

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD
FACT FINDING PROCEEDINGS

STATE EMPLOYMENT
RELATIONS BOARD
2001 OCT -5 5 1: 21

REPORT & RECOMMENDATIONS
OF THE FACTFINDER

AS ISSUED
September 28, 2001

IN THE MATTER OF:

City of Rittman <i>(Employer)</i> <i>-and-</i> OPBA <i>(Union)</i>	SERB Case No. 00-MED-10-1123 00-MED-10-1138 00-MED-10-1139
--	---

APPEARANCES:

On Behalf of the Union:

James Budzik	Attorney
James Bell	Finance Director
Robert Kellog	City Manager

On Behalf of the Employer:

Kevin Powers	Attorney
Michael Howell	Patrol Representative
Susan Hitchcock	Dispatcher Representative
Byron Lyle	Sergeant Representative

GREGORY JAMES VAN PELT
LABOR ARBITRATION
MEDIATION & DISPUTE RESOLUTION

SUITE 409
2550 KEMPER ROAD
SHAKER HEIGHTS, OH 44120

SUBMISSION

The Parties in the present negotiation have had an ongoing collective bargaining relationship culminating in a contract that obtained until December 31, 2000. The OPBA represents three bargaining units consisting of the City's approximately four full and part-time dispatchers; approximately nine Police Patrol Officers; and approximately two Police Sergeants. In accordance with the provisions of Rule 4117-9-05(E) of the Ohio Administrative Code, the undersigned was appointed Fact Finder in the matter, effective on December 1, 2000.

As provided by ORC 4117.14(C)(5), a series of mutual agreements to extend negotiations for a successor Collective Bargaining Agreement were entered into by the Parties, as well as an agreement to apply negotiated terms retroactively to January, 1, 2001.

However, attempts at settlement of issues at impasse proved fruitless, and the Parties requested the participation of the Fact Finder. Accordingly, an oral hearing was held on September 7, 2001 at the City of Rittman's facility in Rittman, Ohio. The Parties waived further mediation of issues at impasse, and an evidentiary hearing was held, at which the Parties were afforded an opportunity to present evidence and testimony supporting their respective positions. The matter was declared closed as of the date of hearing, with the Parties mutually requesting issuance of the Report and Recommendations of the Fact Finder on September 28, 2001.

ISSUES AT IMPASSE

The Parties identified and presented the following six issues as remaining unresolved.

1. **Article XIII – Overtime**
2. **Article XVI – Vacations**
 - Section 16.01 – vacation schedule*
 - Section 16.05 – vacation carryover*
3. **Article XVII – Sick Leave**
4. **Article XXII – Insurance**
5. **Article XXIII - Longevity**
6. **Article XXIV – Wages**

STATUTORY CONSIDERATIONS

In weighing the positions presented by the Parties, the Factfinder was guided by the considerations delineated in OAC 4117-9-05(K):

- 4117-9-05(K)(1) Past Collectively bargained agreements, if any, between the parties;
- 4117-9-05(K)(2) Comparison of the unresolved issues relative to the employees 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;
- 4117-9-05(K)(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 the adjustments on the normal standard of public service;
- 4117-9-05(K)(4) The lawful authority of the public employer;
- 4117-9-05(K)(5) Any stipulations of the parties;
- 4117-9-05(K)(6) Such other factors, not confined to those listed above, which are normally or traditionally taken into consideration in the determination of the issues submitted to mutually agreed-upon dispute settlement procedures in the public service or in private employment.

BACKGROUND

Located in a rural area southwest of Akron, Rittman is home to approximately 6,300 people. The City is described by its administrators as a “blue-collar, bedroom community”. Of Rittman’s two major industries, employment at Morton Salt is stable, while that at Caraustar has declined in recent years. Housing and other living costs, as well as wages, are below those of surrounding communities.

While the City does not maintain an inability to pay the compensation and other benefits sought by the OPBA, as contemplated by OAC 4117-9-05(K)(3), the Employer does characterize its financial prospects as, “bleak”. According to a Treasurer’s Report submitted by the Employer, Rittman’s unencumbered balances have declined steadily from \$927,244 as of

December 31, 1998; to \$502,831 at the end of 1999; \$320,541 in December of 2000; to \$278,632 as of August 31, 2001. At present, Rittman's unencumbered balance represents approximately a forty-five day operating reserve, considerably less than the three month reserve testified by the City Treasurer as ideal. In addition, the City has recently completed a recreation center, paid for from a Capital Improvements fund, separate from the General fund from which Police Officers are paid.

According to documents presented by the City, the Police budget, drawn from the General Operating Fund, has increased from \$713,000 in 1999; to \$786,000 in 2000; a projected \$832,000 in 2001; and a current projected increase to \$937,000 in 2002. The Treasurer's projections for 2001 and 2002 are predicated on a 3 – 3.5% wage increase and assumption of a retired C.O.P.S. grant that provided for two part-time patrol officers.

Of major revenue sources, the City income tax of 1.5% generated slightly more in 2000 than in 1999 - \$670,000 to \$672,000 – while decreasing to date in 2001 by some \$18,000. Local Government Funds, from the State, decreased from \$407,000 in 1999 to \$388,000 in 2000 and have been frozen by the State for 2001 and 2002. In contrast, property tax revenues increased slightly – from 1999's \$260,000 to \$271,000 in 2000, with no figures presented by the City for 2001. Interest on Rittman's investment accounts declined from \$257,000 in 1999 to 2000's \$201,000, and is currently \$141,000 through August of 2001, as compared to \$141,000 in August of last year, a decline the City attributes to a combination of declining fund balance and declining interest rates.

The OPBA presents evidence indicating that the lower wages asserted by the City as generally obtaining in Rittman are applicable to the members of the instant bargaining units. Comparing what it contends are similar area communities, documents submitted by the Union indicate that Rittman's police and dispatch employees are somewhat below those cited in total benefits compensated. As might be expected, each Party contends that the evidence of comparable compensation presented by the other is, in fact, not reflective of communities economically and demographically similar to Rittman. In that regard, testimony as to the City's ability to attract and retain qualified police personnel is mixed. The Parties agreed that no member of the bargaining units negotiating here had left employment in Rittman during the course of the predecessor agreement, either for better wages elsewhere, or for any other reasons. Yet the City acknowledged that it may need to hire additional personnel should Rittman's commercial and industrial base increase.

Despite Rittman's declining financial position, salaried employees have enjoyed what the OPBA characterizes as "generous" compensation increases in recent years. According to documents and testimony proffered by the Union, management employees of Rittman received wage increases in 2000 ranging from 4% to 11.2%, and averaging 6.4%. Compensation increases for salaried employees averaged 4.6% in 2001, not including pension contributions made by the City. Presenting *Salaries of Municipal Officials: July 1, 2000*, the OPBA contrasts the listed salary for "City Manager" of \$62,222 with that of Rittman's City Manager of \$65,600. In response, the City argues that Rittman's salaried employees do not enjoy the job security provided by a collectively-bargained contract, and many regularly work overtime, for which they are not compensated.

In consideration of these factors, and those discussed relative to the specific unresolved issues that follow, the Fact Finder respectfully submits this report and the recommendations herein.

FINDINGS AND RECOMMENDATIONS

Article XIII – Overtime Pay *Section 13.01*

City Position:

The Employer rejects the OPBA's proposal to increase bankable compensatory time from the current forty hours (40) to one hundred twenty hours (120). Compensatory time, says the City, creates additional staffing requirements, necessitating the use, and expense, of part-time employees. Therefore, the City urges retention of current contract language.

OPBA Position:

The Union contends that the allowable accrued compensatory time under federal law is 480 hours for patrol officers and 240 hours for dispatchers. More, says the OPBA, comparable neighboring jurisdictions permit the banking of more comp time hours than does Rittman. Consequently, it asks that the Fact Finder recommend an increase in the comp time bank to one hundred twenty (120) hours.

Findings and Discussion:

Hours of compensatory time bankable by police personnel in Rittman are currently one tenth the number allowed under federal law. Moreover, evidence adduced at hearing indicates

that many surrounding communities do, in fact, permit the accrual of more compensatory time than allowed under the predecessor agreement.

However, the liability created by increased compensatory time banks might, as the City contends, subject the Employer to unmanageable increases in coverage expenses. Accordingly, it seems reasonable that increases in the number of bankable compensatory hours be implemented incrementally. Therefore, it is recommended that the compensatory time bank allowed bargaining unit members in Section 13.01 be increased from the current forty (40) hours to eighty (80) hours under this agreement.

Recommendation:

13.01 * * *

“Employee compensatory time banks shall not exceed eighty (80) hours. . . . Such compensatory time bank shall not exceed eighty (80) hours.

ARTICLE XVI - VACATIONS

City Position:

Rittman rejects the OPBA’s proposal to increase vacation benefits, asserting that the current contract provision is, “generous and grants employees plenty of opportunity for vacation leave.” Additionally, the Employer argues that granting additional vacation benefits in the few remaining months of calendar 2001 would result in a disruptive burden on the Employer to cover duty hours left open due to increased vacation leave utilization.

OPBA Position:

The Union contends that current vacation benefits provided bargaining unit members lag behind those afforded the regional labor market, as well as those enjoyed by salaried City employees. Accordingly, it proposes elimination of the current system allotting one additional day on the basis of years served in favor of an enumerated schedule providing five additional vacation days in five-year increments.

Findings and Discussion:

The vacation schedule currently provided at Section 6.01 is somewhat out of line with those of surrounding communities in both approach and benefits. It likewise does not comport with vacation provisions of the collective bargaining agreement recently entered into between the City and AFSCME, its largest bargaining unit. Consequently, the schedule proposed by the Union will be recommended.

Recommendation:

16.01 Effective 1/1/01, each full-time employee, upon completion of the appropriate amount of continuous full-time service with the Employer, shall be entitled to paid vacation in accordance with the following schedule:

<u>Completed Years of Service</u>	<u>Vacation Days</u>
1-5 years	10 days
6-10 years	15 days
11-15 years	20 days
16 + years	25 days

Article XVII – Sick Leave

City Position:

The City urges rejection of the OPBA’s proposal to increase the present sick leave buyout cap of four hundred eighty (480) hours to a new maximum of 600 hours. The current cap represents an adequate sick leave conversion rate, says the Employer, as well as constituting a significant liability to the City. Therefore, Rittman urges retention of current contract language.

OPBA Position:

The OPBA urges increase of the current sick leave buyout to ½ of a retiring officer’s accumulated unused leave, up to a maximum of 600 hours.

Findings and Discussion:

The benefit to Employers of sick leave buyout is the incentive it provides Employees to avoid unnecessary use, or abuse, of sick leave, thereby restricting the need for expensive overtime or part-time coverage. Consequently, it would seem desirable for employers to increase this incentive to the greatest degree possible.

When viewed against the comparable sick leave buyout figures provided by the Employer, the cap imposed on Rittman police personnel is below the prevailing rate afforded officers in the cited communities. Galion, for example, pays retiring police officers 2/3 of *all* accrued unused sick leave, according to the City’s figures. Louisville caps its buyout at 1,200 hours; Shelby and Urichsville will purchase up to 720 hours each from retiring police personnel. For these reasons, it is recommended the current 480 maximum buyout be increased to the 600 hours proposed by the OPBA.

Recommendation:

17.10 Upon the retirement of an employee . . . shall not exceed six hundred (600) hours.

Article XXII – INSURANCE

City Position:

Rittman proposes an increase in the maximum monthly employee contribution to the City's health insurance plan. The Employer's insurance costs rose between 21-23% for 2001 and could rise 15-17% next year, according to the City's insurance carrier. Citing these "skyrocketing" health insurance costs, the Employer asks that bargaining unit members' contributions be raised from the current maximum of \$90 per month to \$110 in 2001; \$120 in 2002; and \$130 in 2003. City employees, both in this and other bargaining units, as well as salaried personnel, will experience increased health insurance contributions, it says.

OPBA Position:

The Union proposes elimination of the employee health insurance contribution altogether. Most comparable communities, it says, do not require any employee health care contribution. Moreover, the OPBA asserts that Rittman's salaried employees presently contribute only \$60 per month for family coverage, significantly less than the \$90 contribution of bargaining unit members.

Findings and Discussion:

The problem of escalating health care costs is one that has recently plagued most employers, in both the public and private sectors. Particularly for small jurisdictions, like the employer here, health care coverage liabilities pose significant budgetary problems. In order to offset these potentially ruinous raises, increasing numbers of public employers are requiring employee participation. OPBA members in Rittman have contributed to their health care coverage throughout several collective bargaining agreements. More, the agreement recently implemented with AFSCME, the City's largest bargaining unit, requires the \$110 sought of police personnel in these negotiations. It is not unreasonable, therefore, that police personnel absorb, in part, projected health care increases. Therefore, the City's requested increase will be recommended, but limited to the single \$110 contribution, as is that of AFSCME.

Recommendation:

22.01 The Employer shall continue to pay the necessary premiums. . . . Should such premiums exceed the aforementioned amounts, employees shall pay 50% of the difference through automatic payroll deduction, to a monthly maximum of one hundred ten dollars (\$110.00).

Article XXII – Longevity

City Position:

The Employer argues that the present longevity benefit is costly to the City, and that further increases in the benefit would adversely affect the already strained budget. Thus, it rejects the Union’s proposal for a longevity schedule based on yearly increases, and urges retention of the present longevity system, which awards longevity payments in 5 year increments.

OPBA Position:

The Union characterizes the current system as, “anomalous”. After five years, an employee receives \$750, or \$150 per year of service. However, the OPBA points out, the compensation after ten years - \$1,150 - pro rates to only \$115 per year, while the 20 year benefit is only \$105 for each year of service. Therefore, the Union proposes a schedule providing for a \$750 payment following five years of service, with \$150 increases each additional year.

Findings and Discussion:

The objective of longevity benefits is to reward and retain experienced police personnel. In this regard, longevity pay is best considered when compared to that paid by similar neighboring jurisdictions, and as part of the entire compensation package. Comparables submitted by both Parties here indicate that Rittman’s longevity benefit is at the top of those communities presented for comparison. Additionally, the longevity allowance does much to elevate the City’s total compensation vis-à-vis similar surrounding communities. Evidence presented at hearing indicates that Rittman has had little difficulty retaining police personnel. As a consequence, it is reasonable to believe that many of the City’s most experienced officers deserve recognition and reward for such service. Employees of many similar communities, as well as Rittman’s AFSCME members, have been recognized for this service with an additional longevity step following 25 years. Consequently, an additional step after 25 years of service, providing a \$2,500 benefit, is recommended.

Recommendation:

23.01 Effective upon execution of this Agreement, all employees shall receive longevity payments after completion of the required length of continuous full-time service, pursuant to the following schedule:

After completion of:

5 years	\$ 750.00
10 years	\$1150.00
15 years	\$1600.00
20 years	\$2100.00
25 years	\$2500.00

Article XXIV - Wages

City Position:

Rittman maintains that its revenues are, at best, “stagnant”. General fund expenses for 2001, it says, are exceeding revenues. In support of this position, the Employer presents documents to indicate that the City income tax of 1.5% generated slightly more in 2000 than in 1999 - \$670,000 to \$672,000 – while decreasing to date in 2001 by some \$18,000. Local Government Funds grants, from the State, decreased from \$407,000 in 1999 to \$388,000 in 2000 and have been frozen by the State for 2001 and 2002. In contrast, property tax revenues increased slightly – from 1999’s \$260,000 to \$271,000 in 2000, with no figures presented by the City for 2001. Interest on Rittman’s investment accounts declined from \$257,000 in 1999 to 2000’s \$201,000, and is currently \$141,000 through August of 2001, as compared to \$141,000 in August of last year, a decline the City attributes to a combination of declining fund balance and declining interest rates. In addition, a C.O.P.s grant, which paid for approximately two part-time patrol officers expired. Based on what it characterizes as a “bleak” financial future, the City proposes three percent wage increases in each of the three contract years.

OPBA Position:

The Union asserts that the wages of police personnel in Rittman are substantially below the market rate for demographically similar communities. In support of this position, it presents documents it says indicate that, at the top rate, an officer in Rittman is paid nearly \$7,000, or 16% below that paid neighboring counterparts.

The bargaining unit rejects the City’s argument that it cannot sustain wage and other compensation increases for bargaining unit employees, pointing to recent salary modifications

for management personnel. The OPBA maintains that salaried employees of Rittman received wage increases in 2000 ranging from 4% to 11.2%, and averaging 6.4%. Compensation increases for salaried employees averaged 4.6% in 2001, says the Union, not including pension contributions made by the City. Presenting *Salaries of Municipal Officials: July 1, 2000*, the OPBA contrasts the listed salary for "City Manager" of \$62,222 with that of Rittman's City Manager of \$65,600.

For these reasons, the Union proposes wage increases of 7% in each of the three contract years. It also seeks an 11% rank differential for sergeants, over the top patrol rate. The OPBA proposes hourly rates for part-time dispatchers of \$11.00 in 2001; \$11.50 in 2002; and \$12.00 in 2003.

Findings and Discussion:

Although the Employer's financial position does not rise to the level of distress contemplated by 4117-9-05(K)(3), the evidence adduced is strongly supportive of the City's contention that its financial prospects are tenuous. Rittman's unencumbered balance has declined in recent years; a Treasurer's Report submitted by the Employer indicates that Rittman's unencumbered balances have dropped steadily from \$927,244 as of December 31, 1998; to \$502,831 at the end of 1999; \$320,541 in December of 2000; to \$278,632 as of August 31, 2001. The available unencumbered balance represents only approximately a forty-five day operating reserve, a figure likely to be reduced in the future. More, economic ramifications of the recent tragic events are not likely to result in improvement of the City's economic situation.

Nor is it unreasonable that salary increases afforded the City's salaried employees, particularly those relative to the year 2000 pointed to by the Union, were implemented, even in an era of declining financial stability for the Employer. Some might reasonably be concluded to rectify previous under-compensation; some in consideration of overtime requirements in the individual position; others, simply to retain valuable employees. More, as the City maintains, its salaried employees do not enjoy the inarguable benefits of a collectively bargained contract. In consideration of these factors, increases in compensation to management personnel averaging 6.4% in 2000 and 4% in 2001 do not seem unconscionable

The evidence regarding compensation of police personnel in comparable Ohio communities is mixed. Each Party argues that the comparables cited by the other are not relevant to the circumstances of Rittman. Indeed, it is reasonable to infer, as it often is when

dealing with comparable wage information, that no other jurisdiction adequately compares to the instant community as to be determinative of what compensation would be appropriate here.

It is, however, significant that no bargaining unit member has felt constrained to leave the department within the term of the last collective bargaining agreement in order to find better compensated employment elsewhere. Thus, it cannot be determined that the wages paid Rittman's police personnel are inadequate to retain qualified, experienced employees.

The rank differential of 11% above the top patrol wage sought by the Union comports with the prevailing market differential, and is recommended. A rate of \$11.00 per hour in 2001; \$11.50 per hour in 2002; and \$12.00 in 1993, as proposed by the OPBA would seem to assist the City in attracting and retaining essential part-time dispatchers, and is accordingly recommended.

For these reasons, wage increases of 4% in each of the three contract years would seem to balance the need to incrementally increase the living wage paid Union members with the City's inarguably tense financial situation.

Recommendation:

Patrol Officers - wage increases of 4% in each of the respective contract years

Sergeants - 11% rank differential above top patrol rate

Dispatchers - \$11.00 per hour in 2001; \$11.50 per hour in 2002; \$12.00 per hour in 2003.

SUMMARY OF RECOMMENDATIONS

1. Article XIII – Overtime

Increase in bankable compensatory hours to 80

2. Article XVI – Vacations

<u>Completed Years of Service</u>	<u>Vacation Days</u>
1-5 years	10 days
6-10 years	15 days
11-15 years	20 days
16 + years	25 days

3. Article XVII – Sick Leave

Sick leave buyout cap raised from 480 hours to 600 hours

4. Article XXII – Insurance

Employee maximum monthly contribution raised to \$110.00 from current \$90.

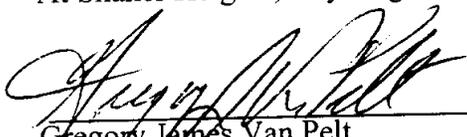
5. Article XXIII – Longevity

Additional longevity benefit of \$2,500 at 25 years of service.

6. Article XXIV – Wages

Patrol Officers - wage increases of 4% in each of the respective contract years
Sergeants - 11% rank differential above top patrol rate
Dispatchers - \$11.00 per hour in 2001; \$11.50 per hour in 2002; \$12.00 per hour in 2003.

Respectfully submitted, this 28th day of September, 2001
At Shaker Heights, Cuyahoga County, Ohio



Gregory James Van Pelt
Fact-finder
State Employment Relations Board

MER

GREGORY JAMES VAN PELT
LABOR ARBITRATION
MEDIATION & DISPUTE RESOLUTION

STATE EMPLOYMENT
RELATIONS BOARD
VOICE 216.791.1172
FAX 216.791.1173
E-MAIL GREGORY.VANPELT@LAW.CSUOHIO.EDU

October 2, 2001

2001 OCT -5 P 1:21
SUITE 409
2550 KEMPER ROAD
SHAKER HEIGHTS, OHIO 44120

James Budzik, Esq.
Johnson & Angelo
1001 Lakeside Avenue Suite 1700
Cleveland, OH 44114

Kevin Powers, Esq.
OPBA
10 Beech Street
Berea, OH 44017

In re: **City of Rittman** SERB Case No. 00-MED-10-1123
(Employer) 00-MED-10-1138
-and- 00-MED-10-1139
OPBA
(Union)

Gentlemen:

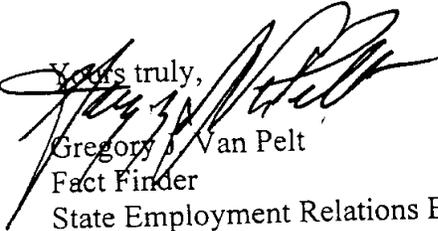
At the request of the Union, this will serve to clarify the Report & Recommendations of the Fact Finder in the above referenced matter, as issued September 28, 2001:

Article XXIV – Wages

Wage increases to become effective on January 1, 2001; January 1, 2002; and January 1, 2003, as applicable:

Patrol Officers - wage increases of 4% in each of the respective contract years,
Sergeants - 11% rank differential above top patrol rate.
Full-time Dispatchers – wage increases of 4% in each of the respective contract years.

Part-time Dispatchers – rates of \$11.00 per hour in 2001; \$11.50 per hour in 2002; \$12.00 per hour in 2003.

Yours truly,

Gregory J. Van Pelt
Fact Finder
State Employment Relations Board
CC: SERB - Dale Zimmer