

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

STATE EMPLOYMENT
RELATIONS BOARD

2004 DEC -1 A 11: 17

November 29, 2004

In the Matter of Fact-Finding Between

THE CITY OF LYNDHURST)

and)

OHIO PATROLMEN'S BENEVOLENT)
ASSOCIATION)

Case No.: ~~00-MED-10-1190~~ 03-MED-10-1162

APPEARANCES

For the City:

Jon Dileno
Anthony Adinolfi

Attorney
Chief of Police

For the Union:

S. Randall Weltman
David Strasshofer

Attorney
Lieutenant

Fact-Finder:

Virginia Wallace-Curry

INTRODUCTION and BACKGROUND

This matter concerns the fact-finding proceeding between the City of Lyndhurst (the "City") and the Ohio Patrolmen's Benevolent Association (the "Union" or "OPBA"). The bargaining unit consists of eight (8) full-time Sergeants and Lieutenants. The terms of the parties' collective bargaining agreement expired on December 31, 2003.

The parties began negotiations for a new agreement in January 2004. This bargaining unit negotiated separately from the Patrol Officers and Dispatchers. The Patrol Officers' unit and Dispatchers' unit settled prior to the Sergeants' and Lieutenants' unit. During the negotiations for the Sergeants and Lieutenants, which were conducted without the assistance of counsel, the parties agreed to all the new terms contained in the Patrol Officers' successor contract, but they could not agree on the rank differential issue. When it became apparent that the parties could not agree on this issue, they agreed to utilize the State Employment Relations Board's dispute resolution procedure.

Virginia Wallace-Curry was appointed fact-finder in this matter by SERB. The parties declined the fact-finder's offer to mediate the issues, and a hearing was held on November 3, 2004, at which time the parties were given full opportunity to present their respective positions on the issue. The fact-finding proceeding was conducted pursuant to Ohio Collective Bargaining Law and the rules and regulations of the State Employment Relations Board, as amended. In making the recommendations in this report, consideration was given to criteria listed in Rule 4117-9-05 (K) of the State Employment Relations Board.

ISSUE

Rank Differential

Union's Position

The Union proposes that the following language be added to Article VIII, Section 1, below the listing of annual salaries:

For employees appointed to such classifications, there shall exist a differential between the rank of top paid Patrol Officer and Sergeant, and between the rank of Lieutenant and Sergeant of twelve (12%) percent.

The Union argues that the rank differential for the City's Sergeants and Lieutenants needs to be increased to reach parity with other police jurisdictions. The average rank differential for area police departments is 12.5%. The data available for 2003 shows that the Lyndhurst police department has the lowest rank differential of the contiguous cities and the lowest of all the east side cities.¹ The average for 33 cities in Cuyahoga County, including Lyndhurst, is 12.81%. Parity with similarly situated employees in the geographic area is one of the criteria that must be considered in assessing the merits of each proposal. An increase is overwhelmingly justified on the basis of parity alone.

However, in addition to achieving parity, an increase in rank differential is also warranted by the increased duties and responsibilities that the bargaining unit has taken on. The rank differential has remained unchanged for 16 years, while the duties of the rank officers have increased.

The bargaining unit has given up its proposal to increase the differential over the past six years.

¹As of 2003, South Euclid had a rank differential of 10%, the same as Lyndhurst. However, the rank differential was increased for the 2004-2006 contract to 10.5%, 11.0% and 11.5% respectively.

During this time, the police rank differentials have fallen far below the average. No barriers exist that would justify the City's refusal to offer comparability. Each of the City's bargaining units have settled, on modest terms, with no ability to plead "me too." Furthermore, the unique nature of this police management only benefit should preclude its presence and/or impact as an issue in the City's negotiations with the Service Unit.

The history of past negotiations and the nature of the current negotiations warrant the recommendation for the Union's rank differential proposal. The justification is sufficient and the timing is right.

City's Position

The City opposes an increase in the rank differential for the police unit. Rank differential is only one component of an entire compensation package. When the 2003 total compensation package² of the City's Sergeants and Lieutenants is compared to other jurisdictions in Cuyahoga County, the City ranks third of 27 cities for Sergeants and third of 21 cities for Lieutenants. For the figures available for 2004, the City's Sergeants rank fourth of 20 reported cities and Lieutenants rank seventh of 14 reported cities. The City's Sergeants and Lieutenants also enjoy very competitive holiday and personal leave and vacation eligibility statistics. No increase in rank differential is needed. The City's Sergeants and Lieutenants already enjoy a compensation package well above average for Cuyahoga County.

With respect to added duties, officers who are promoted to Sergeant and Lieutenant expect to

²Total compensation packages used include 2003 top sergeant salary; shift differential; special/firearms/physical proficiency allowance; and longevity pay at 10 years.

have more responsibilities. Their duties do not exceed those in other jurisdictions. Some lieutenant positions have titles and positions that come with additional compensation, such as Detective Bureau Commander and Traffic Bureau Commander.

In negotiations for the City's fire union and the other two OPBA units (patrol officers and dispatchers), the unions have agreed to accept additional time off (decreased workweek for firefighters and increased vacation and holidays for the patrol officers and dispatchers), and accepted a 3% general wage increase for each year of the three year agreement. This bargaining unit has agreed to those terms, but is also seeking a supplemental wage increase in the form of increased rank differential. The impact of its proposal would be to provide the Sergeants and Lieutenants – the highest paid unionized employees in the City – with a larger wage increase than all other City employees.

Internal parity is a factor normally given great weight by neutrals. An increase in rank differential would disrupt the internal parity that exists. The City has already settled with the other police and fire units for an increase of 3% per year in compensation. An increase in the rank differential for the Sergeants and Lieutenants would give the unit a 3.6% increase in compensation. Such an increase would also disrupt the parity between the police and fire units. The City's Fire Department rank differential is 10%, - identical to the existing Police Department rank differential.

For these reasons, an increase in rank differential should not be recommended.

RECOMMENDATION

The Union's proposal is recommended for the following reasons. At 10%, the rank differential of the City's Sergeants and Lieutenants is well below the average for the surrounding communities and

for the county as a whole. The 2003 average rank differential of 33 cities in Cuyahoga County, including the Lyndhurst, is 12.8%. Taking into consideration South Euclid's latest round of contract negotiations, the average rank differential is 12.25% for the eastern suburbs. If the rank differential is not increased for Lyndhurst, it will be the only one of the eastern suburbs to have a rank differential of 10% and will be almost 3% below the county wide average.

The City has not made the argument that it does not have the ability to pay for an increase in the rank differential for this unit. Instead, it cites internal parity as its main reason for refusing to accept the Union's proposal. However, internal parity is not the most appropriate factor to be considered here. Rather than comparing the overall increase in compensation among unionized employees with the ranking officers of the police unit or comparing the ranking officers of the fire unit to the ranking officers of the police unit, it is better to compare the City's ranking officers to those in other police units. That comparison looks at similarly situated employees doing the same type of work. It places a value on the added responsibilities and duties that these employees assume when promoted to a higher ranking position.

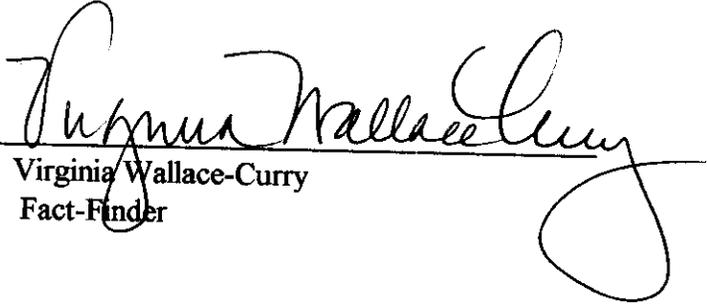
The increase in rank differential from 10 to 12% is reasonable. This would place the City's police rank differential within the range of other police jurisdictions in the area, which range from 14% to 11.5% for the eastern suburbs. Although it would still be slightly below the average rank differential for the area, the total compensation package of the City's ranking police officers is quite competitive and makes the 12% figure reasonable. In addition, the increase in rank differential will keep the Sergeants' and Lieutenants' standing among their peers from decreasing from the 2003 levels. The City's exhibits show that, in 2003, the Sergeants were the third highest ranking unit in total

compensation, but in 2004 they slipped to fourth. Likewise in 2003 the Lieutenants were ranked as third, but in 2004 they slipped to seventh.

For all these reasons, it is recommended that the rank differential for the Sergeants and Lieutenants be increased from 10% to 12%.

RECOMMENDED CONTRACT LANGUAGE

For employees appointed to such classifications, there shall exist a differential between the rank of top paid Patrol Officer and Sergeant, and between the rank of Lieutenant and Sergeant of twelve (12%) percent.

Submitted by: 
Virginia Wallace-Curry
Fact-Finder

November 29, 2004
Cuyahoga County, Ohio

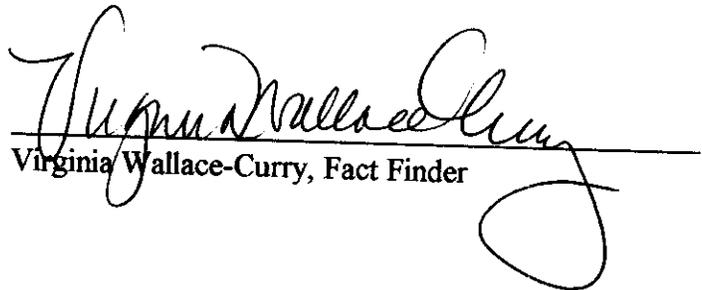
CERTIFICATE OF SERVICE

This is to certify that a true copy of the Fact-Finding Report for the City of Lyndhurst and the Ohio Patrolmen's Benevolent Association was sent to the parties by overnight mail and to the State Employment Relations Board by regular U.S. mail on this day, November 29, 2004. The Fact-Finding Report was served upon:

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