

FINAL OFFER CONCILIATION DECISION AND AWARD

In the Matter of Conciliation Between

the City of Wapakoneta, Ohio  
and  
Fraternal Order of Police, Ohio Labor Council Inc.

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STATE OF OHIO  
INDUSTRIAL RELATIONS

S.E.R.B. CASE No. 96-MED-01-0023

Marcus Hart Sandver, Ph.D.  
Conciliator

Hearing Date: September 18, 1996  
Decision Date: October 18, 1996

Representing the City:

Mr. Pete Lowe  
Vice President  
Clemans, Nelson and Associates  
Lima, Ohio

Representing the FOP:

Mr. Bob Malone  
Staff Representative  
FOP - Ohio Labor Council Inc.  
Columbus, Ohio

## I. BACKGROUND

This case grows out of a dispute between the City of Wapakoneta (the City) and the FOP - Ohio Labor Council Inc. (The FOP) involving the negotiation of a successor agreement. The most recent collective bargaining agreement expired on April 30, 1996. The bargaining unit was certified by SERB on July 23, 1992. There are ten (10) members of the bargaining unit.

The parties met for the purpose of collective bargaining eleven times between January and June of 1996. The unresolved issues in negotiations were submitted to Factfinder Sheila Hostler on May 15, 1996. The Factfinder's report was issued on May 23, 1996. The report was not accepted. On June 19, 1996 Marcus Hart Sandver was appointed as Conciliator to the dispute. Through mutual agreement of the parties the hearing date was set for September 18, 1996. Pre-hearing briefs were submitted to the Conciliator on September 12, 1996 by the City and on September 11, 1996 by the FOP.

## II. THE HEARING

The hearing was convened by the Conciliator at 10:00 a.m. on September 18, 1996 in the Public Safety Building of the City of Wapakoneta. In attendance at the hearing were:

### For the City:

- |                           |                                       |
|---------------------------|---------------------------------------|
| 1. Mr. Pete B. Lowe       | Chief spokesperson and Consultant CNA |
| 2. Mr. Rex Katterheinrich | City Safety & Service Director        |
| 3. Mr. Donald Binkley     | Consultant CNA                        |

For the FOP:

- |                        |  |
|------------------------|--|
| 1. Mr. Bob Malone      | Chief Spokesperson and Staff Representative<br>FOP - OLC |
| 2. Ms. Kay Cremeans    | General Counsel FOP - OLC                                |
| 3. Mr. Barry Truesdale | Patrol Officer - FOP Representative                      |
| 4. Mr. Gregory Lowry   | Patrol Officer - Chairman, FOP                           |

The parties were asked to submit exhibits into the record. The exhibits were received and marked as follows:

FOP EXHIBITS

- |                 |  |
|-----------------|--|
| FOP Exhibit # 1 | Notebook containing correspondence and comparability data                |
| FOP Exhibit # 2 | Memo to Dispatchers and Officers<br>Dated 9-18-96                        |
| FOP Exhibit # 3 | City Administrative Code Sec. 260.14<br>Passed July 3, 1991              |
| FOP Exhibit # 4 | State of Ohio BMV Registrations for Gregory Lowry<br>And Barry Truesdale |

CITY EXHIBITS

- |                  |   |
|------------------|---|
| City Exhibit # 1 | Notebook containing correspondence comparability data and City financial data |
| City Exhibit # 2 | Wage Survey data - Sheriff Deputy   |

The parties were informed by the Conciliator that the hearing would be conducted in conformity with the Rules for Conciliation promulgated by the State Employment Relations Board. The parties were further notified that the Conciliation Decision and Award would be developed in conformity with the Criteria for Conciliation as found in ORC 4117.14 (G)(7)(a-f). The ground rules for swearing of

witnesses, direct examination, cross examination, and objections to evidence were established by the Conciliator. At this point the parties were asked to state their positions on the single issue of wages.

### III. POSITION OF THE PARTIES

#### *A. FOP Position*

The FOP stated its position on the issue first. The FOP position is for a 4.5 % increase effective January 1, 1997, a 4% increase effective January 1, 1998 and a 4% increase effective January 1, 1999. Mr. Malone pointed out to the Conciliator that the City's position at Factfinding was 3% in 1997, 2% in 1998 and 1.7% in 1999. Mr. Malone stated his view that the 12.5% three (3) year wage raise was justified based on projection of cost of living increases, on comparability with other police departments in west central Ohio and on comparability comparisons with the Firefighters in the City.

Mr. Malone stated, for the record, that the City police officers received no raise in 1996 and received no raise in 1992. Mr. Malone stated his view that ability to pay is not a constraint at the present time in the City of Wapakoneta. Further, Mr. Malone pointed out to the Conciliator that the City has the power to increase taxes and annex property to increase its revenue stream.

In support of his position, Mr. Malone asked the Conciliator to examine the wage comparison data in FOP exhibit #1 for the Cities of Wapakoneta, Bellefontaine, Celina, Greenville, St. Marys and Urbana. In analyzing the comparability data the

wage comparisons show that the City of Wapakoneta is 4th ranked out of six (6) cities in minimum annual wage and 5th ranked in maximum annual wage. It is 5th ranked in population of the six.

Mr. Malone directed the Conciliator's attention to the next page of FOP exhibit # 1. In this exhibit the FOP calculated the average wage rate of Police Officers and Firefighters in the City of Wapakoneta from 1991-1996. The data analysis shows that in 1991 police and firefighters made the same average hourly wage rate (\$12.48). Since that time, however, the wage rates of police officers have begun to lag behind the firefighters such that at the present time the average firefighter in Wapakoneta earns \$14.77 per hour while the average police officer earns \$13.83 per hour.

Next, Mr. Malone asked the Conciliator to inspect the cost of living projections data listed in FOP Exhibit # 1 under the tab headed "CPI Forecast". Mr. Malone directed the Conciliator's attention to p116 of the Statistical Forecast of the United States which shows a projected rate of inflation of 5.4 percent for 1996, 5.3 percent for 1997, 5.5 percent for 1998 and 5.4 percent for 1999. These data are based on FAA Aviation Forecasts for 1990-2001. Mr. Malone next directed the Conciliator's attention to p121 of the Statistical Forecast which shows a slightly different CPI projection of 3.2 percent of 1996 and 3.1 percent for 1997.

In concluding his presentation, Mr. Malone asked the Conciliator to review the City of Wapakoneta General Fund 101 Report. In analyzing this report, Mr. Malone asked the Conciliator to note that estimated general funds for the City are projected to be about \$800,000 higher in 1996 than they were in 1995.

*B. City Position*

The City position on the issue is to offer a 3 percent pay increase on January 1, 1997, a 2.2 percent increase on May 1, 1997 and a 2 percent increase on May 1, 1998. Mr. Lowe pointed out to the Conciliator that the City position on wages in the Factfinding hearing was for a 1.4 percent increase in year one (1) of the agreement, a 1.8 percent increase in year two (2) and a 2.1 percent increase for year three (3) (5.3 percent overall). Mr. Lowe further pointed out to the Conciliator that the Factfinder recommended the City position on wages over the FOP position. Finally, Mr. Lowe asked that the Conciliator take note of the fact that the City accepted the Factfinder's recommendations while the FOP turned them down.

In support of his position, Mr. Lowe directed the Conciliator's attention to City exhibit # 1 tab G. In tab G, the City listed all cities within a fifty mile radius of Wapakoneta with a population plus or minus 3500 of the population of Wapakoneta.

These cities include:

Bellefontaine  
Celina  
Delphos  
Englewood  
Greenville  
Kenton  
Marysville  
St. Marys  
Tipp City  
Upper Sandusky  
Urbana  
Van Wert

When the police officer salaries are ranked within this grouping of cities, Wapakoneta

is 8th out of the thirteen for maximum annual salary and is 7th out of the thirteen for minimum annual salary. The City of Wapakoneta would be ranked 8th of the thirteen in population.

Next, Mr. Lowe addressed the issue of comparability between the salaries of the police officers and the firefighters. Mr. Lowe directed the Conciliator's attention to City Exhibit #1 tab D. The data in tab D show that the police received a 10.5 percent overall pay increase from May 1, 1993 to May 1, 1996 and so did the firefighters. Further, Mr. Lowe asked the Conciliator to note that the firefighters and the utility workers have already agreed to the 3.0/2.2/2.0 wage formula offered to the police. Finally, Mr. Lowe asked the Conciliator to note that firefighters are paid on the basis of a 2756 hour work year while police officers are paid on the basis of a 2080 hour work year.

Next, Mr. Lowe directed the Conciliator's attention to City exhibit # 1 tab H. In tab H, the City calculated the monetary differences between the union wage proposal and the City wage proposal. After some discussion and recalculations it was determined that the total cost of the union wage proposal over current expenditures would be \$64,619. The total cost of the City's proposal, over present costs, would be \$38,640; a difference of \$25,979. The City's proposal would represent about a 9.5 percent increase in total compensation costs (including pension contributions and workers compensation costs) over present levels while the FOP proposal would represent about a 16.5 percent increase over current costs.

Finally, Mr. Lowe asked the Conciliator to inspect City exhibit # 1 tab I. The

data in this section of City exhibit # 1 show that the City of Wapakoneta will experience a financial shortfall of \$343,800 for the year 1996. The City has a carry over balance from 1995 of \$330,000 thus, the carryover will be in deficit by the end of 1996 and there will be no carryover into 1997. The carryover surplus has declined every year since 1992-93 when it was \$742,100 to 1995-96 when it was \$330,000.

#### IV. DISCUSSION

The parties are quite a distance apart on their final offers. The Union proposal is for 12.5 percent over three (3) years. The City proposal is 7.2 percent over three (3) years. In actuality, in both cases the wage raise would be paid over two and one-half (2½) years because neither side proposes to make the wage raises retroactive to May 1, 1996. The contract under discussion will expire on May 1, 1999 and the wage increase will not become effective until January 1, 1997.

Interestingly, both sides use roughly the same cities for their wage comparables; this is somewhat unusual in Conciliation. In both analyses of the data the result is about the same: Wapakoneta is about 5th in rankings in both salary and population in the FOP data set, and is about 7th or 8th in both salary and population in the City data set. Based on these data the conclusion is pretty strong that for a small city with a one percent tax rate, the police in Wapakoneta are paid about what you would expect when compared to other cities of this size in west central Ohio. The comparability data do not make a strong case for the need for a wage "catch-up".



Both sides use ability to pay data provided by the City. The Union representative saw no financial problems in Wapakoneta when he analyzed the financial data and was optimistic that revenue could be raised in the future through tax increases. The City representative views the financial picture quite differently and points out that soon (probably this year) the carryover surplus in the budget will be gone.

I find the City's position on this matter quite persuasive. I do believe that the City has a legitimate ability to pay argument that needs to be carefully considered. The difference in the costs of the two proposals is substantial.

The FOP argument about the projection in the cost of living is difficult to consider very seriously. Looking back over past CPI data and using this as an argument for a wage catch-up due to lost purchasing power is the way inflation data is usually used in Factfinding and Conciliation. Projection about future CPI changes as a justification for wage increases for future years is much more difficult to interpret. It is hard for me to give this data much weight.

The FOP argument regarding the Wapakoneta firefighters and their pay rate compared to the police officers is also difficult to give much weight. As I have written in any number of Factfinding Reports and Conciliation Awards, the job of being a police officer and the job of being a firefighter are different, and duties differ from city to city. There is no inherent rule or principle that states that police must be paid more than firefighters, neither is there any benchmark which says what the difference in pay rates should be. Just because the firefighters make more in annual salary than

the police in Wapakoneta, does not justify choosing the FOP proposal over the City's proposal. The evidence of "internal inequity" between the police officers and the firefighters was not substantial enough to accord it much weight.

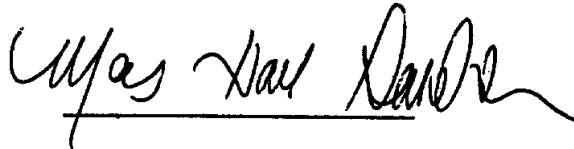
#### V. AWARD

The City's final offer is awarded.

The wage increase will be 3 percent January 1, 1997, 2.2 percent May 1, 1997 and 2 percent May 1, 1998.

#### VI. CERTIFICATION

This Decision and Award is based upon evidence and testimony presented to me at a Final Offer Conciliation hearing held on September 18, 1996 in the City of Wapakoneta, Ohio.



Marcus Hart Sandver, Ph.D.  
Conciliator

Upper Arlington, Ohio

October 17, 1996