

FACT FINDING REPORT
STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD
December 12, 2003

STATE EMPLOYMENT
RELATIONS BOARD

2003 DEC 15 A 10:40

In the Matter of:

The City of Hamilton, Ohio

03-MED-06-0703

and

Fraternal Order of Police,
Lodge 38 (Police Officers and
Detectives)

REPORT AND RECOMMENDATIONS OF FACT-FINDER
TOBIE BRAVERMAN

APPEARANCES

For the Employer:

Timothy G. Werdmann, Assistant
Law Director
Neil R. Ferdelman, Chief of
Police
George M. Gordon, IV, CPA,
Director of Finance
Mark Brandenburger, Deputy City
Manager

For the Union:

Timothy R. Evans, Attorney
Brian Robinson, President
Bob Snyder, Labor-Management
Representative
Robert Horton, Labor-Management
Chair
Michael Waldeck, Labor-
Management Representative

INTRODUCTION

The undersigned was duly appointed by SERB to serve as Fact-Finder in the matter of the City of Hamilton (hereinafter referred to as "Employer") and Fraternal Order of Police, Lodge 38 (hereinafter referred to as "Union") pursuant to OAC 4117-9-5(D), by letter dated October 1, 2003. The parties agreed to extend the deadline for the Fact-Finder's Report until December 12, 2003. Hearing was held at Hamilton, Ohio on November 24, 2003. The Union was represented by Timothy R. Evans, Attorney, and the City was represented by Timothy G. Werdmann, Assistant Law Director.

FACTUAL BACKGROUND

The City of Hamilton is a City located in Butler County in southwest Ohio, with a population of 60,690. The City employs employees in ten separate bargaining units, as well as non-union employees. The bargaining unit involved in this fact-finding is the police patrol unit which includes patrol officers and detectives. There are 104 employees in the bargaining unit.

The current Collective Bargaining Agreement between the parties is effective from September 1, 2002 through August 31, 2005. It provides for a reopener in September, 2003 on the issue of wages only. It is that wage reopener which is the sole issue before the Fact-Finder.

The sole unresolved issue, as noted above, is as follows:

Article LXII: Wages

ISSUES

ARTICLE LXII - WAGES

Union Position: The Union proposes a wage increase which would increase the top pay for patrol officers to \$55,000.00. This represents an increase of approximately 18%. The Union argues that approximately eleven years ago, Hamilton police officers were among the highest paid among the comparable groups offered by the Union. They are now at the bottom. The 3% wage increase offered by the Employer would keep them at the bottom. At the same time, higher paid jurisdictions in the area are hiring, and will be attractive to Hamilton officers, making recruiting and retention in the City of Hamilton difficult. Additionally, statistics demonstrate that Hamilton officers respond to the greatest number of violent calls per officer in the entire state of Ohio. Further, Hamilton is second only to Cleveland in the state of Ohio in total number of violent crimes.

Although the City of Hamilton is by no means a wealthy community, there is no indication that it can not afford the requested wage increase. The employment outlook is reasonably good, and the City is expected to have revenues in excess of expenditures. Further, despite predictions of dire fiscal

circumstances by the Employer at hearing, the Employer only recently touted its high economic growth rate in "Cincinnati Magazine". The Employer thus can afford the increase.

Employer Position: The Employer argues that while it acknowledges that its police officers work in a stressful environment as the statistics presented demonstrate, the Employer simply cannot afford the wage increase requested by the Union. Further, although the Employer is not yet in dire straits, the current budget projections indicate a deficit within two to three years which will require the spending down of reserves and ultimately, possible fiscal emergency.

The Employer further points out that it has historically been consistent in granting its employees uniform 3% increases. The increase requested would thus be an aberration breaking with that historical practice. The Employer additionally points out that the employees in the bargaining unit earn far more than the actual contractual rate due to overtime and longevity payments. Finally, contrary to the Union's assertions, thus far there does not appear to be either a recruitment or retention problem within the police department.

Discussion: In making her recommendation, the Fact-Finder is charged by OAC 4117-9-5(K) with consideration of the following factors:

- (1) Past collectively bargained contracts;

- (2) Comparison of 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;
- (3) the interest and welfare of the public, 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;
- (4) The lawful authority of the public employer;
- (5) Any stipulations of the parties;
- (6) Such other factors, not confined to those listed above, which are normally or traditionally taken into consideration in the determination of issues submitted to mutually agreed-upon dispute settlement procedures in the public service or in private employment.

To the extent relevant, the Fact-Finder has considered the above. Among the factors enumerated for consideration pursuant to OAC 4117-9-5, the most relevant here are evidence of comparable wages for police officers in other jurisdictions, previously bargained agreements, and the ability of the Employer to pay.

As is usually the case, both parties have submitted comparable wage data to the Fact-Finder for consideration, but have chosen different approaches to the selection of comparable jurisdictions. The Union has submitted comparable data drawn from surrounding communities primarily in Butler, Hamilton and

Montgomery counties without regard to size, while the Employer has selected communities from the entire state of Ohio of comparable size. In the Union's comparable data, it is clear that this bargaining unit remains at the bottom of the list in terms of wages, while in the Employer's it fares significantly better.

The Fact-Finder is persuaded that the comparable data from locally situated communities is more meaningful than those submitted from more distant communities throughout Ohio. There was evidence submitted to demonstrate that the police officers employed in communities in Butler County in close proximity to Hamilton are paid significantly more while answering far fewer calls for service in general, and violent calls for service in particular. Additionally, some of those communities will be hiring significant numbers of police officers. They are thus in direct competition with Hamilton for officers. This is likely to directly impact upon both recruitment and retention in the very near future.

On the other hand, it must be noted that some of these communities are far wealthier than the Employer in terms of median income and property tax base. While it would not be unreasonable to pay this bargaining unit wages comparable to the highest paid among them for the work that they do, which is clearly more onerous than that done in these other communities, the Employer simply cannot afford to match their wages. The evidence presented by the Employer demonstrated that while the

Employer is not insolvent, budget predictions indicate that if current trends regarding tax collections and spending continue, it could well become insolvent in two to three years. Against this gloom and doom evidence, however is other evidence which indicates that new jobs are being brought into the city and new development is expected to bring new revenues.

As noted above, the Employer has additionally argued that it has historically given 3% wage increases to all employees, and that pattern should continue here. The evidence, however, reflects that while wage increases have indeed been primarily at the 3% rate since 1997, there have been seven deviations from that percentage ranging from 3.25% to 5.7%. All of these deviations have been in the police and fire bargaining units. This would indicate that increases of more than 3% are not uncommon for these two groups.

When all of the above are taken together, the conclusion is that an increase of 3% is inadequate to keep this bargaining unit in a reasonably competitive wage position relative to comparable communities, and is not a break with any firm historical practice regarding wage increases. On the other hand, the Employer simply cannot afford the double digit increase requested by the Union. An increase of 5% would move this group from the bottom of the comparable groups submitted by the Union. This increase would place the bargaining unit at rates comparable to Middletown at the minimum pay range and slightly above Middletown at the maximum pay range. While this clearly is not the significant

comparative movement sought by, and in fact deserved by these extremely hard working officers, it is a significant increase which takes into account the Employer's ability to pay and thus will be affordable to the Employer.

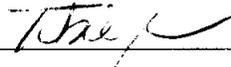
Recommendation: The Fact-Finder recommends a 5% wage increase effective September 1, 2003.

Dated: 11/12/03

Tobie Braverman
Tobie Braverman, Fact-Finder

CERTIFICATE OF SERVICE

The foregoing Report was mailed this 12th day of December, 2003 to Timothy G. Werdmann, Assistant Law Director, City of Hamilton, One Renaissance Center, 345 High St., Hamilton, OH 45011 and to Timothy R. Evans, Holbrock & Jonson, 315 S. Momument Ave., P.O. Box 687, Hamilton, OH 45011, Counsel for FOP, Lodge 38 by Overnight U.S. mail.



Tobie Braverman