

FACTFINDING REPORT

STATE OF OHIO

STATE EMPLOYMENT RELATIONS BOARD

April 16, 2001

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RELATIONS BOARD

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In the Matter of:

City of North Royalton)
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 and)
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 Fraternal Order of Police, Lodge No. 15)

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00-MED-0131

SERB Case No. 00-MED-0931

APPEARANCES

For the Employer:

James Budzik, Attorney
Thomas P. O'Donnell, Attorney
Cathy Luks, Mayor
Paul M. Bican, Police Chief
Karen Fegan, Director of Finance

For the Union:

Frank Bolmeyer, Attorney
Clark Chilcott, Sergeant
Glen McGraw, Sergeant
Dale Krejci, Sergeant

Factfinder:

Nels E. Nelson

BACKGROUND

The dispute involves the City of North Royalton and the police sergeants who are represented by the Fraternal Order of Police, Lodge No. 15. They are negotiating for a successor to the contract that expired on December 31, 2000.

The Factfinder was appointed on December 1, 2000. Negotiations continued after the Factfinder's appointment but when no agreement was reached a factfinding hearing was conducted on March 23, 2001. The parties mediated six of the nine unresolved issues at the factfinding hearing. These issues along with the parties' previous tentative agreements are listed below and incorporated in the recommendations.

The three unresolved issues are Article XI - Duty Hours; Article XX - Salary Schedule; and Article XXI - Longevity. Both parties were afforded full opportunity to present testimonial and documentary evidence at the hearing. Inasmuch as the statute requires a short time frame for the Factfinder to issue his report, the Factfinder suggested, and the parties agreed, that the report should contain a short summary of the parties' positions and the Factfinder's recommendations with a brief analysis.

The recommendations of the Factfinder are based upon the criteria set forth in Section 4117-9-05(k) of the Ohio Administrative Rules. They are:

- (a) Past collectively bargained agreements, if any, between the parties;
- (b) Comparison of the unresolved issues relative to the employee in the bargaining unit with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;
- (c) The interest and welfare of the public, and the ability of the public employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standard of public service;
- (d) The lawful authority of the public employer;

- (e) The stipulations of the parties;
- (f) Such other factors, not confined to those listed in this section, which are normally or traditionally taken into consideration in the determination of issues submitted to mutually agreed upon dispute procedures in the public service or in private employment.

ISSUES

As indicated above, there are three issues before the Factfinder.

1) Article XI - Duty Hours, Section 11.04 - The current contract contains a provision that deals with scheduling for the patrol division.

City Position - The City contends that the prior Administration unknowingly granted contractual language which severely hinders the Chief's ability to assign by permitting certain shift selection by seniority and by agreeing not to schedule "relief shifts." The City further submits that the prior Administration unknowingly and unnecessarily caused an excessive amount of mandated overtime by agreeing that patrol division sergeants shall be scheduled for all shifts 365 days per year. According to the City, Chief Bican was not involved with negotiations and was told after the fact of the former Mayor's agreement on scheduling which he objected to and noted the cost implications. The City argued former Mayor Gary Barna's testimony of not wanting to create overtime and his intention not to restrict the Chief's scheduling supports its case. Finally, the City contends all other comparable cities have no such restrictive language regarding permanent shifts or shift selections by seniority and mandated overtime due to scheduling.

Union Position - The Union submitted that the City voluntarily agreed to the Section 11.05 at the last negotiations and that, in fact, the language was the City's

proposal. The City sought to implement the 365-day scheduling to rectify a conflict with the Patrol Unit contract regarding Officer In Charge Pay and overtime. In addition, the City wanted supervisors to supervise. The Union contends that the City knew there would be increased costs associated with the last sentence of Sec. 11.04 and that the City negotiators were aware of this fact. The Union argued that former Mayor Barna's testimony supported its position. Moreover, the Union stated that two years ago it presented the City with a plethora of evidence that permanent shifts has many more health advantages over rotating shifts, a point not contested by the City. Finally, the Union stated that the provision was a bargained for exchange that should not be changed at this time due to a change in Administration.

Analysis - The Factfinder recommends that Sec. 11.04 be modified to continue for shift selection by quarters, however, such selection will be done on a preferred quarterly selection basis to allow a junior sergeant to obtain at least one, or possibly more, quarterly selections.

With regard to the last line of Sec. 11.04, the Factfinder recommends that it be deleted. The undisputed evidence establishes that the language has resulted in overtime payments to cover scheduling of patrol sergeants on all shifts 365 days per year. The elimination of the last sentence of Sec. 11.04 will result in bargaining unit employee losing mandated overtime pay. The employees will be recommended an appropriate wage increases under Article XX as the recommended exchange. The elimination of the last line will now permit the City to schedule sergeants on shifts the Chief determines appropriate. Thus, no elimination or modification of the prohibition against "relief shifts" is warranted.

Recommendation - The Factfinder recommends the following contract

language:

11.04 - Scheduling for the patrol division shall be by seniority. Shifts will not rotate. Scheduling will be bid in yearly blocks divided into four (4) separate quarters in which members will select a preferred quarterly shift by seniority for a total of four quarterly picks. Any sergeant on the patrol schedule shall be deemed a patrol sergeant for the purpose of shift bids. Shifts shall consist of the same daily hours of work no sergeant will be required to work a "relief shift" which consists of two (2) or more shifts during any quarter.

2) Article XX - Salary Schedule - The salaries are set forth in Article XX of

the contract.

Union Position - The Union submits that comparable data clearly establishes that the bargaining unit is the lowest paid. The Union uses a list of comparables cited with approval by Jonathan Klein in his 1996 Factfinding Report. The Union asserts that the 5.75% proposed increase each year of the contract will move the bargaining unit employees up closer to the average of comparable communities, however, these sergeants would still rank at the bottom even with the proposed increases. The Union contends the City can afford the proposed increases and has not alleged inability to pay during negotiations. Finally, the Union asserts that the Supervisors unit has seen an increase in workload and responsibilities and that such facts also constitute an additional reason for a merit raise.

City Position - The City does not dispute that the Supervisors Unit is paid lower than surrounding communities. The City asserts, however, that all the other cities raised by the Union have a 2% municipal income tax and a strong industrial base while North Royalton has a 1% municipal income tax and lacks a strong industrial base

the other cities enjoy. The City submitted budget information of total expenditures of the other cities to further establish its point. Furthermore, the City submits that police sergeants' salaries are paid, in part, through a police operating levy which the recent renewal in November 2000 failed by approximately one hundred votes. In November, the levy needed a simple majority to pass, however in the May vote, such renewal needs a 60% passage margin per City Charter. A failure of the levy will result in \$700,000 of lost revenues. Finally, the City contends the AFSCME units, agreed upon 3% increases for 2001. Therefore, the City requests its 3% proposals for each year of the Agreement be recommended.

Analysis - The Factfinder notes that the elimination of the mandated overtime provision contained in Sec. 11.04 and the Supervisors Unit status among surrounding communities justifies appropriate wage increases while still maintaining the City's budgetary constraints. The City noted that during negotiations it was willing to grant higher wage increases to the Supervisors Unit for elimination of appropriate modification of Sec. 11.04. The Factfinder has recommended modifications and certain elimination of language in Sec. 11.04, as noted above, which warrants wage increases to the Supervisors Unit. The current labor agreement does not set forth a rank differential and no specific differential is recommended. Based upon the above analysis the Factfinder recommends the following wage rates for each year of the Agreement and retroactive to January 1, 2001, the first year of the Agreement.

20.01 - Effective January 1st of each year of the Agreement, all employees will be paid in accordance with the following rate of pay throughout the years 2001, 2002, and 2003.

<u>Job Title</u>	<u>Step 1 2001</u>	<u>Step 1 2002</u>	<u>Step 1 2003</u>
Sergeants	\$26.4	\$27.48	\$28.58

3) Article XXI - Longevity - The longevity payments are specified in Article XXI.

Union Position - The Union seeks an increase of two (2) additional years capping at \$2,000. Currently, employees earn \$100 per year of service beginning at five years increasing to a cap of \$1,800 at 18 years of service. The Union contends long term employees should be rewarded for their years of service. The Union also asserts that the City saw fit to increase longevity payments to the Chief and Police Captain to \$2,000 in 1996. Moreover, all other non-union employees earn longevity for a \$2,000 cap. Finally, the Jail Administrator, a civilian position, also earns longevity up to \$2,000 and his salary package mirrors that of the Sergeants. The Supervisors Unit requests they be treated like these other employees.

City Position - The City asserts that the Police Supervisors Unit currently ranks the highest among all organized bargaining units in the City in regard to longevity compensation. The Fire Division, Police Dispatchers and AFSCME Correction Officers Units receive longevity capping at \$1,500 while the AFSCME Service and "City Hall" receives a cap of \$1,700. The City further submits that the current longevity compensation is adequate in comparison with other cities. The City submits that a modification and increase is not warranted.

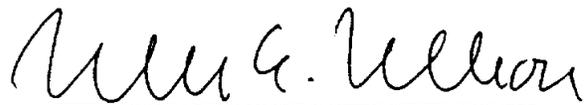
Analysis - The Factfinder recommends no change in the current benefit. The Factfinder has recommended wage increases over three years that will provide appropriate compensation increases to Supervisors Unit members. Moreover, the

bargaining unit currently enjoys a benefit that is greater than all other bargaining units.

Accordingly, no change is recommended.

4) Agreed Upon Items - The following agreed upon items are incorporated in the recommendations of the Factfinder.

Article XII - Overtime
Article XIII - Sick Leave
Article XIII - Sick Leave Bonus
Article XV - Injury Leave
Article XVIII - Vacations
Article XX - Sec. 20.05 - Professional Wage Supplement
Article XXIV - Uniform Allowance
Article XXV - Insurance
Article XXVI - Miscellaneous
Article XXXI - Family Medical Leave
Article XXVIII - Duration
Article XXXIX - Disciplinary Procedure
Article XL - Grievance Procedure
Article XLI - Arbitration Procedure



Nels E. Nelson
Factfinder

April 16, 2001
Russell Township
Geauga County, Ohio