluntarily leaving the Detective bureau, despite the increased stress level and lack of outside job opportunities argued by the Union. The City also presented comparators from seventeen jurisdictions. Of the seventeen, only one had additional compensation for Detectives.

Considering the presentations of the Parties, the Factfinder recommends the additional \$1.00 per hour added to Detective base pay not be added to the Successor Agreements.

Article 27, New Section 6
Patrol Officers
Sergeants

Duty Weapon and Badge Buyout

The Union proposes that Employees covered by these Labor Agreements who retire at full pension or through a disability pension, be permitted to purchase their badge and service weapon for a cost of \$1.00. The Employee is not eligible if the retirement is based on a mental condition or disability. The Union points out that this language was just negotiated into the Medina County Sheriff Collective Bargaining Agreement.

The badge and weapon have value, the City argues, and the weapon is reassigned upon an Employee's retirement. The value of a weapon is roughly \$600.00, and no justification exists for exchanging a \$600.00 weapon and badge for \$1.00. The City points out that both the badge and weapon can currently be purchased at replacement value.

In the view of the Factfinder, there is insufficient evidentiary support for the addition of the Union's proposal to the Parties' Successor Agreements, and the Factfinder recommends the Union's proposal not be added.

Article 29, Section 1
Patrol Officers
Article 28, Section 1
Sergeants
Communications

Shift Differential

The Union proposes increasing Shift Differential from thirty-five cents per hour to eighty for Employees on the second and third shifts. The City objects to the increase, offering seventeen comparators, and notes that while the City is on the low end in the amount of the Differential, only four entities of the seventeen provide Differential while the remainder do not.

During the discussion regarding the Union proposal that Detectives receive an addition \$1.00 per hour, the City emphasizes, the Union argued day shift was not necessarily the most

desirable shift, and, that being the case, the City now asks, why a shift differential at all? The City also projects costs of the Shift Differential to be \$69,555 over the three years of the Successor Agreements.

The Factfinder feels that with the recommended wage increase, a Shift Differential in the amount of eighty cents per hour is too high. No rationale was offered to support an eighty cents per hour increase, however, a modest increase to account for inflation, is, in the opinion of the Factfinder, warranted. The Factfinder recommends an increase in Shift Differential from thirty-five cents per hour to fifty cents for Employees working second and third shifts.

Article 5
Patrol Officers
Sergeants
New Article
Communications

Management Rights

The Patrol Officers and Sergeants Agreements, the City believes, have somewhat limited Management Rights Articles, and, the City notes, the Communications Labor Agreement is lacking a Management Rights Article entirely. The language of the Management Rights Articles in the Predecessor Patrol Officers and Sergeants Agreements are identical, and the City proposes what it terms as modest proposals. The City emphasizes that the Rights requested are Rights the City already has.

The Union disagrees and contends the City is requesting new Rights without negotiating anything in return. For example, the Union states, current language of Article 5, Paragraph 2 provides, "Direct, supervise, Evaluate, or hire employees," to which the City desires to add, "and to determine when and under what circumstances a vacancy exists." The City also proposes a new Paragraph to, "Require employees to use or refrain from using specified uniforms or other tools of duty."

The Union states the new section regarding uniforms is the result of the City desiring to prevent some Patrol Officers from wearing baseball caps. This is already covered by Departmental Policy, and Patrol Officers are not permitted to deviate from the Policy. Other new Rights are, "Privatize or subcontract services," and "The City reserves the right to implement new or revised existing policies or practices which do not conflict with the express terms of this Contract."

While the right to implement new policies not in conflict with the Labor Agreement is

an existing right, the Rights to Privatize and Subcontract services is not, and, in the view of the Factfinder, too broad to be recommended. Those Rights, the Factfinder believes, encompass too many areas of a Collective Bargaining Agreement to be recommended for inclusion absent lengthy negotiations between the Parties where the numerous ramifications of Privatization and Subcontracting are thoroughly discussed. Privatization and Subcontracting, the Factfinder also believes, are potential grounds for numerous disputes as well as engendering ill will among the Employees should the City exercise those rights.

For the Patrol Officers and Sergeants Successor Agreements, the Factfinder recommends Article 5, Management Rights, be carried forward as is.

For the Communications Successor Agreement, the Factfinder recommends the language of the Patrol Officers and Sergeants be inserted therein, to wit:

Unless otherwise agreed herein, the City maintains the right and responsibility to:

1. Determine matters of inherent managerial policy which include, but are not limited to areas of discretion or policy such as functions and programs of the public employer, standards of service, its overall budget, utilization of technology, and organizational structure;
2. Direct, supervise, evaluate, or hire employees;
3. Maintain and improve the efficiency and effectiveness of governmental operations;
4. Determine the overall methods, process, means, or personnel by which governmental operations are to be conducted;
5. Suspend, discipline, demote, or discharge for just cause of lay off, transfer, assign, schedule, promote, or retain employees;
6. Determine the adequacy of the work force;
7. Determine the overall mission of the employer as a unit of government;
8. Effectively manage the work force;
9. Take actions to carry out the mission of the public employer as a governmental unit.

Article 16, Section 1

Patrol Officers

Sergeants

Article 15, Section 1

Communications

Duty Hours

Pursuant Article 16, Section 1 of the Patrol Officers and Sergeants Predecessor Agreements, Patrol Officers and Sergeants are assigned to four ten-hour working days per workweek. In the event the staffing level drops below eighteen, including both Patrol Officers and Sergeants, the City has the discretion to change the schedule to five eight-hour days per workweek. The Communications Predecessor Agreement simply provides for a forty-hour workweek.

The City desires to modify the language to allow for scheduling to better fit within a

twenty-four-hour day. Mid-term in the Predecessor Agreements the City approached the Union with a proposal for twelve-hour shifts. This, the City states, was rejected by a close vote.

The City argues, that when ten-hour shifts were negotiated, the City was in financial crisis. Officers were laid off and the City was concerned more Officers would be lost if eight-hour shifts were maintained. The City indicates that a middle ground of ten hours was reached. The Union is opposed and notes that ten-hour shifts have been in place since at least 1983. In transitioning to twelve-hour days, the Union believes, Articles 17, 18, 19, 20, 21, 24, among others, would require renegotiation.

The Union presented studies, wherein it was posited that twelve-hours shifts in police work result in more accidents, not only while on duty but also as Officers are returning home after completion of a twelve-hour tour. It was concluded that ten-hour shifts improve the quality of life of Officers, having a positive effect on family life and second jobs. The benefit to the city was decreased overtime. Improvements, however, did not carry forward to twelve-hour shifts. The amount of Officer sleep decreased, and fatigue increased. Overtime also increased. Twelve hour shifts also potentially have a deleterious affect on a spouse's job as well as child-care.

The City counters by pointing out that shifts are bid every six months and are seniority based. Senior Officers can change shifts via bid. Furthermore, the City points out that Officers work extended shifts when working overtime, generally in four-hour increments.

The Factfinder has given deference to the studies, and believes further study is needed before recommending the City have the right to compel Officers to work twelve hours shifts. The Factfinder recommends the Duty Hours language of the Predecessor Agreements be carried forward into the Successor Agreements.

Article 34
Patrol Officers
Article 33
Sergeants
Article 32
Communications

Injury Leave/Wage Continuation

In lieu of Workers' Compensation Lost Time benefits, the Predecessor Agreements provide for full pay and benefits for on-the-job, i.e., compensable, injuries or illnesses. This benefit has been in the Parties' Labor Agreements for decades and recognizes the inherent hazards of

police work. Hazardous duty injuries, the City believes, should include, for example, being shot, injury during a police chase, and so forth.

The problem, the City continues, is that the Agreements provide full pay and benefits for any on-the-job injury or illness. An Employee would receive full pay and benefits for twisting an ankle walking to his car. In 2018, an Employee was off for thirty-five days at full pay and benefits after an on-duty injury during a Police Athletic League basketball game. With this type of benefit, the City argues, there is less incentive for an Employee to return to work.

The City feels this benefit should only apply for injuries sustained while engaged in what is considered hazardous police duty. Employees recovering from other types of on-the-job injuries should rely on Workers' Compensation for remuneration. Agreements in other jurisdictions provide for full pay and benefits only for injuries sustained during hazardous types of police work, and the City provided copies of Labor Agreements from four jurisdictions for the Factfinder's review.

Dispatchers, the City continues, do not face hazardous duty, and this benefit should be deleted in its entirety from the Communications Successor Agreement. Moreover, the Teamsters have no such provision and those Employees face hazards on-the-job when, for example, performing road repair. Those Employees must rely on Workers' Compensation for benefits.

The Union stresses that of the Labor Agreements provided for the Factfinder's review, unless an injury is not as expressly enumerated, the benefit does not apply. In that event, the benefit for non-enumerated injuries is at the sole discretion of the Employer. The Union also objects to modification of this benefit in that when an Employee must rely on Workers' Compensation, nothing is contributed toward his pension.

Regarding the within Labor Agreements, this is a benefit that has been in existence for decades. The Factfinder is of the view, in that only the 2018 PAL basketball injury was cited as problematic, sway holds against the City's desire to modify the benefit as currently provided. As the Union points out, the Labor Agreements offered as comparators only provide for full compensation for the injuries expressly enumerated. Modification of the benefit in the Successor Agreements, or deletion entirely for the Dispatchers, would amount to a pay cut for some Employees during periods of recovery.

Additionally, the City is not claiming an inability to pay, and the cost of providing the benefit is not before the Factfinder and the Factfinder assumes the cost not to be that great. The

Factfinder recommends against modifying or deleting the benefit in the Parties' Successor Collective Bargaining Agreements.

Article 24, New Sections 8 and 9
New Article
Communications

For the Communications Successor Agreement, the Union proposes a new Section 8, providing Training Officers receive an additional \$2.50 per hour for each hour spent training. Additionally, due to the increase in workload created in assuming dispatch duties for multiple jurisdictions, the Union proposes a new Section 9 providing that each Dispatcher receive a bonus of \$500.00 the first pay period after June 1, 2020, a bonus of \$600.00 the first pay period after June 1, 2021, and a bonus of \$700.00 the first pay period after June 1, 2022.

There was insufficient rationale developed at the Factfinding Hearing upon which the Factfinder can base recommending the Union's proposed two new sections. The Factfinder recommends proposed new Sections 8 and 9 not be included in the Communications Successor Agreement.

The Union also proposed a new Article wherein the Terminal Agency Coordinator, who audits LEADS input information, receive a forty cents per hour premium. As with the new Sections 8 and 9, sufficient rationale in support was not developed at the Hearing, and the Factfinder recommends against the new Article being added to the Successor Agreement.

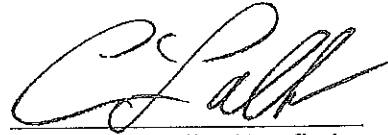
ISSUES OF TENTATIVE AGREEMENT

In addition to the issues at impasse, the parties have made proposals, concessions, and withdrawal of proposals in the course of bargaining. Tentative Agreement has been reached on the following issues:

- Article 4, Fair Share Fee
- Article 19, Section 1, Vacation Accrual
- Article 20, Section 1, Sick Leave
- Article 25, Section 6, Education Pay
- Article 35, Duration

At the request of the parties that the above Tentative Agreements be incorporated into this Report, to which request the Factfinder agrees, it is recommended that the above identified

issues of Tentative Agreement be included in the parties' Labor Agreements. With the exception of the above issues at impasse and the Tentative Agreements, it is further recommended that the remainder of the Successor Agreements remain the same as in the Predecessor Agreements.

A handwritten signature in black ink, appearing to read 'C. Lalka', written in a cursive style.

Colman R. Lalka, Factfinder

Dated: March 16, 2020
Madison, Lake County, Ohio