

**IN THE MATTER OF THE FACTFINDING**

STATE EMPLOYMENT  
RELATIONS BOARD

2003 MAR 21 A 10: 38

**BETWEEN**

**THE CITY OF GENEVA, OHIO**

**AND**

**OHIO PATROLMAN'S BENEVOLENT ASSOCIATION  
[DISPATCHERS]**

**SERB NO. 02-MED-08-0740**

**CHRISTOPHER E. MILES, ESQUIRE**  
*Fact Finder*

**Richard L. Dana, Esquire**  
*Representing the County*

**Colleen M. Bonk, Esquire**  
*Representing the Union*

## BACKGROUND

This case involves the fact finding proceedings between the City of Geneva, Ohio (hereinafter referred to as the "City") and the Ohio Patrolman's Benevolent Association [Dispatchers] (hereinafter referred to as the "Association"). The undersigned, Christopher E. Miles, Esquire, was appointed as the Fact Finder in this matter through the offices of the State Employment Relations Board (SERB).

The fact finding proceedings were conducted pursuant to the Ohio Collective Bargaining Law and the rules and regulations of SERB, as amended. The City and the Association have engaged in the collective bargaining process for a period of time prior to the appointment of a Fact Finder and additional negotiations were conducted by the parties subsequent to the appointment of the Fact Finder. During their negotiations, the parties were able to resolve several provisions for the new collective bargaining agreement. In addition, prior to the fact finding proceedings, the Fact Finder offered to attempt mediation of any of the unresolved issues and the parties agreed. On February 24, 2003, the parties, along with the Fact Finder, engaged in mediation at the Administrative Offices for the City. During mediation, the parties were able to resolve or withdraw some of the outstanding issues. After mediation, the following issues remained unresolved:

- Article 17 - Lay-Off and Recall
- Article 20 - Sick Leave
- Article 19 - Overtime
- Article 21 - Vacation
- Article 23 - Court Time
- Article 24 - Call-in Pay
- Article 25 - Wages
- Article 27 - Longevity
- Article 32 - Insurance
- New Provision - Training
- New Provision - Educational Pays
- New Provision - Family Medical Leave.

The items which were resolved by the parties during negotiations and mediation prior to the fact finding hearing are hereby incorporated in this fact finding report.

After mediation on February 24, 2003, the parties presented their positions concerning the unresolved issues set forth above. The City was represented by Richard L. Dana, Esquire, and the Association was represented by Colleen M. Bonk, Esquire.

## **FINDINGS AND RECOMMENDATIONS**

After consideration and a thorough review of the information and documentation supplied by the parties, as well as their presentations and positions, the Fact Finder makes the following recommendations for the issues which remained at impasse:

### **ISSUE 1:     **ARTICLE 17 - LAYOFF AND RECALL****

The City proposes the following language for Section 2 of Article 17:

Section 2. Employees shall be laid off in accordance with seniority within their classification. For the purposes of this article, part-time and full-time will be distinguished as separate classifications.

The City seeks flexibility when and if the need for layoffs occur. According to the City the above language would permit it to make layoffs based upon department needs. The Association opposes the City's proposed change to this language.

### **RECOMMENDATION**

Based upon the record developed in this case, the City's proposal is not recommended. The language of Article 17, Section 2 should remain unchanged for the new Agreement.

### **ISSUE 2:     **ARTICLE 20 - SICK LEAVE****

During the initial exchange of proposals, the record reveals that the City and the Association agreed to adopt a new Article 20, except for Section 10. The City is proposing language in Article 20, Section 10, as follows:

Section 10. Sick leave conversion. Full-time employees, with fifteen (15) or more years of service, who retire, become disabled, or are separated from employment, for reasons other than discharge for cause, may elect at the time of merit retirement or separation to be paid in cash for one-half (½) of the value of any unused sick leave the employee has accumulated up to a maximum sick leave accumulated in the first tier of nine hundred sixty (960) sick hours. No employee will be eligible for this one-half (½) cash out in excess of nine hundred sixty (960) hours of accumulated sick leave in the first tier of sick hours.

The City points out that all the other bargaining and non-bargaining units within the City has agreed to the above language except the Dispatchers. It argues that the new sick leave policy was the result of a committee meeting between the City and representatives of all the bargaining units and non-bargaining units within the City.

The Association has essentially agreed to the language except for the period of time it would take for the employees to vest their sick time. The Association believes that the sick leave vesting should occur after ten years since its members are eligible for retirement after ten years of service.

### **RECOMMENDATION**

The Fact Finder recommends, after review of the parties' positions concerning this provision, that Section 10 be changed for the new Agreement, as follows:

#### **Section 10.**

A. Sick leave conversion. Full-time employees, with fifteen (15) or more years of service, who retire, become disabled, or are separated from employment, for reasons other than discharge for cause, may elect at the time of merit retirement or separation to be paid in cash for one-half (½) of the value of any unused sick leave the employee has accumulated up to a maximum sick leave accumulated in the first tier of nine hundred sixty (960) sick hours. No employee will be eligible for this one-half (½) cash out in excess of nine hundred sixty (960) hours of accumulated sick leave in the first tier of sick hours.

B. As an exception to subsection A, the parties agree that Margaret Distler and Collette Crouse, with 10 or more years of service during the period of time covered by this Agreement, may elect at the time of merit retirement or separation to be paid in cash for one-half (½) of the value of any unused sick leave the employee has accumulated up to a maximum sick leave accumulated in the first tier of nine hundred sixty (960) sick hours and may only use sick leave in excess of 960 hours for sick comp leave and are not eligible for sick leave in excess of 960 hours of accumulated sick leave after the first tier if they retire, become disabled, or are separated from employment, for reasons other than discharge for cause.

### **ISSUE 3: ARTICLE 19 - OVERTIME**

The Association has sought the following changes to Article 19:

Section 1. Delete the word "an" and insert "any."

Section 4. Delete

Section 5. Add: "Unless an employee chooses to work on a scheduled day-off, an employee shall not be ordered to work an overtime opportunity on days scheduled off work adjoining vacation, holidays, compensatory time leave and personal days.

The City has opposed any change to the language in Article 19. At the fact finding hearing, this provision did not appear to represent a major source of dispute between the parties.

## RECOMMENDATION

The Fact Finder recommends that the language in Article 19 remain as set forth in the current Agreement between the parties.

### ISSUE 4:     **ARTICLE 21 - VACATION**

The Association has sought the following changes to Article 21:

Section 1. Add; "after 5 years . . . 104 hours"

Add the following: With sixty (60) days notice, an employee may request to cash-out vacation hours for the calendar year. The City shall pay the employee for the requested number of hours within the pay period following the sixty (60) day notice period.

The City has opposed the addition of this language. It maintains that there is no valid reason to change the vacation schedule at this time. The Association has relied upon documentation from comparative jurisdictions to support its proposal.

## RECOMMENDATION

The Association's proposal to add the language set forth above to the current language in Article 21 is not recommended. Based upon the record in this case, there is no basis for adding a new level of vacation time and/or including a cash-out provision for unused vacation time.

### ISSUE 5:     **ARTICLE 23 - COURT TIME**

The Association has proposed increasing court time to a minimum of three hours. It submits that this would bring the bargaining unit to the standards of comparable jurisdictions. The City has opposed any change to this provision. It contends that it already spends considerable amount of overtime each year as payment for court time. In addition, all members of the Association live within a ten mile radius of the City.

## RECOMMENDATION

The Fact Finder recommends that Association's proposal be added to the new Agreement; however, with some modification. It is recommended that the following language be set forth in the parties' new Agreement with respect to Court Time:

Section 1. An employee required to appear in court on behalf of the Employer during off duty hours shall be paid a minimum of two (2) hours of pay at one and one-half (1½) time the employee's regular rate of pay.

Section 2. Beginning January 1, 2004, an employee required to appear in court on behalf of the Employer during off duty hours shall be paid a minimum of three (3) hours of pay at one and one-half (1½) times the employee's regular rate of pay. In the event a court appearance is scheduled within one hour prior to the officer's regularly scheduled shift, the rate of pay will be one and one-half only for the one hour period prior to the start of his/her shift. Any court appearance scheduled within one hour after the officer's scheduled shift shall be compensated at the overtime rate for the time required to remain after the shift.

#### **ISSUE 6:      ARTICLE 24 - CALL-IN PAY**

The Association has sought to increase the minimum number of hours for call-in pay to three hours. The City opposes any change to this provision for the same reasons that it opposed the increase of minimum hours for court time.

#### **RECOMMENDATION**

Based upon the record developed in this case, the Association's proposal is not recommended. The language in Article 24 should remain unchanged for the new Agreement.

#### **ISSUE 7:      ARTICLE 25 - WAGES**

The Association has sought a wage increase of ten percent for each year for the three year Agreement. The Association has also proposed the following changes or additions to Article 25:

Section 4. Add: Fill-In Shift . . . \$.85/hour.

Section 6. Add: Any employee assigned training duties shall be paid an additional ten percent (10%) per hour for those hours spent training.

New Section. Add: Normally, the City shall address and correct payroll errors within five (5) business days, except that the City shall negotiate reasonable deductions from pays when necessary to correct substantial overpayments.

The City has proposed a wage increase of two and one-half percent (2½%) for each year of the three year Agreement. The City is opposed to any further increases, except for training pay.

## RECOMMENDATION

After review of the evidence presented in this case, including the financial records and wages paid in other comparable jurisdictions, it is recommended that there be a three percent (3%) wage increase for each of the three years of the new Agreement. It is also recommended that Section 6 be changed as follows:

Section 6. Add: Any employee assigned training duties shall be paid an additional \$.25 per hour for those hours spent training.

It is also recommended that a new section be added to Article 25, as follows:

New Section. Provided that reasonable notice to process payroll is given, the following rules will govern payroll corrections:

Normally, the City shall correct substantial payroll underpayments within two (2) payroll clerk working days. Other payroll underpayments shall be corrected in the next pay.

A substantial payroll error involves at least a day's worth of employee's pay. Normally, an employee will negotiate a substantial payroll overpayment with the City within two (2) payroll clerk working days of notice of the error.

Typically, the employee shall not be required to reimburse the City for payroll overpayments until the next payroll period. If the overpayment is a substantial payroll overpayment, defined as over a day's worth of an employee's wages, repayment will be made within a reasonable period of time, as agreed between both parties.

### ISSUE 8:     ARTICLE 27 - LONGEVITY

The Association proposed the following changes to Article 27:

Section 1. Double longevity pays.

Add: "Credit for prior part-time status is calculated on the number of hours worked in 2080 hour year increments."

The City opposes any increase in the amount of longevity pay. It notes that the Dispatchers Agreement provides for the same level of longevity pay that the City has with all City employees represented by the Association.

## RECOMMENDATION

The Association's proposal is not recommended for the new Agreement. The language in Article 27 should remain unchanged.

**ISSUE 9:     **ARTICLE 32 - INSURANCE****

The Association has sought the following changes to Article 32:

Section 2. Increase the City's portion an additional twenty-five (\$25.00) each year of the Agreement, so that the City contribution the first year of the Agreement is \$575.00 for family coverage and \$275.00 for single; the second year, \$600.00 for family and \$300.00 for single; and, the third year \$625.00 and \$325.00 respectively.

Section 5. Provide for the pro-ration of the payment for health insurance waiver and the option to obtain insurance on a monthly basis if the employee ceases to elect payment under this provision.

The City proposes that its amount of coverage remain at \$550.00 per month for the first year of the Agreement for family coverage with increases (no more than \$25.00 in the year two and three of the Agreement). The City is opposed to any other changes in Article 32.

**RECOMMENDATION**

It is noted that the City formed an insurance committee to review the current policy of insurance. Insurance rates have skyrocketed nationwide and the City of Geneva is faced with similar circumstances. The committee formed by the City sought to obtain better coverage with lower co-pays and deductibles. The employee's share of this cost for a family is approximately \$29.50 per month. A single employee pays less than \$5.00 per month for health insurance. In view of all the above, however, it is noted that all of the members currently represented by the Association are single for purposes of the health insurance coverage. Therefore, it is recommended by the Fact Finder that the sections set forth below be included in the current Agreement for Article 32:

Section 2. Increase the City's portion an additional twelve dollars and fifty cents (\$12.50) in the second and third year of the Agreement, so that the City contribution the first year of the Agreement is \$550.00 for family coverage and \$250.00 for single; the second year, \$562.50 for family and \$262.50 for single; and, the third year \$575.00 and \$275.00 respectively.

Section 5. Provide for the pro-ration of the payment for health insurance waiver and the option to obtain insurance on a monthly basis if the employee ceases to elect payment under this provision.

Section 6. The City shall include one (1) OPBA representative as a participant in the decision-making process for selection of this insurance plan(s).

**ISSUE 10: NEW PROVISION - TRAINING**

The Association has sought the inclusion of a new provisions which would state as follows:

Add: "An employee's request for training shall not be unreasonably denied."

The Association seeks to have the same benefit which has historically been provided to the Police Department employees. The City opposes this provision and maintains that it will exercise its management right to approve or disapprove training based upon the procedures already negotiated between the parties.

**RECOMMENDATION**

After review of the parties' positions, the Fact Finder does not recommend the inclusion of this proposal by the Association for the new Agreement.

**ISSUE 11: NEW PROVISION - EDUCATIONAL PAYS**

The Association has sought a new provision for the Agreement concerning Educational Pays, as follows:

New: The Employer shall pay each employee for obtaining specialized training as follows: For each eight (8) hours of certified training received within five (5) years, an employee will receive one hundred dollars (\$100.00). For an Associate Degree an employee will receive one hundred and fifty dollars (\$150.00), or for a Bachelors Degree, two hundred and fifty dollars (\$250.00). The City shall pay employees a maximum of five hundred dollars (\$500.00) each year the first pay of December upon submission of documentation of completed training at an approved agency or accredited college or university.

The City has opposed this new provision. It submits that this is more of an issue for Patrol Officers than for Dispatchers.

**RECOMMENDATION**

After consideration of the record in this case, as well as the positions of the parties, the Fact Finder recommends that the following language be set forth as a new article in the new Agreement:

The Employer shall pay each employee for obtaining specialized training as follows: For each eight (8) hours of approved training received within five (5) years, an employee will receive one hundred dollars (\$100.00). For an Associate Degree an employee will receive one hundred and fifty

dollars (\$150.00), or for a Bachelors Degree, two hundred and fifty dollars (\$250.00). The City shall pay employees a maximum of three hundred seventy-five dollars (\$375.00) for the 2003-2004 year and five hundred dollars (\$500.00) each year thereafter the first pay of December upon submission of documentation of completed training in a related field or accredited college or university.

**ISSUE 12: NEW PROVISION - FAMILY MEDICAL LEAVE**

The Association has sought a new article for the Agreement whereby the parties agree to adopt the Family Medical Leave Act (FMLA), as enacted and amended. The Association further proposes that employees be able to choose the status of their leave, paid or unpaid, and whether the leave be designated as sick leave, vacation, compensatory time, etc. The City has opposed this new provision and submits that it is required to comply with the FMLA by law and there is no need to incorporate this into the Agreement. The City also maintains that it has a management right to designate the status and type of leave an employee may take.

**RECOMMENDATION**

The Fact Finder has reviewed the record concerning the proposal submitted by the Association. The Association's proposed addition to the new Agreement is recommended; however, with modification. Consequently, the following article is recommended to be added to the new Agreement, as follows:

**NEW ARTICLE - FAMILY MEDICAL LEAVE**

Section 1. The City and the Association agree to adopt the Family Medical Leave Act as enacted and amended.

Section 2. Employees shall be allowed, at their discretion, to maintain a balance of forty (40) hours of paid leave prior to making the transition to unpaid status during an authorized paid Family Medical Leave.

**CONCLUSION**

In conclusion, the Fact Finder submits the Findings and Recommendations as set forth herein.



Christopher E. Miles, Esquire  
Fact Finder

March 19, 2003