

COPY

IN THE MATTER  
OF  
INTEREST ARBITRATION  
CONCILIATION  
OPINION & AWARD

<b>BETWEEN</b>	<b>CASE NO: SERB 06-MED-6-0775, 0776, 0777</b>
<b>The</b>	<b>FACT FINDER: JOHN S. WEISHEIT</b>
<b>Fraternal Order of Police, Ohio Labor Council, Inc.</b>	<b>HEARING DATE(S): February 27, &amp; March 14, 2007</b>
<b>And the</b>	<b>AWARD ISSUED: March 29, 2007</b>
<b>City of Jackson, Ohio</b>	

**REPRESENTATION**

by

<b><u>Employer Representatives</u></b>	<b><u>Union Representatives</u></b>
Robert Howarth, Esq., Advocate Shane Goodman, Mayor Carl Eisnaugle, Chief of Police	Andrea H. Johan, OLC, Staff Rep. Scott Conley, Sgt. Rick Jordan Sgt. Chris Walls, Patrol Steve Sprague, Patrol Steve Sickles, Dispatch

**AUTHORITY**

This matter was brought before Conciliator John S. Weisheit, in keeping with applicable provisions of ORC 4117 and related rules and regulations of the Ohio State Employment Relations Board.

## **BACKGROUND**

The City of Jackson, Ohio, hereinafter called the “Employer” and/or the “City”, recognizes the Fraternal Order of Police, hereinafter called the “Union” and/or “FOP”, as the sole and exclusive bargaining agent for all police officers, Sergeants and Dispatchers employed by the City. The parties engaged in bargaining for a successor Agreement to the Contract expiring September 22, 2006. In the course of good faith bargaining, a tentative agreement was reached between the respective authorized bargaining representatives. The City Council, the Employer’s Governance body, rejected the tentative agreed to contract and the matter was moved to Fact Finding pursuant to ORC 4117. The Fact Finder’s recommendation was to incorporate the terms of the tentative agreement between the parties. The Fact Finder’s recommendation was rejected by the City Council and the matter was moved to Conciliation as set forth under ORC 4117.

The Union complied in a timely manner with all procedural filings. In particular, it submitted a Pre-Conciliation Hearing Position Statement to this Conciliator. Said Statement included the Union’s last offer on each issue remaining at impasse, item by item, at least 5 calendar days prior to the convening of the Conciliation Hearing pursuant to ORC 4117. The Employer did not timely comply in submitting a Pre-conciliation Hearing Position Statement including a report defining the issues it held remained at impasse, did not set forth its final position on said item(s), nor transmitted its Position Statement to this Conciliator by at least 5 calendar days prior to the Conciliation Hearing as required under ORC 4117 and OAC Rule 4117-9-06(E)(4).

The Conciliation Hearing was convened at the Jackson City Council Room, Jackson, Ohio, on March 14, 2007. The matter before the Conciliator is a determination based on the “last best offer” by each party as set forth under ORC 4117 . The determination of the Conciliator is based on merit and evidence introduced in the Hearing and in accordance with the provisions of ORC 4117, and relevant rules, particularly those applicable to safety forces.

The Hearing was adjourned after the parties had indicated they had nothing additional to submit on behalf of their bargaining position and acknowledged that they had sufficient opportunity to present such facts and documentation to support their respective positions in keeping with provisions of ORC 4117.

In compliance with ORC 4117.14(C)(4)(e), and related rules and regulations of the State Employment Relations Board, the following criteria were given due consideration in making the determination and Award:

1. Past collectively bargained agreements between the parties;
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;
3. The interest and welfare of the public, the ability of the public Employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standard of public service;
4. The lawful authority of the public Employer;
5. Any stipulations of the parties;
6. Such other factors, not confined to those listed above, which are normally or traditionally taken into consideration in the determination of issues submitted to mutually agreed-upon dispute settlement procedures in public service or in private employment.

This Report is based on facts provided in documents properly introduced prior to the Hearing, as well as the Fact Finder’s Determination and Recommendation.

## **DISCUSSION & DETERMINATION**

### **BY THE CONCILIATOR**

The Hearing was scheduled by the Conciliator, and mutually agreed to by the duly appointed authorities of the respective parties, for February 27, 2007. A conference call to the Conciliator was convened by the legal counsel for the City and the FOP Representative on February 23, 2007. At that time, the City requested to postpone the convening of the Conciliation to a date after March 12, 2007, for the sole purpose of granting the City Council an opportunity to reconsider its rejection of the Fact Finding recommendation. This request was strongly opposed by the Union. Over the Union's objection, the Conciliator did grant a recess of the hearing until March 14, 2007. All parties concurred that the extension was for the sole purpose to grant the City Council the opportunity to reconsider its prior action of rejecting the Fact Finder's recommendation. It was understood that said recess was not to improve the parties' Statutory bargaining position as of February 23, 2007, should the City reaffirm its action and reject the Fact Finder's Recommendation again at the City Council Meeting on March 12, 2007. The Council, however, again rejected acceptance of the Fact Finder's recommendation at its March 12, 2007, meeting. Pursuant to the terms of the recess, the Conciliation Hearing moved forward on March 14, 2007.

The Union's final position was that the Agreement should include each Article as recommended by the Fact Finder. The City and Union mutually agreed that the Agreement was properly reflected in the Union's Pre Conciliation Report.

## **CONCLUSION and DETERMINATION**

Due consideration was given to the evidence and testimony introduced in this matter in keeping with terms of ORC 4117 and as mutually agreed to by the parties. Ability to pay is not at issue in this case. The final positions of the Union are found reasonable and appropriate.

The City did not submit a final position statement on the issue(s) considered unresolved, nor did it offer any timely and persuasive challenge that gives cause against finding that the Union's final position is found to be the last best offer for inclusion in the Agreement.

Therefore, after due consideration of all matters and previously addressed in this Award, it is determined that the final position of the FOP is the last best offer and should constitute the Agreement between the parties commencing September 22, 2006, through September 21, 2009.

Prior to the conclusion of the Hearing, each party affirmed they had no additional evidence or testimony to offer in this matter. Each acknowledged having a fair and ample opportunity to present such evidence considered relevant in this matter.

## AWARD

It is determined the Agreement between the parties will include the terms as put forth by the Union as its last offer. The text of in the FOP's Pre Conciliation Position Statement is to be incorporated into the Agreement pursuant ORC 4117 in an expedient manner.

### TOTALITY OF AGREEMENT

- It is determined that the terms submitted by the Union are to be the total Agreement between the parties.
- This will affirm the foregoing report, consisting of **6 pages**, includes the findings and determinations set forth in this Award by the below signed Conciliator.

---

To the best of my knowledge, this Opinion & Report and the determination complies with applicable provisions of ORC 4117 and related Rules and Regulations adopted by the State Employment Relations Board.

I therefore affix my signature at the City of **Galion**, in the County of **Crawford**, in the State of **Ohio**, this date of **March 29, 2007**

  
\_\_\_\_\_  
**John S. Weisheit, Conciliator**

# CERTIFICATE OF SERVICE

2007 MAR 30 ~~This will~~ <sup>At 11:45</sup> affirm that the Conciliation Report and Award in the Matter

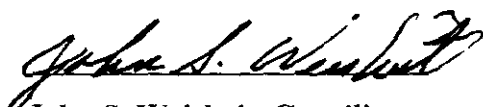
<b>BETWEEN</b>	
<b>The Fraternal Order of Police, OLC, Inc.</b>	<b>CASE NO: SERB 06-MED-06-0755 SERB 06-MED-06-0756 SERB 06-MED-06-0757</b>
<b>And</b>	
<b>The City of Jackson, Ohio</b>	
<i>was served to the below named parties at the stated addresses via USPS First Class Mail.</i>	
<b>Andrea Johan, FOP Staff Representative 5399 Redwood Rd. Columbus, OH 43229</b>	<b>Robert Howarth, Esq. City Counsel 471 E. Broad St. Suite 2000 Columbus, Ohio 43215</b>

Copy of this Award was submitted U. S. Postal Service by First Class Mail.

Director, Bureau of Mediation, SERB, 65 E. State St., Columbus, OH 43215-4213.

Said mailing was made on the date of **March 29, 2007.**

I affirm, to the best of my knowledge that the foregoing is true and accurate and in keeping with ORC 4117 and related SERB Rules and Regulations.

  
John S. Weisheit, Conciliator

Date: March 29, 2007