

STATE OF OHIO

STATE EMPLOYMENT  
RELATIONS BOARD

STATE EMPLOYMENT RELATIONS BOARD 2005 JUL 18 A 10: 26

In the matter of	*	04-MED-10-1073
	*	
Fact-finding between:	*	
	*	
Perrysburg Township Trustees	*	Fact-finder
	*	Martin R. Fitts
	*	
and	*	
	*	
Ohio Patrolmen's Benevolent Association	*	July 14, 2005
(OPBA) Police Dispatch Unit	*	
	*	

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**REPORT AND RECOMMENDATIONS OF THE FACT-FINDER**

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**APPEARANCES**

For Sylvania Township (the Employer):

G. Gary McBride, Attorney  
John Hrosko, Township Administrator  
Ed Stribny, Chief of Police

For OPBA (the Union):

Marilyn L. Widman, Attorney  
Bonnie Long, Dispatcher

## PRELIMINARY COMMENTS

The bargaining unit consists of all Full-Time Dispatchers employed by the Perrysburg Township Trustees. There are approximately 4 employees in the bargaining unit. The State Employment Relations Board (SERB) appointed the undersigned as Fact-finder in this dispute on February 4, 2005. The parties conducted several negotiating sessions and reached tentative agreements on numerous issues. The fact-finding hearing was held on July 8, 2005 at the offices of the Perrysburg Township Trustees in Perrysburg, Ohio. Both parties attended the hearing, presented written positions, and elaborated upon their respective positions. There were three major issue areas at impasse, containing a number of sub-issues: Article 11 – Hours of Work and Overtime; Article 25 – Vacations; and Article 27 – Wages (including Salary Schedule A). However the Employer indicated that it was amenable to a number of the Union's proposals if the Fact-finder were to recommend in favor of two of the Employer's proposals: Wages (Salary Schedule A – additional cents per hour) and Hours of Work and Overtime (proposed new Section 11.11). Thus while all the issues at impasse were submitted for fact-finding, only these two issues will be addressed in detail by the Fact-finder.

In rendering the recommendations in this Fact-finding Report, the Fact-finder has given full consideration to all testimony and exhibits presented by the parties. In compliance with Ohio Revised Code, Section 4117.14 (G) (7) and Ohio Administrative Code Rule 4117-9-05 (J), the Fact-Finder considered the following criteria in making the findings and recommendations contained in this Report:

1. Past collectively bargained agreements, if any, between the parties;
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, and 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;
4. The lawful authority of the public employer;
5. Any stipulations of the parties; and
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.

All references by the Fact-finder in this report to the Employer's proposal and the Union's proposal are references to their respective final proposals as presented in writing to the Fact-finder at the July 8, 2005 hearing.

## ISSUES AND RECOMMENDATIONS

### Issue: Article 11 – Hours of Work and Overtime

#### **Positions of the Parties**

The Union proposed the addition of a new section of Article 11 (Section 11.11) in the collective bargaining agreement with specific language providing for relief from duty twice during every 8-hour shift. The times and lengths of the breaks was unspecified, and under the proposal the employees would not be allowed to leave the building or parking lot during the break.

The Employer proposed the retention of current language, which does not contractually mandate such relief.

#### **Discussion**

The Employer acknowledged that the Dispatchers need and should be provided with relief from duty. It argued that it already has language in its other labor agreement with its police officers and command officers that requires them to provide such relief for the dispatchers or be subject to discipline.

The Union argued that despite those provisions these breaks are still not happening and doesn't believe that they will happen unless this contract specifically provides for them.

The Employer remarked that if the Union is correct that breaks are not being provided, these situations need to be brought to the attention of the Employer. It argued that it has not been made aware of such circumstances, and that it would not hesitate to impose discipline to members of other bargaining units if relief is not provided should those instances be brought to its attention.

The Dispatchers are quite deserving of some relief on their shifts. The Union failed, however, to make a compelling case that relief is regularly or deliberately not provided. As the party proposing change, the burden falls to the Union to provide some factual data relative to the alleged frequency of the lack of relief in order to justify a recommendation for a change in the current language. There was simply no concrete evidence offered, nor testimony given, that supported the Union's argument.

In addition, if the Union proposal were to be adopted, it could possibly create a situation where, should the provisions be violated and subsequently grieved, an arbitrator would be faced with sustaining a grievance with no ability to fashion a remedy other than to order

the Employer to follow the agreement. The Fact-finder see little value in adding provisions to labor agreements that are, essentially, unenforceable through the grievance procedure. Rather, problems with the relief issue are better addressed at this time on an as needed basis by the parties as part of their Labor-Management Committee meetings.

### **Findings and Recommendation**

The Fact-finder finds no compelling argument to support the Union's proposal.

Therefore, the Fact-finder recommends the Employer's proposal for the retention of current language which does not specify relief periods for the Dispatchers.

### **Issue: Article 27 – Wages (Salary Schedule A)**

#### **Positions of the Parties**

The Employer proposed that the Section 27.1 and Salary Schedule A be amended to provide a general wage increase of 2.75% plus \$0.10/hour, effective January 1, 2005; another general wage increase of 2.75% plus \$0.10/hour in 2006 and another general wage increase of 3.0% plus \$0.05/hour in 2007.

The Union proposed that the Section 27.1 and Salary Schedule A be amended to provide a general wage increase of 2.75% plus \$0.10/hour, effective January 1, 2005; another general wage increase of 2.75% plus \$0.10/hour in 2006 and another general wage increase of 3.0% plus \$0.10/hour in 2007.

#### **Discussion**

The difference between the two wage proposals amounts to a little more than \$100 for each employee in the third year of the agreement. With four members in the bargaining unit, the total cost of the Union's proposal to the Employer is an estimated \$416 more than the Employer's proposal.

While the parties presented economic information in support of their respective positions, the reality is that with the dollar difference between the two proposals being so slight, the economic data presented by both parties is of little value in this proceeding.

## **Findings and Recommendation**

The deciding factor with regard to this recommendation is that the Employer has indicated its willingness to agree to Union proposals for improvements in the shift differential, the vacation schedule, and several other areas of the agreement in return for a recommendation for the Employer's position on wages as well as the relief issue dealt with above. The trade off of the Employer's wage proposal for improvements in these other areas of the contract is balanced, fair and reasonable.

Therefore the Fact-finder recommends the Employer proposal that the Section 27.1 and Salary Schedule A be amended to provide a general wage increase of 2.75% plus \$0.10/hour, effective January 1, 2005; another general wage increase of 2.75% plus \$0.10/hour effective January 1, 2006 and another general wage increase of 3.0% plus \$0.05/hour effective January 1, 2007.

**Remaining issues: Article 11 – Hours of Work and Overtime; Article 25 – Vacations; and Article 27 – Wages**

## **Positions of the Parties and Discussion**

The Union presented proposals in its pre-hearing statement for amending Sections 11.4, 11.5, 11.6, and 11.9 of Article 11; Sections 25.1 and 25.2 of Article 25; and Section 27.5 of Article 27.

The Union's final, written proposals reflected a number of modifications from its previous positions during negotiations. These modifications satisfied several concerns that the Employer had raised relative to these proposals, and with these modifications the Union's proposals fit the parameters set by the Employer in its Pre-Hearing Statement as to their acceptability to the Employer should the Fact-finder find in favor of the Employer's proposals for the proposed Section 11.11, Relief from Duty; and for Salary Schedule A, the additional cents per hour on top of the percentage wage increase.

At the hearing the Employer reiterated that it was amenable to all of these other final proposals of the Union, conditioned on the Fact-finder recommending the Employer's proposals for the wage increase and scheduled breaks. These other Union proposals provide for a number of gains for the employees, and provide more value to them than would be gained by reversing the two recommendations above that favor the Employer. The parties have obviously worked diligently through numerous issues and were able to resolve or come close to resolving all of them. The Fact-finder believes that all of that hard work should be rewarded, and by recommending the remaining Union proposals believes that this Report in its entirety does just that.

## **Findings and Recommendations**

With the Fact-finder's recommendations in favor of the Employer's proposals for wages and the relief issue, it is fair to both parties as well as fair to the taxpayers of Perrysburg Township for the Fact-finder to recommend the final proposals of the Union on the remaining issues at impasse.

The Fact-finder has reviewed the Union's final, written proposals for the remaining outstanding issues (Sections 11.4, 11.5, 11.6, and 11.9 of Article 11; Sections 25.1 and 25.2 of Article 25; and Section 27.5 of Article 27.) and finds them reasonable and acceptable and recommends them.

## **Additional recommendations of the Fact-finder**

In addition to the above, the Fact-finder has reviewed all the other tentative agreements reached by the parties during their negotiations.

The Fact-finder recommends all tentative agreements reached by the parties during these negotiations.



Martin R. Fitts  
Fact-finder  
July 14, 2005