STATE EMPLOYMENT
RELATIONS BOARD

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STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of Negotiations Between:

THE CITY OF WELLSTON	)	Case No. 00 MED 09-0877
	)	00 MED 09-0878
and	)	
	)	RECOMMENDATIONS
	)	
FRATERNAL ORDER OF POLICE,	)	Margaret Nancy Johnson
OHIO LABOR COUNCIL, INC.	)	Fact-finder

Appearances

For the FOP:
Jon Heinman,
FOP/OLC Representative
James L. Sturgeon, Chairman
Glenn E. Webb, Dispatcher

For the City:
John R. Stabler, Mayor
Gary George, Director of
Public Safety and Service

In compliance with Ohio Revised Code Section 4117.14(C)(3), the State Employment Relations Board appointed Margaret Nancy Johnson to serve as a fact-finder in the above referenced bargaining impasse. The parties convened on March 15, 2001, in a conference room at City Hall, Wellston, Ohio, for the purpose of fact-finding. Prior to the hearing both parties timely submitted by facsimile position statements for the review of the neutral. In the course of the hearing the fact-finder heard testimony and arguments on the issues in contention and received documentary evidence into the record. As indicated hereafter, three outstanding issues were settled and withdrawn from review. The fact-finder now submits her recommendations on those remaining issues upon which the parties were not able to reach agreement.

Background

Represented by the Fraternal Order of Police, Ohio Labor Council, Inc, hereinafter "FOP" or "Union," the bargaining unit consists of approximately eight (8) police officers and three (3) dispatchers. These employees serve the law enforcement needs of the City of Wellston, a community located in southeast Ohio, with a population of approximately six thousand (6,000). The Collective Bargaining Agreement between the Police Department of the City of Wellston, hereinafter "City," and the FOP expired on December 31, 2000. Unable to negotiate a successor Agreement prior thereto, on December 21, 2000, the City passed an ordinance providing for the extension of the existing agreement and the retroactivity of all changes and additions to January 1, 2001. On March 15, 2001, the parties engaged in fact-finding with the neutral appointed by SERB.

Issues

A. Settled and Withdrawn

At the hearing, the parties agreed to establish a committee to meet and negotiate the provisions of a Wellness and Fitness Program and a Drug and Alcohol Screening Plan to be incorporated into the Collective Bargaining Agreement. If, within six (6) months the parties are unable to reach an agreement on either or both, such disputed policy or policies are to be submitted to interest arbitration for final and binding resolution.

In addition the parties agreed that the insurance limits on health insurance provided by the City be raised to $225.00 per month for single coverage and $475.00 per month for family coverage. The Union proposal to change paragraph two of the Health Insurance provision was dropped.

Finally, the City agreed to the Union proposal that "Members serving as T.A.C. Officer shall receive an additional $.10 per hour added to their base rate of pay."

B. Outstanding issues

Remaining unresolved issues are the following: Recall and Reinstatement; Firing Range; Wages; Assault and Liability Pay; Shift Differential; Longevity Pay; Injury Leave; Uniform Allowance.

Criteria

In submitting her recommendations the fact-finder has given consideration to those factors traditionally relied upon neutrals and those specifically enumerated in Ohio Revised Code, Section 4117.14(G)(7).

Positions of the Parties

A. Recall and Reinstatement

The Union proposes extending the recall rights of all employees to two years. Presently, the recall rights of probationary employees and all future full time employees is limited to one year.

The City seeks parity between the bargaining unit and all other city employees who have recall rights of eighteen months.

B. Firing Range

Current contract language provides employees with 120 rounds of ammunition per year. While the Union seeks to retain current language, the City proposes reducing the annual rounds to 60, arguing that waste management and fiscal responsibility justify the reduction sought by the City.

C. Injury Leave

The Union proposes inserting language that would entitle an employee for whom job related factors contributed to a problem of mental illness or related psychological difficulty to injury

leave. Arguing that police service incurs significantly high instances of stress due to the nature of the occupation, the FOP contends the proposal is reasonable and warranted.

D. Uniform Allowance

The Union proposes increasing uniform allowances to $400.00 for communication officers and $500.00 for police officers. In addition, the Union proposes increasing the uniform maintenance allowance paid in one lump sum to $355 for contract year 2001; $380 for contract year 2002; and to $405 for contract year 2003. Opposing the increase, the City again argues fiscal responsibility, pointing out that the uniform allowance already provided to this unit exceeds that given in comparable jurisdictions. The proposal amounts to a 19% increase in a single year, an unreasonably high change. In addition the uniform maintenance proposed by the Union amounts to $7.00 per week, an extraordinarily high figure for uniform maintenance.

E. Assault and Liability Pay

The Union proposes increasing the assault and liability pay of bargaining unit members to $133.00 per month. As the bargaining unit is currently the lowest paid police unit according to SERB Benchmark Reports, the FOP contends that the assault and liability pay increase is warranted.

The City contends that the unit is one of the few receiving an assault and liability pay which, given the financial straits of the City, is unjustifiable. As the Assault and Liability pay is an additional benefit which, if factored into the base pay of police officers, would cause a severe hardship on the City, the City is not in favor of this benefit.

F. Shift Differential

The FOP proposes increasing the shift differential to $.25 per hour and including language identifying the hours included from 1600 to 0800 hours.

The City opposes any change in the shift differential since the current differential is consistent with comparable police departments.

G. Longevity Pay

The FOP proposes increasing longevity as follows: $.36 per hour after three years of continuous service; $.45 per hour after four years of continuous service; $.60 per hour for five through six years of service; $.80 per hours for seven through nine years of service; $.95 for ten through fifteen years of continuous service. After fifteen years of service, the FOP proposes the employee receive an additional $.05 per hour for every year of additional service.

The City maintains that the increase proposed by the FOP would have an extremely adverse effect upon its General Fund.

H. Wages

The Union proposes increases of $1.50 per hour across the

board for each contract year. In support of its proposal the Union points out the Police Officers in Wellston are the lowest paid in the state of Ohio, and Dispatchers are the second lowest. Even when the additional benefits paid to this unit are figured into the computation, the Police Department remains one of the lowest paid in the State. Moreover, the Union argues that even were all the monetary changes proposed by the Union adopted, the Police Department would still remain below the average paid in Ohio. Changes negotiated throughout the state average 4.25 per cent increases, and the consumer price index for year 2000 is 3.4 per cent. Finally, the Union asserts the City has failed to present persuasive documentation on its inability to pay the police officers a reasonable increase consistent with other police departments throughout the state. Thus, the Union contends that the increase it seeks is reasonable and proper.

The City counters with no change in the first year of the contract, and 3% increases for each of the final two contract years. Relying upon financial constraints, the City argues the increase sought by the Union is excessive. Last year, the City had only an $8,000 hold over. In view of the financial difficulty, other units in the City have agreed to make no changes in wages for the 2001 contract year. Distinguishing Wellston from Jackson, the City argues that property values in Jackson are twice those in Wellston. Moreover, Wellston falls behind other municipalities in terms of per capita income. The increase sought by the FOP would be a disservice to the residents of the City, unreasonably depleting the General Operating Fund. If, because of higher wages, the City is compelled to reduce its staff, neither the Union nor the population has benefited.

Discussion

A. Recall and Reinstatement: Section 12.2

While exact parity is an unrealistic goal, consistency whenever feasible among city employees is both beneficial and desirable. Accordingly, the fact-finder agrees that changes in the recall and reinstatement language ought to bring the FOP into accord with other bargaining units. Nonetheless, the hearing officer is opposed to language that unnecessarily diminishes contractual rights previously afforded employees. Therefore, the fact-finder recommends modifying Section 12.1 to provide that employees hired after 1998 shall have recall and reinstatement rights for eighteen months. The recall rights of employees hired prior to 1998 shall expire at the end of two years.

B. Firing Range: Section 13.4

Applicable to this proposed contract change is the principle that modifications to existing language ought to be supported by evidence of a reasonable need for the change. While the City contends the minimum of 120 rounds of ammunition is fiscally wasteful, no evidence has been introduced to support the contention. On the contrary, the calculations made by the

neutral indicate that the monetary cost to the city of this contract language is quite minimal. Accordingly, in the absence of evidence supporting the need for modification, the hearing officer recommends retention of current language.

C. Injury Leave: Section 21.7

The Union proposal is to include job related stress as grounds for injury leave. The hearing officer recognizes and understands the concerns of the Union. Emotional and psychological trauma are frequently the unfortunate consequences of law enforcement service. Rather than include stress as a basis for injury leave, however, the fact-finder recommends that the parties handle the issue in the Wellness Program which the parties have agreed to negotiate. In the opinion of the hearing officer, programs which endeavor to prevent stress are superior to those focusing on treatment. The fact-finder does not recommend the changes sought by the Union to the Injury Leave provisions of the Agreement.

D. Assault and Liability Pay: Section 15.6

Focusing attention, next, on the economic issues before the fact-finder, she addresses first the Union proposal to increase the Assault and Liability Pay currently in the contract. Bargaining Unit members, including Communications Officers, presently receive an additional $108.00 per month as assault and liability pay. The Union seeks to raise this amount to $133.00 per month.

In impasse situations a problem in discussing monetary matters is that the broader economic picture, rather than the isolated proposal, must always be kept in mind. In the case at hand, for example, while the bargaining unit may have one of the lowest wage rates in the state for police services, the unit receives more generous economic benefits than other units, contributing substantially to the overall "wage package" of the employee.

One such benefit is the Assault and Liability Pay, frequently referred to as Hazardous Duty Pay. In her review of comparable bargaining units, the fact-finder found the benefit is not commonly paid to police officers employed by cities in southeast Ohio with populations under 7,000. In two cities in which Hazardous Duty Pay is provided, the benefit is less than that presently included in the Agreement between the FOP and Wellston.

Nonetheless, the presence in the contract of this financial benefit is a means by which Wellston is able to maintain an economic package with which its police officers can abide. Accordingly, as wage rates across the region increase, some upward adjustment in the Assault and Liability Pay is appropriate. The fact-finder notes, for example, that the City of Jackson has negotiated a wage increase of 4½%, 4% and 4%. In the recommendations and discussion which follow, the hearing officer declines to impose wage increases of that magnitude on the City of Wellston. Instead, however, she proposes some

adjustments in those benefits upon which the police officers are dependent to meet their obligations. Accordingly, the fact-finder recommends an increase in the Assault and Liability Pay to $120.00 per month effective January 1, 2001.

E. Shift Differential: Section 16.1

The FOP proposes increasing the shift differential from $.15 to $.25 cents per hour. As with Assault and Liability Pay, the shift differential is a financial benefit that enhances a lower wage rate. Where provided in neighboring jurisdictions, the shift differential exceeds the $.15 presently provided to the police department in Wellston. Jackson, for example, provides $.20 and $.25 per hour differentials and the City of Logan provides $.30 per hour. Thus, the fact-finder is of the opinion that an increase in the shift differential is supported by the comparables she reviewed in preparing her report. The fact-finder, therefore, recommends the $.25 per hour shift differential sought by the Union.

In the absence of any evidence as to the need for a change in the language concerning hours during which the shift differential is applicable, the fact-finder declines to recommend the proposed change.

F. Longevity Pay : Section 17.1

Effective January 1, 2001 the Union seeks increases in longevity that range from $.36 per hour after three years of service to $.95 per hour for ten to fifteen years of service with an additional $.05 per hour for every year after fifteen years of service. While the longevity increase sought by the FOP is substantial, the Union has not submitted data on comparable jurisdictions that would sustain its proposed increase. On the contrary, a review of comparable jurisdictions including Jackson, Logan, and Belpre, indicates that the present longevity pay for this unit is either equal to or greater than that paid in similar southeastern Ohio cities. As the longevity schedule is quite comparable, the fact-finder recommends that additional available monies be allocated to the base wage rather than to the longevity pay.

G. Annual Clothing Allowances: Section 22.2

As with other monetary benefits, the annual clothing allowance paid to this unit is substantial, thereby enhancing the otherwise lower annual wage paid to the members of the unit. In addition to the initial $700 for police officers and $400 for communications officers, the City provides an annual clothing allowance of $450 for police and $350 for communications officers <u>and</u> a maintenance allowance of $330 for all bargaining unit members. Thus, the current annual clothing allowance is $780 for police and $680 for communications officers. Again, the fact-finder notes that this benefit is a means of compensating a unit with one of the lowest wage rates in the State. The question remains, however, whether the increase in uniform allowance sought by the Union is justified.

While some adjustment is appropriate, the neutral would again rather allocate more of the available funds to the base rate. Accordingly, the neutral recommends more moderately increasing the annual allowance to $375 for communication officers and $475 for police, and limiting the increase in maintenance to $15.00 per contract year, i.e $345 for 2001, $355 for 2002, and $365 for 2003.

H. Wages: Section 15.1

While the base rate paid to the police officers in the City of Wellston is one of the lowest in the State of Ohio, the total wage package includes substantial benefits, including a 100% pension pick-up, an unusual but significant value to employees. Indeed, in negotiations for their last contract, the FOP acknowledged that with the PERS pick-up and the assault and liability pay, the parties had bargained the equivalent of a 4% wage increase at a time when other police units negotiated a 3.56% increase and other units in southeast Ohio negotiated a 3.20% increase. According to the calculations made by the factfinder, the PERS pick-up and the assault and liability pay increased the wage package negotiated in 1998 by more than one per cent. The value of the PERS pick-up and the other benefits discussed above cannot be overlooked.

In the SERB quarterly published the first quarter of 2000, the Union points out that police units in 1999 negotiated a 4.25% wage increase. The fact-finder does not dispute this statistic, but she argues that a more representative per cent is the wage increase negotiated by region. In southeast Ohio, bargaining units negotiated only a 3.03% wage increase in 1999. Indeed, one of the difficulties in considering wages comparables is the great diversity of units within the state. In the opinion of the factfinder, the Police Department in Wellston is best compared to other units in the southeastern part of the State with similar populations. Though similar in size, it serves no useful purpose, for example, to compare Wellston with the cities of Hudson or Pepper Pike. In addition to the service provided, comparables must take into account not just the numerical population, but the characteristics of the populations, including per capita income, property values, commercial entities within the jurisdictions.

For the same reasons, reliance by the Union on the "average" salaries paid to police officers is not necessarily an appropriate gauge for this unit. The average is influenced by disparate communities such as Lyndhurst and Shaker Heights. Accordingly, in considering the wage increase, the fact-finding focused on the salaries paid to Police Units in cities of similar size in the region, including Jackson, Logan, and Belpre. The intent of the fact-finder has not been to equalize the wage rate paid to the police unit with that of such jurisdictions, but, rather, to make it "comparable," realizing that factors such as the PERS pick-up and the hazardous duty pay are components of the economic package.

Arguing its position, the City alleges lack of monies with

which to finance an increase. In addition, the city argues that other units within the city had agreed to maintain current wages for contract year 2001, a zero per cent increase. The City, therefore, has proposed 0%, 3%, and 3% wage increases for contract years 2001, 2002, and 2003.

In considering these arguments, the fact-finder notes that internal comparables are frequently persuasive indicators of a proper wage increase. In the case on hand, however, the fact-finder cannot agree. There is no evidence, for example, of negotiation history which would warrant tying this unit to the rates bargained in other units. In the opinion of the neutral, the proper wage rate for this unit cannot be determined on the basis of internal comparables. Moreover, while the City argued it had only an $8,000 surplus in funds, the evidence indicates that with its newly enacted income tax the City will be generating additional monies. And, while it is true other services and maintenance projects will require funding, the fact remains that the services provided by the Police Department warrant approximately 75% of the expenditures from the General Fund. Considering the data submitted, the fact-finder cannot find that the city lacks the ability to make some adjustments in the wages paid to police officers. Police officers must be compensated in an appropriate manner for the essential service they provide to the community. Without reliable law enforcement, service, other improvements in the community lose import.

Accordingly, the fact-finder recommends a 2.8% increase for 2001, a 3.2% increase for 2002, and a 3.5% increase for 2003. While these increases are modest, the fact-finder has taken into account the other benefits received by this unit as well as the financial difficulty confronting this City. Moreover, the fact finder has reviewed other similar jurisdictions as well as negotiation patterns throughout the area. While the fact-finder does not find the Consumer Price Index particularly persuasive evidence, she does note that this increase closely corresponds to the index.

Finally, in issuing these recommendations the fact-finder has continued the practice developed by the parties of enhancing the overall wage package with substantial economic benefits. When evaluating the proposed wage increase, the parties ought to take into account the additional perquisites recommended for inclusion in the Agreement. Although the report of the fact-finder does not catapult the division from its position in the lower wage tier, these recommendations do provide an overall economic package that keeps pace with surrounding communities and with the police departments in other rural areas having populations less than 7,000.

Summary

The factfinder makes the following recommendations:

A. Recall and Reinstatement: Recall rights for employees hired prior to 1998 expire at the end of two (2) years. Employees hired after 1998 shall have recall rights for eighteen months.

B. Firing Range: No change in current contract language.

C. Injury Leave: No change in current contract language.

D. Assault and Liability Leave: Effective January 1, 2001, all Bargaining Unit Members shall receive $120.00 per month for assault and liability pay.

E. Shift Differential: Effective January 1, 2001, shift differential shall be $.25 per hour.

F. Longevity Pay: No change in current contract language.

G. Annual Clothing Allowance: After completion of one (1) year of service, each covered employee shall receive an annual allowance in the amount of $375.00 for communication officer and $475.00 for police officers.

The clothing maintenance shall increase by $15.00 each contract year.

H. Wages

2.8% increase for 2001
3.2% increase for 2002
3.5% increase for 2003

Respectfully submitted,

Margaret Nancy Johnson

Service

A copy of the foregoing recommendations has been served by Express Mail this 19 day of April, 2001, on Jon Heineman, Staff Representative, Fraternal Order of Police, Ohio Labor Council, 222 East Town Street, Columbus, Ohio 43215, and on John Stabler, Mayor, 203 East Broadway, Wellston, Ohio 45692-1521; and by regular mail on the Bureau of Mediation, State Employment Relations Board, 65 East State Street, Columbus, Ohio 43215.