



STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

CONCILIATION BETWEEN

FRATERNAL ORDER OF POLICE, OHIO LABOR COUNCIL, INC

AND

CITY OF ZANESVILLE, OHIO

CONCILIATOR: JACK E. McCORMICK

HEARING: APRIL 12, 2006

Case No. 05-MED-07-0744

2006 APR 19 A 8:43

STATE EMPLOYMENT  
RELATIONS BOARD

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CONCILIATOR'S AWARD

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FOR THE EMPLOYER:

Dale Raines  
Budget and Finance Director  
401 Market Street  
Zanesville, Ohio 43701

FOR THE UNION:

Frank Arnold  
Fraternal Order of Police  
222 East Town Street  
Columbus, Ohio 43215

On April 12, 2006 a conciliation hearing was held at the Zanesville City Building, Zanesville, Ohio, between the Fraternal Order of Police, Ohio Labor Council, Inc. and the City of Zanesville.

Present for the hearing were: The Honorable Howard "Butch" Zwelling, Mayor, City of Zanesville; Dale Raines, Budget and Finance Director, City of Zanesville; and Eric Lambes, Chief of Police, Zanesville Police Department. For the Union, Frank Arnold, Staff Representative; Brent McCutcheon, Zanesville P.D.; Randy Richardson, Zanesville P.D.; Michael P. Brower, Zanesville P.D.; Shane Starkly, Zanesville P.D.

The parties were fully informed by the Conciliator of the law and rules surrounding conciliation as contained in Chapter 4117 of the Ohio Revised Code.

The City of Zanesville and the Fraternal Order of Police, Zane Lodge No. 5, have reached an impasse during negotiations for a three year continuation for their current labor agreement. This agreement will take effect January 1, 2006 and expire December 31, 2008, however, the parties have stipulated that if any wage increases are to be granted by the Conciliator that they shall be retroactive to January 1, 2006. The bargaining unit consists of forty-five sworn police officers.

The parties met for negotiations in six sessions from September to December of 2005. Agreement was reached on language for all but four Articles of the contract, and they are:

Article 7 - Wages

Article 8 - Vacation

Article 9 - Insurance.

On January 18, 2006 a Fact-Finding hearing was held with Charles W. Kohler, Fact-Finder for the State Employment Relations Board. Mr. Kohler issued his report on February 8, 2006 and it was rejected by the City, but approved by the Union.

### **WAGES**

As to this particular issue there is but a minor difference in the two parties' final position, which should have been mediated.

The City proposes wage increases of zero percent for 2006, 4% for 2007, and 4% for 2008.

The Union proposes raises of 1% for 2006, 4% for 2007, and 4% for 2008.

For alleged economic reasons the City is asking to forego a general wage increase for the first year of the contract based on its ability to fund such a wage increase. The City presented numerous documents, including, but not limited to, its fiscal year 2006 budget, which it avers, demonstrates their current financial "crisis". It is noted that the Union's proposed 1% wage increase, with fringe benefits, would cost the City approximately \$33,000. The City warns that any wage increase would necessitate having to layoff one or more policemen. The City points to a deteriorating revenue situation over the past few years and an extraordinary

increase in Worker Compensation rates for 2006. It is noted that the Police Department is funded by a one-half percent income tax along with a supplemental grant from the General Revenue Fund. In the years of 2002 through 2003 the City's income tax has fallen from \$12,179,313 to \$12,105,263, while the police income tax has increased from \$3,581,952 to \$3,589,569. This would indicate that the City's revenue stream is relative stagnant. However, Union Exhibit No. 1 which is a year to date fund report as of April 12, 2006, indicates that the City has received \$3,388,675 in income taxes this year and \$1,311,869 from the police income tax. Furthermore, as of April 12, 2006, the City had an unencumbered available balance of \$3,336,934.53.

However, one must carefully exam the facts in this matter, specifically the City's claim that it is in a "budget crisis". Although it realized \$12,851,312 from income taxes in 2005 it projects in its current budget only \$7,378,122 without any explanation. However, to April 12, 2006 it admits to receiving \$3,388,675, or 47.2% of the anticipated revenue for the entire year! If, and there is no reason to believe otherwise, income tax receipts remain steady, then the City will receive \$13,554,700 in 2006, or 5.2% more than 2005. The Mayor stated that there will be 59 new private employees making \$20.00 an hour beginning this year and a new shopping mall, a Kohls and TJ Maxx store are scheduled to open.

More interesting is the City's estimated General Fund receipts from other sources. In 2006 they assume no increase in property

taxes, notwithstanding the above referenced new businesses, no increases in personal property or franchise taxes, actual declines (without explanation) in inheritance taxes, cable TV fees, court fines and fees, and a \$50,000 decline in interest income in a period when interest rates are rising monthly.

In fact, the City wants the Conciliator to believe that virtually all of its sources of general revenue will be exactly the same or decline. No explanation for these assumptions were provided at the hearing.

The Fact-finder recommended a wage freeze in the year 2006 based on City's financial condition, rather than on a comparison of wages in comparable cities. However, as to this point the Conciliator must disagree with the Fact-Finder's conclusion regarding the City's financial position. This neutral cannot find any situation wherein the City of Zanesville would be forced to "layoff a police officer" as a result of granting a one percent wage increase, that for the entire bargaining, unit would cost the City \$33,000. It was also argued by the City that, the wage increase would necessarily diminish their "carry-over" to the next year. Here again the Conciliator does not believe it reasonable to conclude that if the City did not have an adequate carry-over that it would sacrifice one of its police officers for the sake of adding \$33,000 to its carry-over. This would be foolhardy in extremis. This city is not in fiscal crisis.

## **AWARD**

The Union's position on wages for conciliation of a one percent raise in 2006, 4% raise in 2007, and 4% raise in 2008 is hereby adopted.

## **STEP INCREASES**

As a sub-part to the parties' proposals on wages is a proposal by the City that step increases scheduled for the bargaining unit beginning in January of 2006 be deferred to July 1st of 2006. Again the City's argument is its inability to fund these step increases. However, by all calculations the step increases affect only a portion of the bargaining unit and therefore the total cost would be approximately \$24,000. Admittedly this unit's schedule of step increases are unusually generous. From Step B through Step F the increases are: 9.2%, 10.9%, 5%, and 20.9%. However, this schedule was fairly bargained for in a prior contract. This Conciliator is extremely reluctant to abrogate provisions in an existing contract that were part of free and open bargaining, except where extraordinary circumstances exist. Considering the cost of this proposal, i.e. \$24,000, as well as the fact that the City is going to be realizing both additional income tax as well as property taxes from the new businesses discussed earlier herein, there appears to be no extraordinary circumstances that would justify

this Conciliator abrogating, as the City proposes, the current step schedule.

#### **AWARD**

The City's proposal for deferring step increases to the bargaining unit to July 1, 2006 is hereby rejected. Current language is maintained.

#### **ON-CALL PAY**

Both parties propose changes to the current language for officers who are on-call and expected to remain within the county and be able to respond to work within a reasonable period of time.

The current contract grants double-time to an employee assigned to be on-call and who is subsequently called for duty. The Union has proposed adding language granting two hours of compensatory time per pay period if such an employee is not called to duty. These provisions apply primarily to detectives and evidence technicians and not the entire bargaining unit. The current contract states at Section 7.6: "Employees in the bargaining unit assigned to on-call status will receive double-time for hours worked when called in outside their regular scheduled hours." The question really becomes officers who are on-call, but are not called out should in some way be compensated, and if so, at

what rate. The City does not believe that employees that are merely on-call should be paid, but under its latest position, has agreed that any employee called in shall receive three hours of pay at straight time or pay for time actually worked at the applicable rate whichever is greater.

There is no question that employees, especially law enforcement officers are extremely restricted in both their activities and travel while in an on-call status. Accordingly, some compensation must be provided to them for this inconvenience. During this period of time they would be not only geographically restricted, but certain activities such as consuming alcoholic beverages, carrying a firearm, and other equipment with them, and other such activities. On this point the Conciliator agrees wholeheartedly with the Fact-Finder in his recommendation and the rationale behind it in his report.

#### **AWARD**

The Union's proposal for Section 7.6 of the current contract is hereby adopted.



## VACATION

The Union proposes that Section 8.1(A) be modified to provide that employees with more than twenty-two years of service receive an additional .46 hours of vacation per pay period. This proposal will result in additional vacation of 1.5 days per year for a total of 6.5 weeks of vacation for effected employees. The Union asserts that this proposal will bring Zanesville into line with the vacation schedules in Athens and Chillicothe.

The City points out that police officers in Zanesville receive more vacation than officers in Cambridge, Heath, Lancaster, and Newark. At the top level of the vacation accrual, police officers in these cities receive 200 hours, except for Newark, where they receive 240 hours of vacation.

The increase in employees' vacation accrual has a fiscal impact upon the City. They must either hire additional officers to cover the vacation or other officers have to work overtime. Furthermore, when taking into consideration current vacation schedules and the City's proposed additional holidays (which will be discussed below), Zanesville police officers are, relative to other departments, as well as the unaffiliated and AFSCME employees of Zanesville above average. Notwithstanding the fact that the Union's proposal might have a minimal impact on the City, it is not compelling enough to impose such an impact. If the bargaining unit was at the lower end or the lowest of all other units within the

City of Zanesville and surrounding communities, it might be more compelling. Accordingly, the FOP's proposal for additional vacation entitlement must be rejected.

#### **AWARD**

The current language of the collective bargaining agreement at Section 8.1(A) is hereby adopted.

#### **HOLIDAYS**

The current agreement gives the employees six holidays per year. Those holidays are New Years Day, Memorial Day, Independence Day, Veterans Day, Thanksgiving Day, and Christmas Day. The Union proposes to add four additional holidays while the City has agreed to add two additional holidays, those being Martin Luther King, Jr.'s Birthday, and Labor Day. It is noted that both the City of Athens, as well as Chillicothe, have many more holidays than the City of Zanesville, that being eleven for the former and fifteen for the latter. Accordingly, the Union's position is not unreasonable, it would only add .46 hours of vacation for every 11.96 hours each year. The Conciliator finds this to be a very close question. On the one hand Zanesville police officers are behind their brethren in nearby cities in the area of holidays. On the other hand the City is proposing to increase the current vacation days by two and there is a fiscal impact. Once again the

fiscal impact may be minimal, however, the City in good faith has agreed to accept 4% wage increases in the last two years of this contract, for which it will necessarily have to find funding. There indeed may be a time in the future when the City's fiscal position will be sufficiently improved that this shortfall in holidays can be revisited by the parties. However, in light of the wage increases, which in an accumulated total will be in excess of 9%, the Conciliator must, regretfully, reject the Union's proposal for these two additional holidays.

#### **AWARD**

The City's proposal to add Martin Luther King, Jr.'s Birthday, and Labor Day as contained in its proposal for Section 8.1(H) is hereby adopted.

#### **INSURANCE**

It goes without stating that all employers, both public and private, are being overwhelmed by the increased cost of health insurance and prescription drugs. For the years of 2002 through 2005 the City experienced an annual cost increase from \$2,831,815 to \$3,777,144, a 33.38% increase. Within this increase 54.47% was an increase from general revenue fund and 36.55% was from the police fund. Accordingly, health insurance cost increases are

documented. Both parties are to be commended in that they are attempting in their respective proposals to address this growing problem.

The Union proposes that in year 2007 all employees choosing single coverage should pay by payroll deduction \$7.00 per pay period and \$10.00 in 2008. Family coverage would increase to \$20.00 in 2007 and \$25.00 in 2008.

Currently single coverage is \$5.00 per pay period and family coverage is \$15.00 per pay period.

It is significant to note that in City Exhibit 8(B) monthly employee costs for comparable cities (see Cambridge, Heath, Lancaster, and Newark) are all well below Zanesville employees current costs. Those costs while \$32.50 in Zanesville range from \$90.00 in Health to \$140.00 in Cambridge.

Also in the same exhibit it is clear that Zanesville employees are averaging, in their percentage contribution to employees' cost, 6.69%, or another way to look at it is the City is paying 93.31% of all Zanesville employees' health costs.

The City proposes that in 2007 single coverage be increased to \$10.00 per pay period, \$30.00 for family, and in 2008 \$15.00 per single, and \$35.00 for family. Thus, the City's proposal would triple the employee's premium over what is currently being paid to the end of the proposed contract. Both parties agree that deduction for whatever coverage shall be made only if unaffiliated (non-contract) employees of the City pay an equal or greater amount.

Looking at the SERB data at City Exhibit 9, it is observed that the Zanesville Police Department is far below in its average contribution both statewide and within cities of a comparable population. The average statewide contribution is \$41.30 for single and \$112.43 for family coverage, which comes out to 11.8% of the total cost per single and 11.5% cost per family. All employees (public and private) must face the fact that they must share in the pain of our escalating health insurance problem. Although the City's proposal to increase the premiums is from the standpoint of percentage increase quite large, it must be noted that Zanesville police officers start out with a existing premium which is unusually low. This Conciliator would have preferred to have found something in between the two parties' proposals as it relates to this particular issue, and it is indeed unfortunate that it was not mediated so that a conciliator would not be put in such a position as having to choose one, or the other. Neither party's proposal satisfy this Conciliator, however, when forced to choose, he must choose, very reluctantly, the Union's more modest increase.

**AWARD**

The Union's City's proposal to increase health insurance contribution at Article 9, Section 9.1 is hereby adopted.

## **PRESCRIPTION COVERAGE**

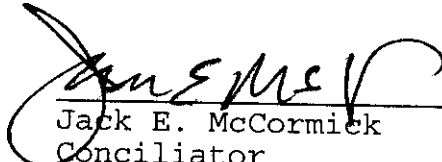
Once again the parties have expressed their good faith in making proposals that would increase the employee's contribution to health care costs by increasing the co-pays for drug prescriptions. Current contract language at Section 9.2(A) provides that the co-pay for bargaining unit employees shall be \$5.00.

The Union proposes raising that to \$7.00 in 2007, and \$10.00 in 2008. This would be doubled to \$10.00 beginning in 2007 according to the City.

Accordingly, the only difference is the year 2007, where the Union has agreed to \$7.00 in 2007 and the City wants an increase to \$10.00. Once again the City is placed with an ever escalating increase for prescription drugs and is attempting in a modest proposal to ameliorate this increase. The Conciliator notes that in the private as well as public arbitrations he has conducted over the last twenty-four months, he has found that the above co-pay of \$10.00 seems to be a standard provision both in the public and private sector. It should be noted that the increases in health care premiums and drug co-pays adopted herein come during the same period (2007-2008) that they will be receiving a four percent wage increase.

**AWARD**

The City of Zanesville's proposal to increase the co-pay for drug prescriptions to \$10.00 for the years 2007 and 2008 is hereby adopted.

  
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Jack E. McCormick  
Conciliator  
500 City Park Avenue  
Columbus, Ohio 43315

April 17, 2006


CERTIFICATE OF SERVICE

The foregoing was mailed postage paid this 17th day of April,  
2006 via U.S. Mail to the following:

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April 17, 2006  
Columbus, Ohio