

**To:** Members of Dublin City Council  
**From:** Dana L. McDaniel, City Manager  
**Date:** July 26, 2021  
**Initiated By:** Jennifer Miglietti, Director of Human Resources  
**Re:** Resolution No. 47-21 – A Resolution Accepting the Recommendations for the FOP Fact Finding

## Summary

Attached, for your consideration is Resolution No. 47-21, authorizing the City Manager to accept the Fact Finder's recommendations detailed in the attached report. This report is the result of a Fact Finding hearing conducted on May 26, 2021, due to an impasse in Collective Bargaining negotiations between the Fraternal Order of Police Capital City Lodge 9 (FOP) and the City of Dublin regarding wages and insurance. This bargaining unit is comprised of approximately 64 employees within Dublin Police Department.

The current contract for the Fraternal Order of Police, Capital City Lodge 9 expired on December 31, 2019. During the FOP negotiation cycle, the City of Dublin and the FOP reached impasse. Both parties agreed to fact finding after engaging in the mediation process. Pursuant to Ohio Revised Code Section 4117.14(C) (3), the State Employment Relations Board (SERB) appointed a fact-finder.

Prior to engaging with the fact finder, the City's final proposal to the FOP addressed both insurance and wages based on the option of either a two (2) or a three (3) year contract. For a two-year agreement, the City proposed current contract language on insurance and wage increases of 2% for 2020 and 2% for 2021, with a reopener on both wages and insurance for 2022.

For a three-year contract, the City proposed wage increases of 2% for 2020, 3% for 2021 and 3% for 2022. Insurance would remain unchanged for 2020; employee premiums would become 10% in 2021, and increase to 15% in 2022.

The FOP's final proposal to the City was a three-year contract with no changes to the insurance provisions. Additionally, the FOP proposed wage increases of 3.25% retroactive to January 1, 2020, 3.25% retroactive to January 1, 2021, and 3% effective January 1, 2022, and a \$500 signing bonus.

The Fact-finder recommends the following:

- Retroactive to January 1, 2020, a 2.75% increase;
- Retroactive to January 1, 2021, a 1.25% increase;
- Retroactive to July 1, 2021, a 1.25% increase;
- Effective January 1, 2022, a 2% increase; if the parties negotiate a modification of insurance benefits, then, an equity adjustment for all unit members at least consistent with and equal to any additional wage percentage negotiated by any other unit or granted to other employees.

Pursuant to Ohio Revised Code Section 4117.14(C) (6) (a) City Council has "not later than seven days after the findings and recommendations are sent" to vote in acceptance or rejection of the fact-

finder's recommendations. If both parties accept the fact-finder's recommendations, then a Resolution will be presented to Council authorizing the City Manager to enter into an agreement with the FOP. If either party rejects the fact-finder's report, then it will move to conciliation. In the Conciliation process, both parties present their proposals and the Conciliator would select one or the other without compromise.

### **Recommendation**

Staff recommends that Council approve Resolution No. 47-21 accepting the Fact Finders Recommendations.

# RECORD OF RESOLUTIONS

GOVERNMENT FORMS & SUPPLIES 844-224-3338 FORM NO. 30045

Resolution No. 47-21 Passed \_\_\_\_\_, 20\_\_\_\_

## A RESOLUTION ACCEPTING THE RECOMMENDATIONS FOR FOP FACT-FINDING

**WHEREAS**, the City of Dublin and the Fraternal Order of Police Capital City Lodge 9 (FOP) have engaged in the Fact Finding process; and

**WHEREAS**, the Fact Finders report has been issued; and

**WHEREAS**, Council has determined that the attached Fact Finders report recommendations are acceptable.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of Dublin, State of Ohio, \_\_\_\_\_ of its elected members concurring, that:

**Section 1.** The City Manager accept the terms as issued in the Fact-Finder's Report.

**Section 2.** This Resolution shall take effect upon passage in accordance with Section 4.04(a) of the Revised Charter.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Mayor – Presiding Officer

ATTEST:

\_\_\_\_\_  
Clerk of Council

STATE EMPLOYMENT RELATIONS BOARD  
STATE OF OHIO

In the Matter of Fact-finding Between:

Fraternal Order of Police Capital City Lodge 9	:	Case No. 2019-MED-10-1028/1029
	:	
and	:	Report and Recommendations
City of Dublin State of Ohio	:	Margaret Nancy Johnson Fact-finder

Statement of the Case

This matter came on for hearing on May 26, 2021 in a conference room in the Police Department, at Dublin, Ohio, hereinafter “City.” Fraternal Order of Police, Capital City Lodge 9, hereinafter “FOP” or “Union,” is the bargaining agent for two bargaining units in the City Police Department: 1) all full-time sworn police officers below the rank of Corporal and 2) all Corporals and Sergeants. The current Collective Bargaining Agreement between the City and the FOP expired on December 31, 2019.

Approximately fifty (50) Police Officers and nine (9) Corporals and five (5) Sergeants, are included within the units. The Police Department also has two Lieutenants and the Chief of Police, who are excluded from the units. These personnel provide law enforcement services for City residents and businesses.

In spite of numerous negotiation sessions, including mediation, the parties remain at impasse on wages and insurance. On April 2, 2021, pursuant to Ohio Revised Code Section 41117.14(C)(3), the State Employment Relations Board, hereinafter “SERB,” appointed Margaret Nancy Johnson to serve as fact-finder. The City was represented in these proceedings by Catherine F. Burgett, Attorney with the law firm of Frost, Brown, Todd. Cathrine Harshman, Attorney with Harshman and Wannemacher, argued the case for the Union. Prior to the hearing the parties submitted timely position statements to the fact-finder and to each other.

At the hearing both parties had the opportunity to make opening statements, to present documentary evidence, and to examine and cross-examine witnesses on matters pertaining to the issues. By agreement this Report and Recommendations is issued this 19th day of July, 2021. Tentative Agreements between the parties are incorporated herein as if fully rewritten Joint Exhibit 2. City Appendix B).

Issues

As previously stated, the parties are at impasse on wages and insurance.

### Criteria

In issuing the recommendations herein the fact-finder has taken into account the following criteria set forth in Ohio Revised Code Section 4117.14(G)(7) and Ohio Administrative Code 4117-9-05:

1. Past collectively bargained agreements, if any, between the parties;
2. 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;
3. The interests and welfare of the public, the ability of the public employer to finance and administer the issues proposed, and the effect of adjustments on the normal standards of public service;
4. The lawful authority of the public employer;
5. The stipulations of the parties;
6. Other factors, not confined to those listed above, which are normally or traditionally taken into consideration in the determining 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

### Positions of the Parties

#### *The City*

The City has submitted alternative proposals addressing both insurance and wages based on a two (2) or three (3) year contract. For a two year agreement, the City proposes current contract language on insurance and wage increases of 2% for 2020 and 2% for 2021, with a reopener on both wages and insurance for 2022.

For a three year contract, the City proposes wage increases of 2% for 2020, 3% for 2021 and 3% for 2022. Insurance remains current for 2020, but the employee premium becomes 10% in 2021 and increases to 15% in 2022.

The City contends that its wage proposal is consistent with internal as well as external comparables. Moreover, it is a prudent increase that maintains the City's competitive advantage in attracting well qualified candidates for employment.

As to insurance the City argues that the current insurance provisions in which employees do not make a premium contribution are not sustainable. Increasing insurance costs mandate that City employees, like most employees in the state, pay a percentage share of insurance premiums. Two bargaining units have agreed to the two year Agreement as proposed by the City

#### *FOP*

The Union seeks a three year contract with no changes to the insurance provisions. Additionally, it proposes 3.25% retroactive to January 1, 2020; 3.25% retroactive to January 1, 2021; and 3% effective January 1, 2022. It also proposes a \$500 signing bonus.

Due to economic stability, population growth and the affluent suburbs surrounding Columbus, wages paid to Police Officers in municipalities in central Ohio have remained higher than state averages. Although this unit has historically been one of the highest paid in the Columbus area, it is currently one of the lowest. During the pandemic, neighboring jurisdictions negotiated 3% wage

increases. Because of police shortages, it is essential that the City maintain a competitive wage package to attract new officers.

The Union seeks current contract language on insurance. Were the premium contributions as sought by the City imposed, employee earnings would actually be reduced. The City has more than adequate ability to continue the current insurance benefits.

## Discussion

### *Financial Overview*

A northwest suburb of Columbus, Ohio, the City is home to about 49,037 residents, a population that has increased significantly within the past ten years. As with its residential growth, the City has also experienced substantial commercial development. Pre-Covid-19 day time working population of the City was about 75,000. Principal employers include telecommunications, financial services, and healthcare industries.

Financial data cited herein is derived from the documentation cited by the parties. The primary revenue source for the City is its income tax. Rather than merely remaining stable, income tax revenue increased from \$60,835,904 in 2017 to 68,130,384 in 2019 (*Financial Analysis*, Steen and Company, p. 15). In 2019 income tax revenue was \$4.3 million over projections.

Between 2017 and 2019 General Fund balances increased from \$104,416,651 to \$110,425,540 (*Id.*, p.17). In 2019 General Fund revenues were \$2.22 million over projections and exceeded expenses by \$28.7 million (*Id.*).

While the fiscal impact of the COVID- 19 pandemic is not yet fully realized, financial data from 2020 indicates City finances remain healthy due in large part to prudent management and strategic initiatives. In 2020 the City collected \$92.2 million in income tax revenue exceeding the original budget of \$89.3 million (City Exhibit 10, Union Exhibit H). The pandemic has had a significant impact on some City revenue sources such as Recreational fees and Hotel Taxes. With the lifting of mandatory closures, however, these revenue sources should rebound. In its March 12, 2020 analysis, FitchRatings anticipated solid revenue growth (City Exhibit 11). The City's "revenue raising capacity" observed by Fitch is of special note in this proceeding.

"Dublin ended 2020 with a record General Fund balance of \$71.3 million" (Union Exhibit H, *Financial Analysis*, Steen & Company, CPA p. 24). The 2020 General Fund balance to expenditure ratio was well over the 50% City policy enacted in September 2016 and reaffirmed in 2019 (City Exhibit 15). In a 2021 message from the City Manager, economic vitality including development initiatives undertaken by the City were recapped (Union Exhibit H).

As of March 31, 2021 the General Fund balance was \$72,726,906, 81.4% of budgeted 2021 expenditures (See City Exhibit 17). For 2021, as the economic recovery from COVID-19 is underway, income tax revenues are ahead of 2020 budgeted amounts. The Director of Finance noted in a memo dated February 23, 2021 that City "income taxes have remained resilient thus far during the pandemic" (City Exhibit 10). Yet, the City is properly circumspect about the impact of COVID 19 on income tax revenue, specifically the trend away from an office-centric work model and concerns regarding state income tax legislation.

Research on the changing workplace and employee perspectives found, however, that 72% of employees surveyed would prefer a remote-office hybrid rather than working entirely remotely (City Exhibit 5, p. 3). Remote work "extends the work day, diffuses worklife boundaries, and reduces mental

health” (*Id.*). Moreover, some face-to-face interaction is required for quality productivity. A return to the “office,” even if not full-time, may reasonably be anticipated.

While the City has projected 2021 revenue to be less than the 2020 budgeted revenues due to anticipated COVID-19 declines, during summer 2021 many businesses as well as recreational parks will reopen. According to financial analysts, in terms of business loss, unemployment, and economic recovery, the State of Ohio has fared fairly well in the aftermath of pandemic closures. Home to national and global companies, Dublin is especially well-positioned to emerge from the economic consequences of this health crisis. In contrast with under-served communities, the City has the resources “to bounce back after adversity as strong as before” (Union Exhibit H, See also Union Exhibit A).

### *Issues*

#### A. Wages

Considering the financial stability of the City, the question in the pending matter is what constitutes a reasonable wage increase for these units taking into account the statutory criteria previously cited. One of the most commonly referenced criterion in proceedings before a neutral is external comparability. Over years of public sector collective bargaining in Ohio, internal parity has become accepted as a “traditional” factor” by neutrals in impasse proceedings. Indeed, the City has submitted for review five (5) Fact-finding Reports citing the concept of internal parity in resolving bargaining issues.

Certainly those Reports are instructive, but they are not conclusive; and the issues in each fact-finding proceeding must be addressed considering the particular circumstances of the jurisdiction in review and the application of the statutory criteria to the facts and data presented. Although consistency in benefits such as insurance is expected, uniformity in internal wage increases may not be warranted if there is a significant increase in job duties, a change in working conditions, or a modification of existing contract language.

When considering external comparability, fact-finders will typically look at a geographic region and compare several demographically similar jurisdictions within that area. For comparison purposes, both parties have presented cities in the central Ohio region which are suburbs of Columbus. Since police units within many of those cities are represented by FOP Lodge 9, for comparison purposes, the Union has cited Capital City Lodge 9 Police Officer units.

A difference in the approach of the City and the Union is that instead of a “range” of wages within which the units fall, the Union has argued that the ranking within the seventeen (17) units it represents should be maintained. It contends that the City has “historically held the number one rank in the Lodge for the payment of top officers” but that it “ranked 10<sup>th</sup> in 2020 and currently 12<sup>th</sup> in 2021.”

The ranking typically used by fact-finders, however, is not a numerical constant but, rather, a general placement within which there may be variants from year to year. Submitted by the Union, the 2020 listing of comparable cities by police wages is not identical to that for 2021. Nor are the percentage wage increases negotiated by Capital City Lodge 9 with those comparable municipalities the same for either 2020 or 2021. Bargaining objectives and negotiation goals for both unions and employers will be different and result in varying wage/benefits packages.

In considering external comparability, the retro-activity of wages for 2020 and 2021, which both parties have proposed, is a factor. A 2020 increase less than that proposed by the Union would reposition the unit relative to external comparables, and a 2021 increase would continue the adjustment.

While not first, the City would still remain well within in the upper half of comparable jurisdictions and, depending upon negotiations in New Albany, Groveport, Columbus, and Whitehall, within the upper third.

The Union also argues that the City should implement a higher wage rate to attract qualified candidates and to remain competitive with neighboring jurisdictions. Citing a police shortage, the Union notes the City is “currently testing for open positions and has seen a dramatic decrease in the number of individuals taking their test compared to tests in previous years” (Union Position Statement p. 5). Articles submitted by the Union on the police shortage nationwide have been reviewed by the fact-finder. Interestingly, the national trend is neither recent nor solely related to pay.

Indeed, the decline in interest in policing “has been steady for 20 years” (Union Exhibit D). A Report by the Bureau of Judicial Statistics indicates that while the U.S. population has risen from 267 million in 1996 to 323 million in 2016, the number of sworn full-time police officers per 1,000 U.S. residents has dropped from 2.42 in 1997 to 2.17 officers per 1,000 resident in 2016 (*Id.*). Whereas “hundreds of people used to apply for a [ police] job opening, now its often only a handful” (Union Exhibit E).

Nationwide, cities are grappling with a reduction in applicants for police positions. The issue, though, may be societal as much as economic. In fact, the Union asserted that the decline in applicants is partially attributable to “the negative view of police officers in the media,” the increase in violent crime, and the mental strain of the job (Union Position Statement p. 5). A 2018 National Public Radio segment cited “greater skepticism about law enforcement as a career choice” in addition to the then hot job market as a reason for a decline in applicants (Union Exhibit E). Also in 2018, a Washington Post article quoted the Seattle Deputy Police Chief addressing a lack of interest in law enforcement as a career: “Number one is validation. The validation that they’re putting their life on the line” (Union Exhibit D).

The Union also cites “lateral transfers” and “incentives for officers to jump department” as a reason for its wage and benefits proposal (Union Position Statement p. 5). There was little persuasive evidence, however, as to an actual number of police officers who have left the City Police Department to join that of a neighboring suburb. Since 2017, of the fourteen (14) departures from the Department, only three (3) were due to resignations and the remainder were retirements (City Exhibit 39). The Union argument appears to be preventative rather than remedial. In the absence of data, however, the fact-finder cannot reach a conclusion and make a recommendation based upon lateral transfers.

The Union argues that with the capital improvements planned for 2021 through 2025, the unit should be given an increase commensurate with added responsibilities generated by the expansion of businesses and visitors to downtown Dublin. There is, however, at this time, no data as to increased police duties or runs generated by the business initiatives undertaken by the City. Indeed, some projects under taken by the City have been delayed due to the pandemic (City Exhibit 25). After more than a year of closures, openings are only just beginning, and the Union would be better positioned to make that argument in its next round of contract negotiations with the City using supportive statistics. At the current time, there is no basis for this fact-finder to conclude that a substantial increase in wages is justified by a corresponding increase in job obligations.

While the City has proposed a wage/insurance reopener for 2022, the fact-finder notes that this unit has been without a contract since the beginning of 2020 and that a successor contract will expire at the end of next year. Negotiations for this Agreement will have just concluded before the parties once again need to enter into collective bargaining.

The purpose of a three year Agreement is to provide stability and continuity. Collective bargaining is disruptive, and even in the best of relationships and even without the specter of COVID-19, the process is unsettling to both the unit and the employer. Pertaining to wages, the fact-finder recommends a three year Agreement.

As to the specific percentage increase, the fact-finder has reviewed both external and internal comparability taking into account health insurance benefits. Although addressed separately in this discussion, wages and insurance are correlated. Adjustments to insurance will necessitate a financial “trade.”

In spite of its arguments in favor of internal parity, wage increases in the City have never been uniform. A City chart graphing percentage increases for employees since 2011 illustrates significant disparities in wage increases (See City Exhibit 27). Certainly, greater consistency in percentage increases is beneficial to the workforce, and a City effort to achieve more comparable adjustments is appropriate. But, if internal parity is an objective in these proceedings, bargaining history suggests a gradual implementation, especially since the OLC unit received a 2.75% increase in 2020 while this unit remained at status quo due to interruptions in bargaining caused by COVID-19.

Previously stated, the percentage wage increase for neighboring jurisdictions must also take into account the insurance premium participation of employees in those jurisdictions. Charting percentage wage increases without considering insurance –or any other contractual benefit-- is not a complete wage package. In those jurisdictions having percentage increases of 2.5% or above for 2020 and 2021, labor agreements reflect greater employee participation in insurance premiums (See City Exhibit 32). Although those insurance arrangements, like insurance packages across the state, are multifaceted, employees are expected to participate to some degree or in a degree on par with other employees.

Considering SERB averages to ascertain external wage comparability, the Fact-finder notes that in 2020, the average wage increase for the Columbus area was 2.36%; for Police units the increase was 2.38%.; and for Cities the increase was 2.43%. Wages increase in 2021 were 2.55%, 2.49% and 2.49% and in 2022, the increases were 2.64%, 2.48% and 2.47% respectively. Over the course of a three year contract, the increases recommended below are consistent with these state-wide increases.

Given the financial ability of the City, SERB data, as well as external and internal comparability, the Fact-finder recommends the following:

**Retroactive to January 1, 2020, a 2.75% increase;**

**Retroactive to January 1, 2021, a 1.25% increase;**

**Retroactive to July 1, 2021, a 1.25% increase;**

**Effective January 1, 2022, a 2% increase; if the parties negotiate a modification of insurance benefits, then, an equity adjustment for all unit members at least consistent with and equal to any additional wage percentage negotiated by any other unit or granted to other employees.**

## B. Insurance

Insurance benefits in labor Agreements are varied, consisting of multiple elements and provisions. A review of SERB data as well as comparable agreements indicates the complexity of insurance as a component included in negotiated contracts. Equally clear is the cost of health insurance and its impact on employers. Indeed, the rising cost of health insurance is not a recent concern but has been cited in impasse proceedings over the course of many years.

In this instance the City has been providing its employees with an unusually generous benefit. Although there is employee participation in insurance premiums, it is offset by waiver/ incentive provisions which essentially negate any employee shared cost. The City now seeks to modify its insurance program to bring it more inline with insurance provisions negotiated not only across the state but also in jurisdictions cited as comparable for wage purposes.

While the fact-finder agrees that some adjustment is appropriate, any insurance modification should be negotiated, not imposed. Accordingly, the fact-finder agrees with the FOP that adjustment in insurance benefits should not *begin* with a safety unit for which a single neutral may ultimately determine contractual language not only for employees in this unit, but consequently, for the entire City. Changes in insurance are not precluded, but, simply require bargaining.

Insurance negotiations in the recommended reopener will, of course, be challenging, but they will also be focused. Parties to collective bargaining in Ohio are creative in finding solutions to perplexing contract issues. Other units represented by the Lodge have succeeded in negotiating insurance terms including employee contributions which are acceptable to both union and employer. These labor agreements include employee participation in the health care benefits which protect members of the workforce and their families. While the Union may not achieve the entire wage increase it now seeks, insurance coverage is a valuable employee perquisite.

Change is inevitable, but it should be negotiated.

**Current contract language for 2020 and 2021; reopener on insurance for 2022 with an equity adjustment as stated for wages.**

### **Recommendations**

#### **Article 19: Wages**

**Retroactive to January 1, 2020, a 2.75% increase;**

**Retroactive to January 1, 2021, a 1.25% increase;**

**Retroactive to July 1, 2021, a 1.25% increase;**

**Effective January 1, 2022, a 2% increase; if the parties negotiate a modification of insurance benefits, then, an equity adjustment for all unit members which shall be at least consistent with and equal to any additional wage percentage negotiated by any other unit or granted to other employees.**

#### **Article 26: Insurance**

**Current contract language for 2020 and 2021; reopener on insurance for 2022 with an equity adjustment as stated above.**

Respectfully submitted,

Margaret Nancy Johnson  
Fact-finder

Service

A copy of this Report and Recommendations has been submitted this 19th day of July, 2021, to the City at [cburgett@fbtlaw.com](mailto:cburgett@fbtlaw.com); to the Union at [charshman@hcands.com](mailto:charshman@hcands.com); and to SERB at [Med@serb.state.oh.go](mailto:Med@serb.state.oh.go)

Margaret Nancy Johnson