

STATE EMPLOYMENT
RELATIONS BOARD

2005 DEC -2 A 11: 42

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

NOVEMBER 30, 2005

OHIO PATROLMEN'S BENEVOLENT
ASSOCIATION

CASE # 04-MED-10-1082

and

CITY OF WARRENSVILLE HEIGHTS

FACT FINDING REPORT

APPEARANCES

For the Union

S. Randall Weltman, Attorney
Dan Caqwin, Director
Jim Thompson, Director

For the City

Rhonda Ferguson, Assistant Law Director
Frank Bova, Chief
Marcia Fudge, Mayor

ROBERT M. LUSTIG
Fact Finder
615 Leader Building
526 Superior Avenue, E.
Cleveland, Ohio 44114-1964

Introduction

This Fact Finding involves the Police Patrol Officers represented by the Ohio Patrolmen's Benevolent Association (the "OPBA" or the "Union") and the City of Warrensville Heights (the "City"). The Agreement between the OPBA and the City expired December 31, 2004. There are nine issues in this fact finding.

The undersigned was duly appointed fact finder. The fact finding hearing was set by agreement of the parties for November 16, 2005. The hearing commenced at 10:00 AM and was closed at 3:00 PM.

Both sides presented such evidence as they desired. All documents were received without objection from the other party. This includes the position statements, Union Exhibits 1 - 20 and City Exhibits 1-16. The Fact Finder thanks both parties for their professionalism and courtesy.

In considering the recommendations made in this report, the fact finder considered the criteria set forth in Rule 4117-9-05 which are:

- 1) Past collectively bargained agreements, if any.
- 2) Comparison of the 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 standards 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 agree upon dispute settlement procedures in the public service or private employment.

Facts

The parties entered in an agreement covering the period 1/1/02 through 12/31/04 which has expired. Joint Exhibit 1. The parties advise that they have a retroactivity agreement.

As to economic issues, the City does not assert an inability to pay as a basis for any of the economic issues but does assert that its positions are based on sound, conservative financial management of the City's finances.

The City has entered into agreements with the bargaining unit that represents service department employees that includes the City's proposals for changes in health care coverage.

With that as background, we turn to the issues in the order they were presented at the Fact Finding hearing.

Issue No. 1

Health Insurance

City Position:

Continue SuperMed Plus but with a \$750/1500 deductible and a \$10/20/40 prescription co-payment effective January 1, 2006.

Union Position:

Continue SuperMed Plus with a \$250/500 deductible and a \$10/20/30 prescription co-pay both to be effective January 1, 2006.

Discussion:

Currently, the City pays the entire premium for health care insurance. The City argues that, to maintain financial stability, avoid further layoffs and to be comparable with other municipalities, some portion of the cost of providing health care coverage must be borne by the City's employees.

Initially, the City proposed to assess a dollar amount per employee so all employees would share the cost equally. City employees, particularly those paid the least, objected vociferously.

As an alternate, the City proposes to institute a \$750/1500 deductible and \$10/20/40 co-pay for prescriptions.

The Union concedes that some adjustment in the way health care coverage is paid for is appropriate and agrees a flat dollar amount per employee is unacceptable.

The Union objects to the \$750/1500 deductible as being too much too soon and is more than the amounts of the deductibles in adjacent cities. It proposed the deductibles be phased in.

Health care coverage provided at the sole cost of an employer is simply a thing of the past. Both private and public employers have and continue to manage expenditures for health care by shifting part of the cost to the employees. One can argue about the wisdom, or lack thereof, in the way health care is provided but cost shifting is a fact of life and the Union has recognized this.

Reviewing the collective bargain agreements in adjacent cities reveals most provide for the payment of a flat dollar amount by the employee:

Beachwood limits the cost to the City at \$400/month/single, 1000/month/family.

Cleveland's patrolmen contribute \$25/month/single, 50/month/family.

Mayfield Heights; \$10/single, 20/family, increasing to \$20/single, 40/family in 2007.

Shaker Heights; \$11.12/single, 30/family, increasing to \$18.52/single, 50/family in 2007.

Solon may impose \$20-30/single, 40-60/family.

Only Garfield Heights pays 100% of the premium and that contract expires December 31, 2005.

This is consistent with SERB's 2004 Cost of Health Insurance Report that shows the average employee contribution to health care in the Cleveland area is \$21.85/month/single, 62.14/month/family.

Whether these surrounding cities also have deductibles is unclear. It is clear from the SERB Report that, on average, employees are contributing \$250/single, 750/family, per year toward the cost of their health care premiums out of their paychecks.

Both parties indicate they do not want payroll deductions. Both agree that Dental and Vision care remains unaffected. The only issue is a deductible for health care and co-pay for prescriptions starting January 1, 2006.

To go from zero deductible to as much as \$1,500 is a big step.

Finding:

\$750/1500 deductible and a \$10/20/30 prescription co-pay are appropriate under the circumstances as this will provide the City with a savings on its health care costs. However, to ease the shock to individual employees, for the year 2006, the City should reimburse any employee to the extent he/she incurs expenses under the deductible that exceed \$1,000.

Contract Language:

Modify Article 25 Section 1 and Section 4 accordingly.

Issue No. 2

Wages

City Position:

0% for 2005

4% for 2006

4% for 2007

Union Position:

3.25% for 2005

4.25% for 2006

4.50% for 2007

Discussion:

The City's Finance Department Director testified as to the City's financial condition. While inability to pay is not an issue, whether wage increases are affordable is an issue. The City did lay off eight employees effective January 1, 2005. Two firefighters have since been rehired. The City has 168 employees, 36 of whom are in the police department, 24 of those being members of the OPBA. The Firefighters contract expires in 2006. Under their current contract, they are receiving a 4% increase for 2005.

There are substantial developments now under construction or just opening that will financially benefit the City. For example, the new Marriott, while tax abated for real estate tax purposes, will contribute income taxes to the City.

Inflation is a fact of life. One only has to observe the price of gas.

The long bargaining history between these parties indicates police pay has been somewhat

lower than in adjacent cities. Reasonable comparability is one of the criteria set forth in OAC Section 4117-09-05. The SERB Wage Settlement Report, while showing the amount of the wage increase declining in 2002-2004, still shows an average increase, for 2004 of 2.99% statewide for police and for cities.

Recommendation:

3% for 2005

4% for 2006

4% for 2007.

Contract Language:

Adjust Article 22 accordingly.

Issue No. 3

Duty Hours

City Position:

Would accept the Addendum of December 15, 2003 (copy attached) and, as part of the Collective Bargaining Agreement (“CBA”), to adjust for the change from 8 hour shift to 10 hour shifts. Further, the City will accept a new Section 2 to Article 14 as set forth below.

Union Position:

Accepted.

Contract Language:

The Addendum of December 15, 2003 is adopted as part of the CBA.

Add new Section 2 to Article 14 as follows:

Article 14, Section 2. The Employer may change an employee's schedule only

in instances of emergency, manpower shortage, or at the request of the employee. The Employer shall provide no less than 18 hours notice to any changes in the employee's regularly scheduled shift. Employees not provided at least 18 hours notice of a change in their regularly scheduled shift shall be entitled to four (4) hours at overtime rate of pay or at compensatory time.

Issue No. 4

Premium Pay

The parties agreed to the following:

Article 15, Section 1 (e) shall be changed from one (1) hour of straight time to one (1) hour of overtime. This compensates for the time spent preparing for the training session.

Article 15, Section 2 is modified to provide annual premium pay of \$600 payable \$50 per month in place of \$480 payable \$40 per month.

Issue No. 5

Holidays

Union Position:

Add Veterans' Day as a paid holiday for police.

City Position:

Opposed.

Discussion:

The OPBA argues that the service department gets 11 holidays plus the employees birthday for a total of 12 paid holidays. Police get 11 paid holidays.

The City argues that the firefighters get 11 paid holidays. Further, if the police work a holiday, they get paid at overtime rates and get a day off.

Recommendation:

No change.

Issue No. 6

Sick Leave

This issue was withdrawn with the understanding that the OPBA will discuss the sick leave pool with the Firefighters and if they agree, present a joint plan to the City.

Issue No. 7

Uniform Allowance

Union Position:

- A) Increase uniform allowance from \$1,200 to \$1,400 per year.
- B) Allow officers to select their body armor.

City Position:

Opposed.

Discussion:

While the OPBA argues costs have increased, no evidence was offered as to what an officer actually spends on uniforms. The City does not require that receipts be shown or that there be any accounting for this allowance.

The current allowance appears to be adequate to cover the actual costs of replacing uniforms.

After discussing potential liability issues, the Union withdraws its request regarding body armor.

Recommendation:

No change.

Issue No. 8

Part-time Jobs

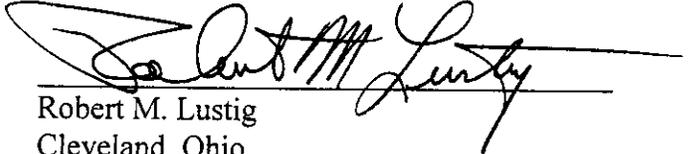
This issue was withdrawn with the understanding the Union will work with the Chief to reach a mutually satisfactory adjustment of the complete ban on police working outside the City.

Issue No. 9

ULP Settlement

The parties recognize the settlement resolved this issue.

This issue is withdrawn.

A handwritten signature in black ink, appearing to read "Robert M. Lustig", written over a horizontal line.

Robert M. Lustig
Cleveland, Ohio
November 30, 2005

ADDENDUM TO THE COLLECTIVE BARGAINING AGREEMENT
BETWEEN
OHIO PATROLMEN'S BENEVOLENT ASSOCIATION
AND THE CITY OF WARRENSVILLE HEIGHTS, OHIO

WHEREAS, the following is an addendum to the Collective Bargaining Agreement between the City of Warrensville Heights and the Ohio Patrolmen's Benevolent Association ("OPBA"), collectively referred to herein as "the parties", for the 12-month period commencing January 1, 2004; and

WHEREAS, this addendum shall be attached to the original agreement, and shall be considered part thereof, and any inconsistencies shall be resolved in favor of the addendum; and

WHEREAS, the parties have mutually agreed to the terms of this addendum including the issues relative to the 12-hour (twelve-hour) work schedule, and the various effects that same will have on the balance of the collective bargaining agreement between the parties; and

WHEREAS, the parties fully understand that the employer, the City of Warrensville Heights is not in any manner whatsoever relinquishing any of its management rights which, among other things, permit the Police Chief to schedule all employees; and

WHEREAS, the parties further recognize that the Chief of Police and the City of Warrensville Heights are willing to allow a 12-hour (twelve-hour) work schedule on an experimental basis only, same being terminable by the City of Warrensville Heights with thirty days advance notice; and

WHEREAS, none of the terms of this Addendum, which alter the original agreement, apply to the Dispatchers/Correctional Officer(s) or any 8-hour (eight hour) shift employees. Such terms are only applicable to the twelve (12) hour shift employees.

NOW, THEREFORE, based upon the mutual agreements between the parties, it is agreed as follows:

1. Effective on or about JANUARY 1, 2004, a twelve (12) hour shift work schedule for the employees will be IMPLEMENTED by the Chief of Police. Notwithstanding same, all references for "day" and "week" in the original contract for vacations and holidays shall remain "8 hours" and "40 hours", respectively.
2. Certain contractual changes will be ADOPTED in light of the twelve (12) hour shift as more fully set forth in the revised articles attached hereto, and incorporated herein as Exhibit "A", specifically, Article 14, Section 1 and Article 15, Section 1A none of which shall apply to anyone other than twelve-hour shift employees, unless same exist in the original contract.

EXHIBIT A

Article 15 Section 1 (A-1)/Premium Pay

Overtime for police officers scheduled for twelve (12)-hour shifts shall be paid for hours worked above the normal 80 hours in a two (2) week pay period or 12 consecutive hours in a one day period and such hours shall be compensated at one and one half times the regular hourly rate. When scheduled to work an eight (8) hour shift, overtime shall be one and one half times the hourly rate for any time worked exceeding eight (8) consecutive hours in one day.

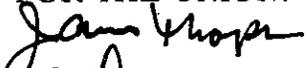
3. The twelve hour shift work schedule will be ADOPTED on a trial basis only, with the understanding that if there are any problems or difficulties with the scheduling of such shifts, or the performance of the officers thereunder in the exclusive opinion of the Chief of Police, that the Chief of Police can unilaterally, and without any further bargaining or discussions with the OPBA or its members, discontinue such twelve hour shift scheduling, and revert back to the eight hour shift scheduling, with 30 days advanced notice to the OPBA.
4. This Addendum will be reviewed each year prior to its expiration date. At that time the Addendum may be renewed for another 12-month period by the Chief of Police.

This Addendum shall expire on December 31, 2004.

IN WITNESS WHEREOF, the parties hereunto signed by their authorized representative

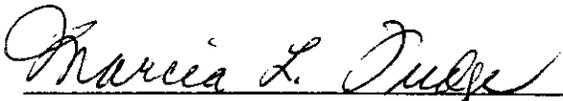
This 15TH day of DECEMBER, 2003

FOR THE UNION:




Ohio Patrolmen's Benevolent Association

FOR THE EMPLOYER:


City of Warrensville Heights