



STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

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RELATIONS BOARD

2005 APR 27 P 12:47

GREEN TOWNSHIP TRUSTEES, )  
 )  
and )  
 )  
FRATERNAL ORDER OF POLICE, )  
OHIO LABOR COUNCIL, INC. )  
 )

Case No. 04-MED-08-0743,  
0744

**FACT FINDING REPORT**

Date of Award:  
April 25, 2005

APPEARANCES:

Mitchell B. Goldberg, Appointed Fact Finder

For the Public Employer:

Frank Hyle, Esq., Attorney  
Kevin Celarek, Administrator  
Bart West, Chief  
Tom Strauss, Township Clerk

For the Union:

Thomas Fehr, FOP/OLCI Representative  
Ken Poppe, Officer  
Bill Almonk, Officer  
Vince Cericko, Sergeant  
Jeff Lierman, Officer

## I. Introduction and Background.

SERB appointed the undersigned, Mitchell B. Goldberg, as the Fact Finder of this public employment dispute on November 29, 2004. The parties entered into an agreement extending the fact-finding period during their negotiations. They agreed upon the date of April 14, 2005 for a hearing on the unresolved issues for a collective bargaining agreement to succeed their CBA that expired on December 31, 2004. They further agreed, after the hearing, that a Report is to be issued on April 25, 2005.

The parties submitted position statements in accordance with SERB rules and guidelines. One bargaining unit consists of full-time police officers and corporals, and the other unit consists of Sergeants. Both units have approximately 26 employees. The units exclude the usual classifications of managers, professional, supervisory, confidential, seasonal, and administrative employees. SERB certified the units on February 25, 1999 and August 15, 2002 respectively.

The parties negotiated throughout October, November, December and January. The last session occurred on February 2, 2005. Tentative agreements were reached on the following articles: Article 2 – Recognition; Article 5 – Representatives; Article 9 – Grievance Procedure; Article 13 – Vacation; Article 14 – Court Time/Call-In Pay; Article 20 – Layoff and Recall; and Article 37 – Term and Expiration. Seven articles/issues were unresolved and were the subject of the hearing. The remaining articles in the expired agreement remained unchanged and are incorporated into the new agreement. For purposes of this Report, all articles or provisions tentatively agreed upon between the

parties, and those unchanged articles from the expired agreement and carried forward into the new agreement are hereby adopted, included, and incorporated herein and made a part of this Report as if they were fully rewritten herein.

The unresolved articles/issues are: (1) Article 4 – Management Rights; (2) Article 8 – Work Hours and Overtime; (3) Article 16 – Salaries, Wages and Compensation; (4) Article 17 – Attendance Incentive Bonus; (5) Article 18 – Medical Insurance; (6) Article 31 – Discipline; and (7) Article 36 – Sub-Contracting. The matter proceeded to hearing on April 14, 2005 in Green Township. Efforts were made to mediate some of the disputed issues. These efforts met with some success in bringing the parties closer together; however, they remain apart in terms of their final positions.

The following recommendations take into consideration all of the criteria set forth in SERB Rule 4117-9-05 (J).

## II. Unresolved Issues.

### (1) Article 4 – Management Rights.

The Union proposes language restricting or limiting the management rights set forth in the expired agreement. The proposal is prompted by a concern that the Employer is planning to subcontract services now performed by the bargaining unit. The Union in the past has relied upon informal representations by the Employer's attorney and other officials that the Trustees have no intentions to disturb the status quo in this area.

However, recent correspondence between a Trustee and the Hamilton County Sheriff has

caused concerns that the Township is considering adding further officers to the staff who are supplied by the Sheriff. Historically, 16 sheriff deputies have been assigned to work with the Green Township Department to serve the area. These deputies have been assigned at no charge to the Township. Now, there appears to be some discussion between the two departments of adding county deputies to the area with a charge to the Township for the additional services.

The Union is understandably concerned that its units could be substantially harmed if future growth results in more deputies from the county instead of additional officers in the Township department. The Union, at the hearing, was willing to compromise on some of its contract proposals if it could receive contractual assurances from the Employer limiting its right to subcontract in specific circumstances. The purpose for the new language is to address and serve the needs of the Employer, and to also address the Union's concerns of job security for its members. The following recommendation removes the broad language in paragraph C and replaces it with added specific language in Article 36 dealing with the right of the Employer to subcontract services.

Recommendation.

Paragraph C shall read as follows:

To adopt, revise and enforce working rules and carry out cost control and general improvement programs; establish, change, combine, or discontinue job classifications and prescribe and

assign job duties, content and classification; and establish wage rates for any new or changed classification.

The remaining language in Article 4 shall remain unchanged.

(2) Article 8 – Work Hours and Overtime.

Presently, time spent at court is compensated in 1/3 cash and 2/3 in compensatory time off. The Employer is proposing that overtime compensation be paid in the same manner as compensation for court time. An employee may elect to be paid for overtime 1/3 in cash and the balance in compensatory time instead of the present arrangement where all overtime is paid in compensatory time off. The Employer is attempting to reduce the compensatory time bank because it is causing a scheduling problem and a coverage problem.

The Union opposes this change and proposes additional language protecting the rights of its members to obtain compensatory time off when it is earned. It is concerned that employees are being deprived of the use of compensatory time off in situations when permitting time off and compensatory time usage causes the Employer to incur additional overtime expenses. The Employer denies that this is the case.

Recommendation. No change.

The Employer proposes language that eliminates the selection of work shifts by seniority. It proposes instead a rotating shift schedule. It is concerned that the present arrangement causes the second shift (2:30 pm – 11:00 pm) to be understaffed with experienced personnel. The Union opposes any change in the present system and points out that language is already in place to provide for the Employer's operational needs. The Union asserts that past experience has established that a rotating shift schedule produces increased usage of sick leave time. Moreover, the introduction of rotating shifts raises the question of the payment of shift differentials for working less desirable shifts. More senior employees have already put in their time working these less desirable shifts and have earned the right to shift selection.

Recommendation. No Change.

### (3) Article 16, Salaries, Wages and Compensation.

The Union' economic proposal provides for an across the board wage increase of 4% each year for the three-year agreement. In addition, it proposes increases in the differentials for corporals. It proposes a raise from 6% to 8% at the third pay step for corporals. Further, it proposes new language providing for additional pay for those officers who are designated as the Officer-In-Charge when there is no Sergeant or Corporal on duty. They should be paid the top rate for corporals for all hours spent as the OIC and each shift shall be required to have a supervisor on duty defined as a Sergeant, a Corporal, or an OIC. The Union also wants to eliminate the current two-step pay differential for Sergeants, 16% for those hired before January 1, 2002, and a three-step

differential for those hired after January 1, 2002; 9% at step 1, 11% at step 2, and 13% at step 3.

The Employer counter proposes a 2% across the board increase for each of the three years beginning on January 1, 2005. It opposes the increase in the corporal differential, and it opposes the additional pay for the OIC. It also proposes the elimination of longevity pay.

Each side submitted considerable economic evidence supporting its respective proposals. The evidence includes the budgetary concerns of the Employer reflected in its projected revenues and expenses together with general economic evidence concerning the CPI and historic wage increases. The Union, in-turn, submitted its interpretation of this type of evidence. Both sides further provided evidence of wages and benefits paid in surrounding townships as well as wages and benefits paid in cities and in the county. After a careful review of all of this evidence, and after considering the specific arguments of the parties on the subjects of increased differentials, OIC pay, and the discontinuance of longevity pay, I recommend the following:

Recommendations.

1. The across the board wage increases for each year of the three-year contract beginning January 1, 2005 shall be 3% in year one, 2.5% in year two, and 2.5% in year three.

2. There shall be no increases in the existing pay differentials for corporals and sergeants.
3. There shall be no increased pay for officers designated as the OIC.
4. There shall be no change in the longevity pay program contained in the expired contract.

(4) Article 17 – Attendance Incentive.

The expired contract contains a bonus of \$150 for six months of perfect attendance. The Employer wants to eliminate this incentive payment for economic reasons and argues that such an incentive should not be necessary considering all of the paid time off that is now provided to employees in the form of vacation, sick leave and compensatory time off.

The Union wants to preserve this economic benefit. Nearly all of the comparable townships have an attendance bonus or provide for personal days off. These include Colerain, Springfield and Miami. Hamilton County also has a program in place.

Recommendation.

No change.

(5) Article 18 – Medical Insurance.

The Employer is proposing that the members of the bargaining units contribute more money toward the cost of medical and hospitalization insurance premiums due to the excessively high costs of the plans over the past years. The members were first required to make contributions at the rate of \$25 per month in 1990. That contribution rate has never been increased. The Employer is proposing a percentage contribution that will automatically provide for increases when the premiums are increased. It proposes a 15% contribution, which is equivalent to the percentage paid by other higher income employees in the township such as administrative personnel. Even the non-union clerical employees pay \$45 per month, an amount considerably higher than the present rate for these bargaining unit members. The Employer plans to demand the same increase from the firefighters when their contract expires.

The Union recognizes that some increase is appropriate, but it prefers a fixed dollar amount to a percentage so that its members can plan their finances over the life of the contract. Nevertheless, it has agreed to a proposal that provides for a 7.5% increase in the first year of the contract. Increases in years two and three would be limited by the amount of any pay increases they receive in those years (2.5% in each year if my above recommendation is accepted).

The evidence of employee contributions toward medical insurance premiums is varied and takes different forms. The SERB Report for 2003 shows an average employee contribution of \$26.91 for family coverage and \$10.46 for a single plan with average

monthly premiums of \$753.86 for family and \$271.19 for single. This is for comparable townships with populations over 30,000 in the state. Another Table in the Report shows average contributions of \$53.81 family and \$20.93 single. Percentage figures for this township category are 6.9% family/7.8% single.

The comparable employers in the area have arrangements that are all over the board. Delhi provides 100% coverage for some employees and requires up to \$60 per month for others. Employees pay 10% in Colerain. Springfield requires \$14 per payday for single and \$30 per payday for family. Miami requires 25% of the difference over \$410 per month. Hamilton County contributions are capped at a 3% increase over the life of their contract. In Cincinnati, a Fact Finder recommended a 5% contribution from employees in 2005. In Green Township, the firefighters and maintenance employees unit pay \$24 per bi-weekly pay period through 2005.

#### Recommendation.

I recommend that the members of this unit contribute 10% toward the cost of single and family coverage during the term of this three- year agreement. This will increase employee contributions to \$76.80 per month for family coverage under the present plan, which costs \$9,216 per year or \$768 per month. This is a considerable increase over the present \$25/month contribution. Further in the event the firefighters and the Township agree to a lesser contribution from firefighters when their present contract expires, this provision shall be re-opened for further negotiations between the parties.

(6) Article 31 – Discipline.

The Employer is proposing language that existed in prior agreements between the parties that consider an employee to have resigned their employment if they are absent without notice for three consecutive working days. The Union opposes this type of provision because there are circumstances that could prevent an employee from giving notice to the Employer such as a severe accident or injury. Moreover, the Employer has not established that this issue is a serious problem that requires attention. The Employer already has sufficient language in the contract authorizing appropriate discipline for an employee who fails to provide sufficient notice of a continuing absence.

Recommendation.

No change.

(7) Article 36 – Sub-contracting.

As stated above, the Union is proposing new language prohibiting the Employer from sub-contracting work or services performed by the bargaining unit during the life of this agreement. The present language permits the Employer to sub-contract under the provisions of the management rights clause. The Employer does not wish to relinquish any of its existing management rights, although it represents that it has no plan to sub-contract any work of the bargaining unit. It specifically has no present plan to supplement the police coverage in the township with additional officers from the county, and it has no interest in paying for additional county officers.

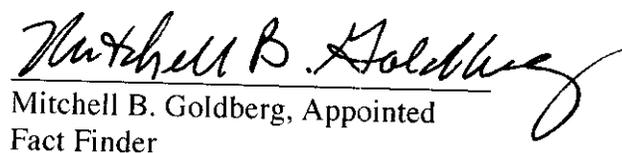
The Union has stressed the importance of this job security provision and has offered concessions and compromises on certain of its economic proposals in order to obtain security for the unit. Accordingly, I believe a conditional sub-contracting clause should be recommended that address the concerns of both parties.

Recommendation.

The following language should be added as Article 36:

The parties recognize that historically, police services within the township have been performed by employees within the township department's bargaining units with the assistance of sixteen deputies from the Hamilton County Sheriff's department assigned to the township area. The Sheriff's department has also performed specialized police work and services that the township does not have the present ability to perform. The township hereby agrees that it will not during the term of this agreement sub-contract any of the work now being performed by the police bargaining units if the sub-contracting decision results in the layoff or reduction in force in any of the police bargaining units. Further the township shall not subcontract any work that is presently being performed by the bargaining units, or that employees in the units can perform with a minimum amount of training and expense. Any vacancy in any position within the bargaining units shall be filled with bargaining unit employees and shall not be eliminated or reduced by the replacement of the work with a Sheriff's deputy or police officer. The Employer may sub-contract work in emergency situations, if such subcontracting services are required by law, or if there is a compelling operational purpose that requires a sub-contract when the work or services cannot reasonably be performed by members of the police bargaining units. The circumstances to be considered are those that exist at the time the decision is made to contract out.

Date of Award: April 25, 2005

  
Mitchell B. Goldberg, Appointed  
Fact Finder

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