

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

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RELATIONS BOARD
2001 JAN 25 A 11:13

CITY OF MARYSVILLE, :
Employer, :
-and- : Case Nos 00 MED 09-0896, 0897, 0898
FRATERNAL ORDER OF POLICE, :
OHIO LABOR COUNCIL, INC. :
Employee Organization. :

Tom

FACT-FINDING

Philip H. Sheridan, Jr., Fact-finder

Issued: January 24, 2001

*Robert a. Schaumleffel, Jr.
Director of Administration
City Hall, 125 East 6th Street
Marysville, Ohio 43040-1641*

FOR THE EMPLOYER

*Andrea H. Johan
Staff Representative
222 East Town Street
Columbus, Ohio 43215-4611*

FOR THE EMPLOYEE ORGANIZATION

STATEMENT OF THE CASE

The parties, the City of Marysville, represented by Robert A. Schaumleffel, Jr., Director of Administration, and the bargaining units, including all full-time Police Officers, all full time Sergeants, and all full time Communication Officers, represented by Andrea H. Johan, Staff Representative, Fraternal Order of Police, Ohio Labor Council, Inc., (hereafter FOP), have entered into negotiations for a successor contract to the contract which expired December 15, 2000.

The parties met and bargained in good faith, with eight meetings between the parties. The parties without dispute, or through negotiation accepted thirty of the articles of the existing contracts, and the parties agreed to combine the three existing contracts into one master contract. The parties reached tentative agreement on all but six of the issues that were negotiated.

Pursuant to R.C. §4117.14 and Admin. R. 4117-9-05, Philip H. Sheridan, Jr., 580 South High Street, Columbus, Ohio, was chosen as fact-finder.

The parties agreed to a fact finding hearing on January 10, 2001, and the meeting was convened at 10:30 a.m., at the Marysville City Service Center. In addition to their representative, John Morehart, Director of Finance, and Eugene W. Mayer, Chief of Police, appeared on behalf of the city. In addition to their representative, Frank Arnold, Staff Representative, FOP/OLC, Tiffany Conrad, Communication Officer, Robert "Bo" Spain, Police Officer, and Jeff Groat, Sergeant, appeared on behalf of the bargaining units. The parties and the fact-finder discussed the procedure to be followed by the parties. The parties engaged in fruitful mediated discussions that resulted in resolution of three

remaining issues between all of the parties and the Wages Article for the Communication Officers.

The parties signed off on Article 21, Holidays, Article 22, Personal Leave and Article 23, Section 1, Vacation Accrual, by the adoption of current language; Article 29, Insurance, Sections 2, 3, and 4, by tentative agreement; Article 32, Wages, Section 4, Shift Differential, by the adoption of language that maintains the 30 cent per hour amount for the hours between 4:00 p.m. and 12:00 a.m., and increased the amount to 50 cents for the hours of work between 12:00 a.m. and 8:00 a.m. The Communication Officers signed off on the city's offer for Article 32, Wages, Section 1.

The remaining issues were not amenable to additional mediation. The matter was submitted upon statements, documents, and arguments presented to the fact-finder.

In accordance with the provisions of R.C. Chapter 4117, the parties provided me with a copy of the current contracts, the issues which have been resolved, the unresolved issues, and each party's proposal on the unresolved issues.

In issuing this fact-finding report, I have given consideration to the provisions of R.C. Chapter 4117 and, in particular, the criteria contained within Admin. R. 4117-9-05(I).

THE POSITION OF THE PARTIES AND RECOMMENDATIONS

ARTICLE 19, Hours of Work & Overtime. Section 2. Overtime

The City's Position: The city proposes a change in the expired contract. The city would do away with all but actual hours worked in order to calculate when an employee will qualify for overtime compensation. The city would apply the minimum standards required by the Fair Labor Standards Act. The city specifically objects to the current language and practice that allows the bargaining unit members to include vacation, compensatory time and personal leave taken in determining the number of hours worked for purposes of calculating overtime. The city presents this change as an effort to "clean up" the overtime issue. The city presented evidence that the police units exceeded the amount of money budgeted for overtime by \$25,000.00 in the last year. The city argues that bargaining unit members are scheduling the use of their vacation, compensatory leave and personal leave so as to maximize the amount of overtime they accrue, and this should not be allowed.

The FOP's Position: The bargaining units believe the language of Article 19 should be adopted without change. The members who receive this benefit do not misuse it, the city has pointed to no specific problems with the current process. To adopt the city's position would be to go backward in benefits. The language now complained of by the city has been in the contract for two or three contracts, at least. Bargaining unit members need the overtime as it is in order to supplement their regular salaries. Their use of their earned leave in accordance with the language of the contract is in no way an abuse of the overtime benefit. Overtime is merited, and the payment of the premium acknowledges

the inconvenience to them of working hours in addition to those regularly scheduled, even when the unscheduled time is preceded by leave.

Discussion and Recommendation: I recommend the language of the current (expired) agreement:

Employees required to work more than forty (40) hours per week or eight (8) hours per work day shall be compensated at the rate of one and one-half (1-1/2) times the employee's base hourly rate of pay for all work over the regularly scheduled number of hours for that pay period when such work is authorized by the Chief or his authorized representative. Such authorization may be granted retroactively provided, however, that an employee working to replace another employee as a result of a shift swap will not be considered to be in an overtime status. Overtime payment shall be made to the nearest quarter hour. For purposes of determining the number of actual hours worked, vacation, compensatory time and personal leave taken during a duty week will count as actual hours worked for purposes of calculating overtime. Sick leave will not be considered in calculating the actual hours worked.

There is no clear evidence of a problem in need of correction. The \$25,000 mentioned is a little over 1 percent of the general fund appropriation for police, and it appears insignificant without more information as to the total amount budgeted for overtime. The language has been in the contract for several contracts. The language is not unusual in other contracts for the communities the parties agree are comparable to Marysville. Under the circumstances I am not inclined to recommend a change that the parties were unable to agree to in their negotiations.

ARTICLE 29. Insurance. Section 1. Medical

The City's Position: The city would retain current contract language, except for changes in the 2001 premiums to reflect the 5.7% raise in premium cost, and a change in the prescription deductible from \$7 to \$10. The city argues that having bargaining unit

members share the costs of insurance is important, as it encourages the bargaining unit members to cooperate in controlling costs in an inflationary insurance market. Similarly, the sharing of increased premiums 50/50 is supported by comparables, and by past contracts between the parties. The increase for the first year of the contract is determined at 5.7%, and the increases to the bargaining unit members are small.

The FOP position: The bargaining units argue that the financial positions of the parties are such that the city should pick up all of the premium costs for the bargaining members.

The bargaining units also propose a rebate of \$1,000.00 to each member who opts not to take the coverage. Since the costs of premium increases are unknown for the contract years 2002 and 2003, the city is in a much better position to absorb those costs, and such an agreement would relieve the bargaining unit members of this frightening burden.

Discussion and Recommendation: The past contracts of the parties and the development of the trend toward shared insurance costs persuades me that the current contract language (modified to reflect the current premium costs) should be adopted.

There are no comparable communities that are bucking the trend, and the bargaining units have not demonstrated any particular problems in need of correction. Article 29.

Insurance. Section 1. Medical. Provides:

The City agrees to make available to employees a managed care medical insurance program with coverages consistent with those coverages currently in effect. Said coverage shall have the deductible and coinsurance requirements as in effect for the above described program. Deductibles for the prescriptions shall be ten dollars (\$10.00) or as available in the managed care plan.

The employee may elect to enroll in either the managed care plan or the dental plan or both. The premium for the managed care and the dental plan for 2001 are as follows:

	SINGLE		FAMILY	
	<u>EMPLOYEE</u>	<u>CITY</u>	<u>EMPLOYEE</u>	<u>CITY</u>
DENTAL	\$6.98	\$15.93	\$21.97	\$37.80
MEDICAL	\$42.34	\$178.40	\$95.15	\$445.36
BOTH	\$49.32	\$194.33	\$118.12	\$483.16

Premium increases, if any for 2002 and 2003 shall be shared on a 50/50 basis by the City and the employee above the 2001 rates.

Should the Congress of the United States adopt health care legislation during the term of this agreement, the parties agree to meet to discuss implementation of the required Federal Health Care legislation.

Article 32. Wages. Section 1. Wages

The City's position: The city has examined its position and adjusted its position from its previous contract negotiations to more accurately reflect Marysville's position as a Central Ohio community. This change is apparent in the comparables it has presented and in its proposed wage package offered to the bargaining units. Although the city has provided an excellent benefit package to its police bargaining units in past contracts, it has lagged behind the comparable cities in wages.

The city offers what it considers a competitive and fair wage to attract and retain good employees. At the same time, the city must consider its financial affairs in addition to these contracts, and cannot make up the entire disparity in one contract, let alone one year. The city points out that it is the smallest of the cities in its comparables, and that it may never pay dollar for dollar what Upper Arlington or Worthington is able to pay its employees. The city also intends to continue to lower the disparity in the next contract as well.

The city, for patrol officer wages, offers an annual salary amount in step A of \$29,758 up to \$38,615 in step E in 2001 (effective 1/1/2001), an increase of 10.90% in step E. In 2002, the range is from \$29,758 in step A up to \$42,410.56 in step E, an increase of 9.83% in step E. In 2003, the range is from \$29,758 in step A up to \$46,208.24 in step E, an increase of 8.95% in step E. Step A remains the same throughout the contract term, and the increases in the other steps vary from a low of 2.79% between 2002 and 2003 in step B to a high of 9.08% between 2000 and 2001 in step D.

For the sergeants, in 2001, the range is from \$41,958.80 in step A to \$44,958.80 in step B, an increase of 12.29% in step B. In 2002, the range is from \$45,624.80 in step A to \$48,624.80 in step B, an increase of 8.15% in step B. In 2003, the range is from \$49,290.80 in step A to \$52,290.80 in step B, an increase of 7.54% in step B.

The FOP position: The bargaining units agree with the city's analysis of the disparity between the wages enjoyed by the employees, and the wages in comparable cities. Some of the bargaining unit members' children qualify for reduced cost or free school lunches, based on their wages. Bargaining unit members are being lost to better paying jobs in the comparable cities. There is no dispute that the city has the resources for a significant increase in wages to the bargaining units.

In 2001, for patrol officers, the bargaining unit proposes an annual salary rate from \$29,972.00 in step A to \$40,307 in step E, an increase of 15.8% in step E. In 2002, the range is from \$31,178.00 in step A to \$44,338.00 in step E, an increase of 10% in step E. In 2003, the range is from \$32,113.00 in step A to \$48,771.00 in step E, an increase of 10% in step E.

For the sergeants, in 2001, the range is from \$44,337.00 in step A to \$46,353.00 in step B, an increase of 15.8% in step B. In 2002, the range is from \$48,772.00 in step A to \$51,046 in step B, an increase of 10.1% in step B. In 2003, the range is from \$53,648.00 in step A to \$56,087.00 in step B, an increase of 9.9% in step B.

Discussion and recommendation: My analysis of the submissions of the parties leads me to recommend a modification of the party's positions. It is clear that the city is offering a significant wage increase over the term of the contract in both the patrol and sergeant wage proposals. However, the union is proposing even more significant increases, especially in the first year of the contract. The city does have the ability to pay a significant increase. The comparables submitted by both parties support an increase. The bargaining unit proposals are too heavily skewed toward the front end of the contract, and the total amount requested should be reduced.

The parties proposed step raises that differed significantly. In the previous contract the increase between each of the steps was about 5%. Here, in 2001, the city proposes increases of 7.33%, 6.83%, 6.39% and 6.36%, while the union proposes a 16.2% step between step A and step B, and 5% steps between each of the other steps. In 2002, the city proposes increases of 10.41%, 9.43%, 8.62% and 8.60%, while the union proposes a 21.9% increase between steps A and B, and then 5.25% increases in all of the other steps. In 2003, the city proposes increases of 13.49%, 11.89%, 10.63% and 10.54%, while the union proposes a 30.2% increase between steps A and B, and then 5.25% increases between all of the other steps.

The expired contract requires a 15% spread between Sergeants step B and Patrol Officer step E (and 10% between sergeant step A and patrol officer step E). The city's proposal does not meet this requirement in 2002 or 2003.

In calculating wages I recommend starting with the sergeant step A amount from 2000, and applying a 13% increase effective January 1, 2001, that would amount to an annual wage of \$43,243.20. To determine step B I would multiply step A by 1.05 (the 5% difference inferred from the contract language maintaining the gap between sergeant and patrol) making step B \$45,405.36. Similarly, in 2002 I would increase step A by 10%, resulting in an annual wage of \$47,567.52, adding 5% to step A in order to arrive at step B, \$49,945.90. In 2003 I would increase step A by 8%, resulting in an annual wage of \$51,372.92, adding 5% to step A in order to arrive at step B, \$53,941.57. This results in a 31% increase over the three years of the contract.

The patrol officer wages can then be calculated for step E by reducing the sergeant step A amount by 10% in each of the years of the contract. The step E amount for 2001 is an annual wage of \$38,918.88. Similarly, in 2002, the step E amount is an annual wage of \$42,810.77. In 2003, the step E amount is an annual wage of \$46,235.63. I am unable to adopt either of the party's proposals for the increases between the steps. Instead, I would adopt the city's proposal to maintain step A at \$29,757.94 throughout the term of the contract, and then equally apply the percentage increase from step A to step E. In 2001 the increase would be 30.78%, divided by 4, for a 7.7% increase to the step A rate for each step. So in 2001, step B is \$32,049.30 ($\$29,757.94 \times 1.077$), step C is \$34,340.66 ($\$29,757.94 \times 1.154$), step D is \$36,632.02 ($\$29,757.94 \times 1.231$), and step E is \$38,918.88 ($\$29,757.94 \times$

1.3078). In 2002 the increase would be 43.86%, divided by 4, for a 10.97% increase to step A in each step. In 2003 the increase would be 55.37%, divided by 4, for a 13.84% increase to step A in each step.

I do not recommend the added language that the union proposed concerning hiring experienced law enforcement employees. There was no discussion concerning this, and it should not be imposed as it appears to me there is a management rights issue surrounding "hiring".

CONCLUSION

The parties have jointly asked that the tentative agreements between them be confirmed and adopted and I do so based upon the documents submitted to me. The parties cooperated in presenting their positions to me, and in our mediation efforts. The courtesy and professional behavior was evidence of the good relations between the parties, and I encourage them to continue to bargain in good faith even if they are unable to agree on my recommendations.

Respectfully submitted,



PHILIP H. SHERIDAN, JR.

Fact-finder

S.C. #0006486

580 South High Street

Columbus, Ohio 43215

(614) 221-2001

CERTIFICATE OF SERVICE

A copy of the above Fact Finder Report and Recommendation was served upon SERB, Bureau of Mediation, 65 East State Street, 12th Floor, Columbus, Ohio 43215-4213, by ordinary mail; and upon Robert A. Schumleffel, Jr., 125 East 6th Street, Marysville, Ohio 43040, and Andrea H. Johan, 222 East Town Street, Columbus, Ohio 43215, by hand delivery this 24th day of January, 2001.


PHILIP H. SHERIDAN, JR.