STATE EMPLOYMENT RELATIONS BOARD

CONCILIATION

BETWEEN:

CITY OF CINCINNATI

AND

Serb Case No. 04 MED 08-0741
04 MED 08 0742

FRATERNAL ORDER OF POLICE
QUEEN CITY LODGE No. 69

APPEARANCES:

For the City: Jonathan J. Downes, Esq.
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Downes, Hurst & Fishel

For the Union: Stephen S. Lazarus, Esq.
Hardin, Lefton, Lazarus & Marks

OPINION AND AWARD OF THE CONCILIATOR

Janet C. Goulet. Ph.D.

Conciliator

INTRODUCTION

The conciliation hearings took place over a two day period on May 19 and 20, 2005. The first day of hearing was held at the FOP Lodge and the second day was held at the City of Cincinnati Water Department offices. The parties had been issued a Fact Finding report dated February 25, 2005 by fact finder Michael Paolucci. The Fraternal Order of Police, Queen City Lodge Number 69, the Union, rejected that report and called for conciliation. This Union represents two deemed certified bargaining units: the Supervisors, and the Patrol Officers including specially designated positions, often referred to as the non-supervisory unit. The City accepted the report and argues that the recommendations of the Fact Finder should be ordered by this conciliator.

The parties have a long standing relationship and the collective bargaining between the parties often leads to impasse, as in this case, which calls for the use of the Safety Forces provisions of O.R.C. 4117. The Collective Bargaining Agreements (CBA) between the parties are for a two year period and cover approximately 1,025 employees; the majority are in the non-supervisory unit.

BACKGROUND

The City's Finance Director presented a dour picture of the revenues for the next several years. He cited reduced income tax revenues and reported that several positions in the City have remained vacant in an effort to reduce cost. However, he also

reported that the City's commitment to increase the police force is being met and that 15 new officers will come into the department this year. He pointed out that there is a carry over amount in the budget from year to year. While this amount looks to be substantial, as a percentage of annual revenue (7%) it now barely meets the minimum requirements recommended by the Government Finance Officer's Association (5%) and it decreases in future revenue projections. Several plausible reasons were suggested for this trend: Primarily, the income tax revenues are not increasing as expected from past projections. New job creation seems to be waning. Two sources of funds were discussed: the Anthem moneys from the de-mutualization of the company and the traffic cameras. The City received $55 million from Anthem but the money has either been spent or is committed to non personnel items. The traffic cameras were expected to increase the City's revenues but a decision by the courts may require that an officer be present if a citation is to be given. This would significantly reduce revenues from this source.

The City's spending may be criticized in that it funds City health clinics which are normally a County responsibility. In addition, it spends funds for debt service on school district debt. It also ignores potential revenues from property taxes by supporting a rollback policy for homeowners. The City argues that this is a legitimate policy which may encourage more home ownership in the City. Be that as it may, these are policies of City Council, some with historical precedence, that are not subject to

change by this conciliation.

OPINION AND AWARD ON THE ISSUES AT IMPASSE

The parties submitted their written reports summarizing the unresolved issues, the party's final offer as to the issues, and the rationale for that position in a timely manner. This Conciliator has carefully considered all the material submitted as well as the testimony, evidence and argument advanced during the hearings whether or not the specific information is cited herein. The record of the hearings was closed on May 20, 2005 and this award is consistent with the Conciliation Guidelines found in O.R.C. 4117.14 (G) 7 (a through f):

> 4117.14 (G) (7) After hearing, the conciliator shall resolve the dispute between the parties by selecting, on an issue-by-issue basis, from between each of the parties final settlement offers, taking into consideration the following:
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> 4117.14 (G) (7) (a) Past collectively bargained agreements, if any, between the parties:
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> 4117.14 (G) (7) (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;
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> 4117.14 (G) (7) (c) 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;
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> 4117.14 (G) (7) (d) The lawful authority of the public employer;
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> 4117.14 (G) (7) (e) The stipulations of the parties;
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> 4117.14 (G) (7) (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.

The issues before this conciliator follow. All other CBA provisions not covered in the Conciliation Award are considered to be settled and the implementation of this Award will complete the CBA.

ISSUES

1. Definition
2. Article VII, Section 40, 42, Promotions
3. Article III, Grievance Procedure
4. Article VII and Appendix A, Wages
5. Article VII, Section 5, Shift Differential
6. Article VII, Section 21 and Appendix C - Medical Benefits; Dental/Vision
7. Article VII, Section 32, 33, OPOTA Certification: Non-Supervisors, OPOTA Certification: Supervisors
8. Article VII, Section 34, 35, Training Allowance Non-Supervisors, Training Allowance Supervisors
9. Article XVI, Residency
10. Article XVII, Duration

Issue 1, Definition

The City proposes language to bring the CBA in line with Charter Reform Issue 5, passed by the voters of the City in an election on November 6, 2001. This amendment seeks to allow the Assistant Police Chiefs to be terminated " at will". Under the previously existing CBA, the Assistant Chiefs of Police were covered by the CBA. The Chief of Police, under Issue 5, has the

right to just cause reasons for termination and appeal to the City Manager. The amendment would "grandfather" the current Assistant Chiefs of Police in the classified civil service system, but new hires would be under the Issue 5 mandates.

The Union opposes these changes called for by Issue 5. It argues that the Assistant Chiefs would have no protection under the CBA or Civil Service while the Chief has the protection of just cause and appeal to the City Manager. Furthermore, the remainder of the members of the police department would have the protections of the CBA leaving only the Assistant Chiefs without the protection of the CBA; without just cause reasons for termination; or without Civil Service protection. The FOP does not want to change their status to "at will" employees.

The City has tried on several occasions to insert the mandates of Issue 5 into the CBA. Two previous Fact-Finding reports have rejected it: both the most recent report and the previous Fact-Finding report. Furthermore, the City Council rejected a tentative agreement which did not contain the changes mandated by the voters in Issue 5. Michael Paolucci as the previous Conciliator and the current Fact-Finder rejected the City's position and found for the Union in maintaining the status quo for the Assistant Chiefs.

The Fact-Finder in his report of February 25, 2005 clearly enunciated his decision based on several points: 1. This issue has been discussed at length between the parties and the Fact-Finder and neither has changed positions. 2. Issue 5 was a bad idea and 3. pending Unfair Labor Practice charges indicate that maintaining

the current situation for the Assistant Chiefs is the best course of action. I agree with him.

Decision: The Fact-Finder's recommendation stands. The language in the most recent CBA (current contract) stays and the FOP position to maintain current contract language in the Definition section of this contract is ordered. This decision effects other parts of the CBA which are at impasse and they are discussed below.

Article VII, Section 32, Assistant Police Chiefs

The decision immediately above also applies to this Section which is to maintain current contract language as requested by the FOP.

Article I Recognition

The City proposed to include language in this Article which would protect the incumbent Assistant Chiefs from the mandates of Issue 5 but would change the status of any new hires to the position of Assistant Chief,i.e., the new hires would be excluded from the bargaining unit and subject to the effects of Issue 5.

This Article also specifies the duration of the CBA.

The decision under issue 1, above, supports the FOP position of current contract language for this Article except that the duration of the CBA will be dealt with below under Article 17. Those new dates can then be inserted into this Article.

Issue 2: Article VII, Section 40, 42, Promotions

The Union seeks to add new language to the CBA with respect to promotions. By the inclusion of this language, the FOP seeks to stop the continued attempts by the City to codify Charter Amendment

Issue 5 into the labor agreement. The City objects to the inclusion of this new language especially since the Union has never challenged the City's promotional system. This proposal is contrary to City's long standing promotional practice, does not have factual support and there is no compelling reason to change the process. Furthermore the City argues that there are still Unfair Labor Practice charges and other litigation on Issue 5 questions yet to be resolved. Furthermore, the Fact-Finder did not recommend this language.

Decision: It is premature to add this language to the CBA since the challenges to the Issue 5 concerns have not been resolved by SERB and the judicial system. Do not add this Section to the CBA.

Issue 3, Article III Grievance Procedure

The Union proposes to scrap the new grievance procedure which was adopted in the previous CBA. The FOP states that it agreed to this changed procedure as a part of a package in order to secure a tentative agreement. The new arbitration system was not subject to serious discussion and in fact major elements of that package are before this Conciliator The Union offers several reasons why it does not like this system. The process for choosing arbitrators can be one sided under certain circumstances and if one party has the advantage it may be able to choose the majority of arbitrators on the list of arbitrators available for selection. The parties perceive arbitrators as favoring either management or union, thus the concern about a one sided list which may have more employer or more union arbitrators on it. Currently the list has a majority of

"employer" arbitrators on it.

This Conciliator might have been inclined to leave the new system in place for another contract period to give it a reasonable trial period, however, the premise of this system is flawed. It assumes that if one of the parties is able to chose the "right" arbitrator the case will be decided in their favor. Arbitration decisions should be (are) fact driven and decided by a **NEUTRAL** arbitrator. If an arbitrator is considered to be biased i.e. either a union or an employer arbitrator, one party (the employer) or the another (the union) will lose confidence that the outcome will be fair and thus this system of jurisprudence will be undermined.

Other characteristics of the system seem to be one sided. While the Employer offered good reasons for wanting the three year rule for evidence and pre-arbitration discovery, the police administration has a much greater ability to investigate using "Garrity" and also holds the documents that are relevant in a case. Thus, the benefit seems to accrue primarily to the Employer.

There are systems for securing a permanent arbitration panel which have been perceived as fair and have endured over time. They are all based on the parties choosing arbitrators for the panel that are mutually acceptable and include methods of choosing other mutually acceptable arbitrators when there is a vacancy. The Fact-Finder suggested that National Academy arbitrators be used. The Union pointed out that those arbitrators have not worked well for the City of Cincinnati. This Conciliator is not allowed to impose

another system but can only award the position of the Union or the Employer.

Decision: The FOP position is awarded and the language, as found in the FOP pre-hearing statement, is to be included in this CBA.

Issue 4, Article VII and Appendix A, Wages

The Union proposes a three percent (3%) increase in each year of the CBA. The City agrees with the Fact-Finding Report and endorses the one and one-half percent (1.5 %) increase from January and to June, 2005 followed by one and one-half percent (1.5 %) increase from July through December, 2005. That increases is to be followed in the second year of the CBA (2006) with one percent (1 %) increase for January through June, 2006 followed by one percent (1 %) increase beginning in July for the remainder of the 2006 period. In addition, the Employer wants a three year CBA and is proposing a reopener with respect to wages and health insurance for the third year of the CBA. According to the City's Finance Director, the Fact-Finder's method of increasing the wages leads to a 2.37 % increase for the first year of the agreement and a 2.22 % increase in the second year of the Agreement (due to the effects of compounding in the second year). Neither year's increase is a true 3% or 2%. The parties have agreed that any wage increases are retroactive.

The City argues that its revenues have been insufficient to be able to afford the wage increases sought by the Union while at the same time maintaining its commitment to increase the number of police officers in the City. It points out that it has a carry

over of funds from year to year but that this amount needs to meet the standard of being from 5% to 15% of annual revenues. Yet the percentage of carryover has been decreasing since 1999. Furthermore, the budget of the City reflects the fact many departments have experienced reductions in their budgets and that many positions are funded but remain vacant so that those moneys are available to balance the budget.

The City has some difficult financial problems due to the General Fund revenue stream which exhibits a repeating pattern of increasing for a time then it peaks and decreases. This is followed by another similar pattern for the years 1999 through 2005 as seen in City Exhibit E 19 and E 20. These graphs predict revenues in 2005 to return to the 2003 level for the General Fund and the projection is for revenues to increase in the future. The City looks to the various sources of revenue to explain these trends and focuses on the decline in jobs in the City which results in the decline in income tax revenues.

The expenditure trends in these two graphs seem to exhibit what was described as an expenditure problem rather than a revenue problem for the City in trying to reach a balanced budget with an acceptable carry-over. Expenditures are for the most part above revenues in six of the seven years depicted. Some City leaders have stated that City Council needs to manage the tax payers money better by prioritizing and restraining its spending. The City Manager pointed out that there are some increases in revenues in her report to City Council on May 4, 2005.

Two large sources of funds were discussed during the hearing: the Anthem de-mutualization funds ($55 million) and the Rail Road right of way funds ($18 million) . The City was quick to point out that these funds were either appropriated, earmarked or used for purposes other than personnel expenses. That being the case, revenues in the General Fund that might have been used for the above stated purposes could be freed for personnel expenses. This was not done and the employees of the City are expected to bear the brunt of the burden of what some might classify as misaligned spending by City Council. In addition, the real estate tax roll back was discussed during the hearing. It is a small dollar amount to a home owner according to the Fact-Finder Paolucci, but could be a significant source of funds for the City.

The new union of middle managers, CODE, negotiated an agreement which gave its bargaining unit two percent (2%) plus a two percent (2%) merit increase. According to the FOP, nearly 60 percent of the bargaining unit received four percent (4%). These increases were recommended by a Fact-Finder and affirmed by City Council. Yet, the City claimed that it did not have the ability to pay these bargaining units and initially offered a 0 % raise for the three years of the CBA. The expense of the CODE agreement was not budgeted but it was met. The City Council was able to meet the approved raise for the CODE employees by transferring funds from the unappropriated surplus of the General Fund. There appears to be a conflict between the funds that the City says are available and the funds that it made availale to pay the new union.

The method of bargaining on the part of the City leads to a lack of trust by not only the union bargaining team but also the neutrals who come into the process to try to effect a mutually satisfactory outcome between the parties.

The comparable police departments' top step salary schedule presented by the Union illustrates that a three percent wage increase would place this group above three of the five comparable departments. Two of the five, Columbus and Toledo, still have salaries above those of Cincinnati's at the top step. Thus, considering the high crime rate reported in Union Exhibit 20, and other factors, this wage increase is consistent with the comparability requirement of O.R.C. 4117.

Decision: All sworn members of the Cincinnati Police Department covered by this agreement shall receive a basic wage increase of three percent (3.0%) effective December 19, 2004, for the year 2005. For the year 2006, members shall receive a three percent (3.0%) increase effective December 4, 2005. Article VII, Section 1 shall be as it is in both the current contracts. Appendix A Wages needs to be corrected for the wage increases in this decision. The OPOTA and Training suppliments need to be corrected in accord with my decision under Issues 7 and 8 below.

Issue 5, Article VII, Section 5, Shift differential

The Union proposes to change the manner in which shift differential is computed by making it a percentage (3%) of the top step. It states that this would be increased automatically when wages increased. At 3 % of the top step it is not a significant

increase for this CBA according to the FOP estimates presented. In addition, it would not be necessary in the future to bargain over shift differential. The City states that the computation suggested is administratively difficult to accomplish. The flat dollar amount in the current CBA is stated as the position of the City. It accepts the Fact-Finder's recommendation and urges the Conciliator to do the same.

The City has presented to this Conciliator as its last best offer the language from the Supervisors CBA only which has the effective dates from the previous CBA. Those effective dates can simply be taken for what they are: The starting dates of the change in shift differential under the previous CBA, for historical purposes. This Conciliator combed the City's documents for its position on the shift differential for Non-Supervisory officers and then went to the Fact-Finder's recommendation which states as a recommendation for this issue that "The proposal is not recommended." We can gather the meaning from the fact that this was a union proposal and applied to both CBA s, however, the Fact-Finder states that the shift differential is $.70 per hour when the current CBA has it going to $.75 per hour effective January 1, 2004. He does not say retain current contract language although it can be inferred.

Seeking further guidance as to whether I can grant the City's position, I referred to the CBA s for both units and found that they have identical language on shift differential and state "for any sworn member of the Cincinnati Police Department working a tour

of duty . . . " This broadly states that the shift differential applies to all sworn members, yet, the language in the City's proposal is only for the supervisor's CBA. According to O.R.C. 4117.14 (G)(7), ". . . the conciliator shall resolve the dispute between the parties by selecting, on an issue-by-issue basis, from between each of the parties' **final settlement offers**, ". It is clear to me that the intent of the City was to retain the language in the current contract to both the Supervisory and Non-Supervisory bargaining units. My authority is limited by 4117 to final settlement offers but 4117.14(G)(7)(a) allows me to take into consideration past collectively bargained agreements between the parties in resolving the dispute. The past CBA s for both units have identical language on this issue which is broadly written to include all sworn members of the Cincinnati Police Department.

Decision: The language of the current CBA is to be retained and included in both the Supervisor's and Non-Supervisors CBA.

Issue 6, Article VII, Section 21 and Appendix C - Medical Benefits; Dental/Vision

There can be no doubt that health insurance costs have been escalating at a rate much faster than inflation. In addition, the City presented data which shows that the City employees' usage is significantly above the national average. These costs are a part of the total compensation dollars that are available for employees of the City. Increasing the spending on health insurance and claims payments by the City means that fewer dollars are available for wages and other benefits. The City proposes an 80/20 health insurance plan which increases costs to members but these increased

costs would fall mainly on the employees using health care. This same plan is in the AFSCME Agreement, in the CODE agreement, and all non-union employees of the City have this same health insurance plan.

Studies done and presented by the City show that a fairly small percentage of employees use the largest amount of health insurance benefits. Looking at these data in the City's Health Insurance binder Tab 4, in the first nine months of 2004, 65.9 % of all members had claims of $500 or less. For the entire 2004 year police claims for both PPO and HMO combined show that 74 % of bargaining unit members had a paid amount of claims less than $1,000. This plan design would put the expense burden on the high users of health care rather than on the whole bargaining unit. Yet, the out of pocket maximum protects the employee from catastrophic medical expenses.

Most employees as well as retirees are experiencing this shifting of cost by employers or retirement systems to the individual employee. In this case, the City plan is designed to offer incentives to employees to work with medical care providers to keep unnecessary usage and thus costs down. The Union was concerned about the average cost to the bargaining unit member. These costs are not properly averaged or spread over the entire unit as the example of 2004 experience shows. The cost to evaluate is the median cost and half (50%) of the bargaining unit is expected to have claims expense of $300.00 under the new health insurance plan.

The FOP presented a compromise plan to the City's proposal although it preserves the choice of health care providers for its membership. It recognized the increasing costs of medical insurance and the necessity for the employee to share in the burden but also requests an increase in the City's current contribution to the FOP's dental/vision plan. The decision of which proposal to choose is a difficult one. Cost to the employee is going to increase. How the increased cost burden of health insurance is to be allocated is a value laden question with no universally acceptable answer. This conciliator is opting for the plan that helps to preserve internal comparability while giving incentives to the employees to keep costs down.

Decision: Award the City's health insurance proposal as found in City Proposal Article VII, Section 21 and its Appendix C. Appendix C is missing the last page of the plan which is found in the AFSCME Agreement on page 99. Article VII, Section 21 as well as Appendix C (to be completed by adding page 99 from the AFSCME agreement) is to be included in the CBA: The Agreement will contain the terms of the medical insurance plan. Dental and Vision is a part of this Article and must remain at the $54.00 per member per month amount.

The terminology of Article VII, Section 21. Medical Insurance Benefits is not consistent with that of other parts of the CBA. This section begins with "Effective July 1, 2005, **Bargaining Unit members** ...". All other parts of the CBA use the terminology: **"Sworn members of the Cincinnati Police Department"** This Conciliator does not have the authority to order a change in the

language of this final offer but it should be done!

Again, this Conciliator is faced with an incomplete final offer by the City. (See above under Shift Differential) In this case. I am relying on 4117.14 (G)(7)(b)(c) and (f). In addition, the City's pre-hearing statement states that the health insurance plan it is proposing is in the AFSCME and CODE agreements as well as the plan which is applied to all non-union City employees.

Issue 7 and 8, Article 7, Section 32,33, OPOTA Certification: Non-Supervisors, OPOTA Certification: Supervisors.
Section 34, 35, Training Allowance: Non-Supervisors. Training Allowance Supervisors

There is no dispute that the OPATA allowance is to be four percent (4%) and the Training allowance is to be (2%). The parties disagree as to the base on which these allowances are to be computed. The previous Supervisors CBA went to conciliation and in that process the calculation of the OPOTA allowance for that bargaining unit was " ...four percent (4%) **of the member's bi-weekly gross pay;..."**

The City proposes what it believes the Fact-Finder recommends, that the Supervisor's OPATA and Training allowances be computed as is specified in the Non-Supervisory Agreement. It argues that the Supervisors obtained a windfall gain from the last conciliation agreement when it was awarded the computation based on the member's bi-weekly gross pay. Bi-weekly gross pay is usually higher than base pay because of over-time and other extra duty. The City also states that this calculation is administratively cumbersome because it involves a calculation for each individual supervisor. It wants to change the Supervisor's Agreement to be consistent with the Non-

Supervisors Agreement.

The Union proposes that the Non-Supervisors agreement with respect to both the OPATA and Training allowance be changed to "...four percent (4%) of the top step of the annual salary rate of the members current rank or grade,..." and to retain the current contract language for the Supervisor's CBA. The FOP wants to address the disparity between the two Agreements by making the Non-Supervisors Agreement more like the Supervisor's and to try to address the administrative problems. The Union points out that when the OPATA allowance was increased during the negotiation for the previous Agreement, the parties agreed that the additional two percent was a way of hiding a five percent wage increase (3% + 2% OPATA increase) The Union felt that if it were to be a "true" 5% increase then OPATA allowance should be based on gross pay. But, in an effort to reach agreement, the Union agreed to the "top step" language.

The Conciliator is instructed to consider the ability of the public employer to administer the issues proposed [4117.14(G)(7)(c)] as well as comparison of the issues relative to the employees in the bargaining unit(s) involved. Following these guidelines, consistency or internal comparability between units and administrative difficulty would lead me to accept the City's position. However, the language presented to me for the base calculation of the Training allowance is not the same for both units. The Non-Supervisory unit language says "two percent of the members base pay" while the Supervisor's unit language says " top

step of the annual salary rate of the member's classification". This may be another error on the City's part but it does not fit the consistency criteria any better than the FOP position. As for administrative difficulty, a computer program should be available to calculate the supervisor's allowances using gross pay.

Decision: The FOP position is awarded: The calculation for the OPATA allowance for the Non-Supervisor's CBA is to be based on "... four percent (4%) of the top step of the annual salary rate of the member's current rank or grade,..." (Article VII Section 32) and the Supervisor's CBA retains the current contract language of Article VII, Section 33 : "...two percent (2%) of the member's bi-weekly gross pay,...".

The calculation of the training allowance for the Non-Supervisors Agreement uses the same base as for the OPOTA calculation: "...two percent (2%) of the top step of the annual salary rate of the member's current rank or grade..." (Article VII, Section 34)

The calculation for the Training allowance for the Supervisor's Agreement is found in the current contract and is to be "... two percent (2%) of the members bi-weekly gross pay,..."

The internal comparability is that the Non-Supervisors OPATA and Training allowance are calculated on the same base, and, the Supervisor's OPATA and Training allowance are calculated on its same base. Unfortunately, the base for the Non-Supervisors is not the same base as that of the Supervisors.

Issue 9, Article 16, Residency

The FOP proposes that the residency requirement for police officers be less restrictive than the current Hamilton County rule. It proposes an arcing area bounded by Kentucky on the south and Indiana to the West. This area would not increase response time and could enhance the recruiting efforts for Cincinnati police officers. The Hamilton County Sheriff's deputies currently enjoy this expanded residency.

The City proposes current contract language citing the fact that all city employees both Union and non-Union have this residency requirement. Department Heads, however, must live within the City of Cincinnati. This is a long standing policy which is universally and consistently applied to all City employees.

Decision: Award the City's position and retain the current contract language. This is a long standing requirement which is consistently applied to all City employees.

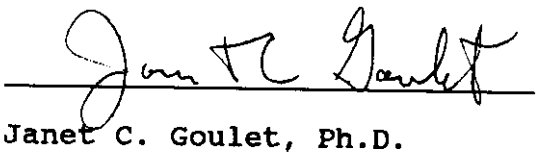
Issue 10, Article 17, Duration

The Employer proposes a three year CBA with a re-opener in the third year with respect to wages and health insurance only. The bargaining history of the parties has led to numerous disputes and a three year agreement would allow them time and space between negotiations which might reduce labor strife. Most other agreements between the City and its Unions are for a three year period. The re-opener would allow the parties to respond to changes in the economic climate of the City. In addition, the Fact-Finder recommended the three year agreement.

The FOP prefers to retain the two year agreement. This

language has been in the CBA since the first written agreement in 1976. In addition, the FOP opposes the November date in the Employer's proposed language. It would not give them enough time to negotiate and then if necessary use the dispute resolution system of O.R.C. 4117 before January, 2007. Unless the Employer agreed to retroactivity, the bargaining unit would not see any economic benefits until the following year at which time the entire CBA is due for negotiation.

Decision: The FOP position is awarded for both contracts: Retain what has been called the two year agreement based on the bargaining history of the parties. The language is found in the FOP proposal for conciliation: "This agreement shall be effective as of 12:01 a.m. of the 19th day of December 2004 and shall remain in full force and effect until midnight of the 2nd day of December 2006.. . . " The remainder of Article XVII remains as it is in the current contract.



Date: June 7, 2005

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