

# HAND DELIVERED

STATE OF OHIO  
BEFORE THE OHIO STATE EMPLOYMENT RELATIONS BOARD

STATE EMPLOYMENT  
RELATIONS BOARD  
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0946

IN THE MATTER OF CONCILIATION :  
BETWEEN THE : SERB Case Numbers: 08-MED-09-  
CITY OF CHILlicothe, OHIO, : 0947, 0948 and 0949  
EMPLOYER : Date of Conciliation Hearing:  
AND THE : July 24, 2009  
FRATERNAL ORDER OF POLICE, :  
FIRST CAPITAL LODGE 59, : Howard D. Silver  
UNION : Conciliator

OPINION AND ORDER OF THE CONCILIATOR

APPEARANCES

For: City of Chillicothe, Ohio, Employer

William J. Smith, Esquire  
Human Resources Department  
City of Chillicothe  
35 South Paint Street  
Chillicothe, Ohio 45601

For: Fraternal Order of Police, First Capital Lodge 59, Union

Brenda Goheen  
FOP Representative  
FOP Lodge Number 59  
2915 Township Road 155  
Cardington, Ohio 43315

This matter came on for conciliation hearing at 10:00 a.m. on July 24, 2009 in a conference room in the city of Chillicothe, Ohio Administration Building, 35 South Paint Street, Chillicothe, Ohio 45601. Both parties were afforded a full and fair opportunity to present evidence and arguments in support of their positions. The conciliation hearing concluded at 11:00 a.m. on July 24, 2009.

This conciliation process proceeds under the authority of Ohio Revised Code section 4117.14 and in accordance with rules adopted by the Ohio State Employment Relations Board, including Ohio Administrative Code section 4117-9-06. Both parties have carried out their respective obligations in filing with the conciliator the pre-hearing information required by Ohio laws and regulations.

#### FINDINGS OF FACT

1. The city of Chillicothe, Ohio, hereinafter the Employer, and the Fraternal Order of Police, First Capital Lodge 59, hereinafter the Union, have a long history of bargaining collective bargaining agreements.
2. The most recent Agreement ratified by both parties was effective from 7:00 a.m. on January 1, 2006 through 11:59 p.m. on December 31, 2008.
3. The conciliation process herein follows bargaining by the parties for a successor Agreement to be effective January 1, 2009 and to extend through December 31, 2011.

4. Many of the Articles in the parties' most current collective bargaining agreement were agreed by the parties to be included in the successor Agreement without change.

5. Some Articles were bargained by the parties to a tentative agreement either through a change in the language or through retaining current language.

6. After good faith bargaining on both sides, there remained unresolved issues between the parties about their successor collective bargaining agreement and the bargaining process moved to a process of fact-finding.

7. A fact finder's report was issued on February 2, 2009, with the Employer accepting the fact finder's report but the Union rejecting the fact finder's report.

8. Between the February 2, 2009 issuance of the fact finder's report and the conciliation hearing convened on July 24, 2009, the parties reached additional tentative agreements as to Articles that had been bargained but had remained unresolved.

9. By the time of the conciliation hearing on July 24, 2009 the parties had reached tentative agreement on all Articles to be included within the parties' successor collective bargaining agreement except two: Article 24, Wages, section 24.8, Pension Pick-Up; and Article 25, Insurance, a proposed new section, section 25.4, Premium Level Contributions By Union Members.

10. The bargaining unit is comprised of full-time city of Chillicothe police officers, police sergeants, dispatchers, and clerks who work solely at the police department's records division.

11. The bargaining unit is comprised of fifty-two members and does not include full-time police officers above the rank of sergeant,

probationary employees, temporary employees, part-time employees, seasonal employees, or emergency employees.

12. The Employer bargains collective bargaining agreements with three separate bargaining units: a bargaining unit of firefighters, a bargaining unit represented by AFSCME, and a bargaining unit represented by the FOP.

13. The collective bargaining agreements among the three City bargaining units expire at different times.

14. The AFSCME bargaining unit was the subject of a conciliation award issued on April 27, 2009.

#### UNRESOLVED ARTICLES

##### Article 24-Wages, section 24.8, Pension Pick-Up

The parties have reached tentative agreement as to wage increases for bargaining unit members during the term of the parties' successor Agreement, retroactive to December 1, 2009 and extending through December 31, 2011. The tentative agreement by the parties is a three percent wage increase effective January 1, 2009; a three percent wage increase effective January 1, 2010; and a three percent wage increase effective January 1, 2011. All unopened and tentatively agreed Articles are ordered included in the parties' successor collective bargaining agreement, including the tentative agreement reached by the parties as to a three percent annual wage increase during the term of the successor Agreement, beginning January 1, 2009.

The parties have not reached agreement as to the language of Article 24, section 24.8 to be included in the parties' successor Agreement, Pension Pick-Up. The language of the latest collective bargaining agreement between the parties calls for a five percent pension pick-up to be paid by the Employer. The Union proposes that this five percent pension pick-up be increased to seven percent, a forty percent increase, based on the fact that all other city of Chillicothe employees - firefighters in the IAFF bargaining unit, city employees in the AFSCME bargaining unit, and non-organized employees of the city of Chillicothe - enjoy a seven percent pension pick-up. The Union argues that increasing the pension pick-up for the members of the bargaining unit considered herein, the FOP bargaining unit, is a matter of fairness. The Union notes that no claim of an inability to pay for this increased benefit has been put forward, and there is no reason to treat the members of this bargaining unit different from other bargaining units and other employees of the city of Chillicothe.

The Employer opposes the increase to the pension pick-up suggested by the Union and urges that the conciliator order that the five percent pension pick-up be retained in the parties' successor Agreement. In support of this argument the Employer points to the economic circumstances faced by the city of Chillicothe amid a generally depressed economy locally and statewide.

The Employer reminds the conciliator that the Employer has agreed to a three percent annual wage increase during the term of

the parties' successor Agreement, an increase that will have a substantial impact upon costs. The Employer points out that each of the collective bargaining agreements among the three City bargaining units, IAFF, AFSCME, and FOP, are different. These differences arise because of differences in emphasis among these collective bargaining agreements as to particular terms and conditions of employment. While one bargaining unit may feel strongly about a particular aspect of their Agreement with the Employer, another bargaining unit may feel just as strongly about a different subject. These differences produce the particular contours of a collective bargaining agreement. The Employer notes that a comparison of collective bargaining agreements becomes complicated by the fact that each is a discreet entity, with its own balance of benefits and obligations.

The Employer declares that there is no reason to increase the pension pick-up for the FOP bargaining unit and urges the retention of the five percent pension pick-up found in the parties' latest Agreement.

The conciliator orders the increase in pension pick-up proposed by the Union, increasing the pension pick-up from five percent to seven percent. It is undisputed that the IAFF collective bargaining agreement provides for a seven percent pension pick-up for fire fighters; the AFSCME collective bargaining agreement, about which a conciliator's award was issued on April 27, 2009, will provide for a seven percent pension pick-up, although there is no mention of pension pick-up in the conciliation award; and the

non-organized employees of the city of Chillicothe also enjoy a seven percent pension pick-up. There is no indication in the record that the seven percent pension pick-up for the IAFF bargaining unit, for the AFSCME bargaining unit, and for the non-organized employees of the city of Chillicothe had been forced upon the Employer. It appears that the seven percent pension pick-up was agreed by the Employer among all organized and non-organized employees except for the FOP bargaining unit. The only employees who have not had an agreed seven percent pension pick-up by the Employer is the bargaining unit represented by the FOP. There has been no claim of an inability to pay for the increased pension pick-up proposed by the FOP in this conciliation proceeding. Such an increase would place the FOP on an equal footing with all other city of Chillicothe employees, organized and non-organized, as to pension pick-up.

The conciliator finds an issue of fairness underlying the Union's proposed increase in pension pick-up in that the proposal seeks parity with other employees of the City. The conciliator finds no countervailing argument of sufficient weight to overcome the fairness issue raised by the Union as to pension pick-up. The conciliator finds insufficient evidence to support treating the FOP bargaining unit differently from all other city employees as to pension pick-up and therefore selects the Union proposal on pension pick-up, increasing the pension pick-up from five percent to seven percent.

Ordered Language - Article 24, section 24.8 Pension Pick-Up

A. That portion of the employee's contribution to the pension fund (herein referred to as the FUND) up to seven percent (7%) shall be picked up (assumed and paid) on behalf of the employee, and in lieu of payment by the employee, by the city of Chillicothe, the city's portion shall be paid as to the following schedule:

7% of the Employee's Compensation

Section 24.8, Paragraphs B, C, and D - Retain current language.

Article 25 - Insurance

The Employer proposes new language to be included within the parties' successor Agreement in Article 25, section 25.4, that would obligate each member of the bargaining unit who participates in health insurance coverage provided by the Employer to pay up to ten percent of the monthly premium for the coverage, with each annual increase capped at ten percent. The Employer points to the increased costs involved in providing health care coverage to employees and also points to data from the State Employment Relations Board's Clearinghouse showing that among municipalities with a population of less than twenty-five thousand, an average of 10.5% is contributed by employees for health care coverage.



The Union opposes the new language suggested by the Employer, arguing that this language would treat the FOP bargaining unit differently as to monthly health insurance coverage premium contributions than other city of Chillicothe employees, both organized and non-organized. The Union points out that it is requesting that it receive the same insurance coverage at the same cost as received by all other city of Chillicothe employees, and claims that this is fair, equitable, and reasonable.

The conciliator selects the Union's proposal for the inclusion of new language in Article 25, section 25.4. Insurance coverage operates best among uniform benefits and uniform costs spread throughout the coverage pool, to spread risk and promote affordability. The conciliator finds no reason to treat the FOP bargaining unit differently in its participation in the same coverage pool in which all other city of Chillicothe employees participate, and sees no reason that the FOP bargaining unit should pay at a different rate than all others participating in this coverage. The insurance coverage is the same for everyone; the cost of that coverage should be the same for everyone.

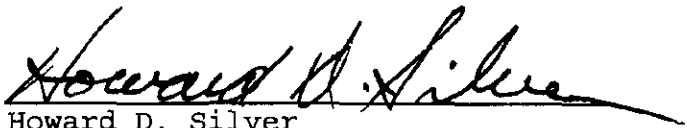
ORDERED LANGUAGE - Article 25, section 25.4, Premium Level

Contributions By Union Members

	<u>Single Coverage</u>	<u>Dual Coverage</u>	<u>Family Coverage</u>
1/1/2009	\$45.00 per/mo.	\$60.00 per/mo.	\$85.00 per/mo.
1/1/2010	\$50.00 per/mo.	\$80.00 per/mo.	\$105.00 per/mo.
1/1/2011	\$60.00 per/mo.	\$100.00 per/mo.	\$125.00 per/mo.

In addition to the language expressly ordered by the conciliator for inclusion in the parties' successor collective bargaining agreement, the conciliator orders that all of the language of the Articles that remained unopened between the parties, and all Articles opened and tentatively agreed by the parties, be included within the parties' successor Agreement.

In making the award presented herein, the conciliator has considered the criteria required by Ohio Revised Code sections 4117.14 (G) (7) (a) - (f).

  
Howard D. Silver  
Conciliator

Columbus, Ohio  
August 4, 2009