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BEFORE THE

STATE EMPLOYMENT RELATIONS BOARD

CASE NOS. 04-MED-1127, 1128 & 1129
10 ✓

OHIO PATROLMEN'S BENEVOLENT *
ASSOCIATION *

UNION *

and *

CITY OF AURORA *

EMPLOYER *

FACT FINDER'S REPORT AND RECOMMENDATION

I. Bernard Trombetta, Esq.
Fact Finder
P.O. Box 391403
Solon, OH 44139
(440) 349-2110

I. DATE AND PLACE OF HEARING

The fact finding hearing was held on May 12, 2005 at the Aurora City Hall.

II. PARTIES TO THE HEARING

The Ohio Patrolmen's Benevolent Association, hereinafter referred to as the "Union" represents the patrolmen (17), sergeants (5) and dispatchers(6) in this matter. The City of Aurora, hereinafter referred to as the "City", is the employer.

III. APPEARANCES

The following parties made appearances on behalf of the respective parties:

For The Union

Mark Volcheck, Attorney for the Union
Jeff Bugara, OPBA Representative- patrolmen
Judi Sugalski, OPBA Representative- dispatchers
Pat Domos, OPBA Representative
Al Ballou, OPBA Representative- sergeants
Dirk Piggott, OPBA Representative- sergeants

For The City

Ronald J. Habowski, Attorney for the City
James M. Fisher, Councilman

IV. WITNESS LIST

For the Union

Jeff Bugara, Judi Sugalski, Pat Domos, Al Ballou, Dirk Piggott

For the City

James M. Fuller, Seth Riewaldt, Police Chief

V. EXHIBITS

Joint Exhibits

Ex. No.	Description	Accepted
1	Collective Bargaining Agreement Patrolmen	Y
2	Collective Bargaining Agreement Sergeants	Y
3	Collective Bargaining Agreement Dispatchers	Y
4	Tentative Agreement	Y
5(a), (b), (c)	Extension Agreements	Y

Union Exhibits

A	Ordinance 2005-012	Y
B	City Increases- 2005	Y
C	Certificate of Resources	Y
D	Newspaper Article	Y
E	Comparables	Y
F	Health Care Survey	Y
G	Ordinance 2004-236	Y
H	Clerical Workers Agreement	Y

City Exhibits

1	SERB Wage Report	Y
2	Analysis of Union's Demands	Y
3	Hourly Records	Y
4	Health Plan	Y
5	Clerical Workers Health Plan	Y
6	Service Workers Health Plan	Y

VI. INTRODUCTION

The City of Aurora is located in Portage County and has approximately 15,000 residents. Though primarily residential in character, there are also commercial and industrial areas.

The current collective bargaining agreements expired on December 31, 2004 and were successors to agreements dating back to the 1980's.

The parties met approximately 6 times to attempt to resolve the issues of a new contract. Time limitations on fact finding was extended on 3 occasions. A tentative agreement was reached, but not ratified.

The undersigned was mutually selected by the parties to serve as the fact finder. A hearing was held on May 12, 2005.

VI. ISSUES PRESENTED

ISSUE NO. 1

HEALTH CARE ARTICLE 30

CITY POSITION: Presently, the unit members are covered under a comprehensive medical plan, which has no deductibles and costs the employees little.

The City proposed significant changes to the current plan and sought the adoption of the same plan in effect for the fire fighters and other city employees. Those plans feature Annual Deductibles of \$250 single coverage and \$500 family coverage, Co-pays of 20%, Out of Pocket Limitations of \$1,000 single and \$2,000 family, Emergency room fee for non-life threatening usage, 20% co-pay on office visits and prescription coverage of \$5 generic and \$15 brand name. The City offered to implement these changes with the ratification date of the new labor agreement and not seek reimbursement to the effective date (January 1, 2005).

UNION POSITION: The Union countered by seeking a continuation of the present coverage with the following exceptions: \$10 co-pay for office visits, prescription expenses of \$5 generic and \$15 brand-name and \$5 generic and \$15 brand-name on mail order 90 day supply, and a \$40 per month premium contribution by each member. No estimate of costs was presented, but, at the very least, each member would pay \$480 per year toward medical coverage.

DISCUSSION: The tentative agreement adopted the City's proposed plan with the exception of a flat \$10 charge per office visit rather than a percentage. The

City's proposal adopted the flat charge. The fire fighters and other City employees still pay a 20% co-pay for office visits.

Medical plan costs are a continuing source of concern for employers and employees, both public and private. The trend in both sectors is to share the expenses of these plans. Employees, used to receiving comprehensive coverage at little cost, are faced with paying a greater portion of the costs of this benefit. The reluctance of the employees to adopt these cost sharing measures is understandable.

Prescription expenses may, arguably, be the most unpredictable segment of the medical coverage, and makes it difficult for an employer to accurately budget for such expenses, particularly if the employer is on a self-funded or partially self-funded plan. Prescription costs are on an upward spiral. No one knows when these costs will level out, if ever. Prescription drug expenses in the United States are among the highest in the world. Neither the Union nor the City has any control over them, and the parties can only minimize those expenses by resorting to the use of generics when possible, 90-day order and mail order services.

On the other hand, the City cannot continue to absorb the full costs of medical coverage for its employees. In an attempt to better budget for these costs, the City proposed a medical plan with co-pays and deductibles. The City's offer contains a maximum out-of-pocket limitation of \$2,000 for medical costs. Based upon the 10-year top level pay for patrolmen (salary plus longevity) the limitation amounts to about 3.81% of income. Thus, the employees are not exposed to the possibility of unfettered costs in the event of a catastrophic illness or non-work related injury.

By instituting a medical plan with modest deductibles and co-pays, the City has enabled its employees to maintain comprehensive medical benefits at reasonable costs. At the same time, by shifting a part of the increasing costs to the employees, the City is better able to budget its costs, particularly since almost all labor agreements are for a 3-year period.

The economic impact upon the employees was substantially lessened by the City's proposal to pay an

annual stipend of \$1,200 (treated elsewhere herein) to its safety forces. This stipend is not paid to other City employees.

RECOMMENDATION: The Fact-Finder recommends that the City proposal on health care be adopted. Vision and dental coverages were not argued and are expected to remain the same as in the recently expired agreements.

ISSUE NO. 2

STIPEND
ART. 30 (NEW SECTION)

CITY POSITION: In order to offset the economic impact of increasing medical and hospitalization costs, the City offered to pay its safety forces an annual stipend of \$1,200. This benefit was not offered to other City employees. The stipend was considered as a part of the total economic package offered the units herein.

UNION POSITION: The Union did not argue against the payment of the stipend.

DISCUSSION: The City acknowledged that due to the changes in the medical plan coverage and costs, employees would face medical costs for deductibles and co-pays, on the average, of \$1,250 per year. To help off-set those costs the City offered each employee a \$1,200 annual stipend.

While some members will not exceed the estimated additional costs, others, obviously, will. The City cannot act as an insurer in this regard and its offer of a \$1,200 stipend is reasonable and tendered to ease the impact upon its employees.

RECOMMENDATION: The Fact-Finder recommends that the members of these 3 units (patrolmen, sergeants and dispatchers) receive an annual stipend of \$1,200, payable in semi-annual payments of \$600 each on January 1st and July 1st of each year, commencing January 1, 2005.

ISSUE NO. 3

TAX-FREE "125" PLAN
ART. 30 (A NEW SECTION)

CITY POSITION: The City offered to establish a "Section 125" Plan.

UNION POSITION: The Union did not oppose the offer.

DISCUSSION: The tentative agreement proposed the establishment of a Section 125 Plan, also known as "Cafeteria Plans" or "Flexible Spending Accounts".

These plans feature a variety of benefits, including premium conversions enabling employees to pay their share of health insurance premiums with pre-tax dollars (not applicable to the proposed plan), medical flexible spending accounts for the reimbursement of certain medical expenses on a pre-tax basis, dependent care to reimburse the employee for dependent day care expenses (cannot stack the IRS deduction with the reimbursement) and life and disability insurance premiums up to \$50,000. Though the parties referred only to medical and dependent care expenses, these plans can be tailor-made to include any or all of the aforementioned benefits. Establishment of the Plan offers tax-benefits to both the employee and the employer. The employer need not pay pension contributions and other employment taxes on the contribution. The participants receive the reimbursement on approved expenses tax-free.

The cost of establishing and maintaining a 125 Plan are minimal (\$300 set-up fee and a \$5 per month per participant maintenance cost with a \$75 per month minimum charge, i.e. if only 10 employees participate, the maintenance costs would be \$7.50 per employee per month.) The plan is administered by a third party administrator who approves or disapproves of all claims on a semi-monthly basis.

There is, however, a downside to these plans. If the participating employee does not use all contributions within the calendar year or 2 ½ months into the new year, the balance is automatically forfeited to the employer. On the other hand, if the plan provides, for example, a

reimbursement of \$1,000 per year (the participant would pay \$1,000 into the plan over the course of the year), and the TPA approves reimbursement of the maximum amount permitted under the plan, payment would be made regardless of whether, at the time of payment, the participant had contributed less than \$1,000 to the plan. The expectation would be that during the course of the year, the employee would contribute the maximum amount. However, if that employee should quit or be terminated short of making the necessary contributions, the employer would absorb the loss.

It appears that the key to a successful "125 Plan" would be to contribute only that amount of money each year sufficient to cover known medical expenses, i.e. eye glasses, orthodontia, etc.). If monitored correctly, both sides will benefit through the savings on pension, employment and income taxes.

RECOMMENDATION: It is recommended that the City establish and pay for a "125 Plan" and that the monthly maintenance costs be shared equally between the City and the individual participants.

ISSUE NO. 4

WAGES ART. 29

UNION POSITION: The Union proposed annual increases of 5%, 4% and 4%.

CITY POSITION: The City proposed increases of 4.25%, 4% and 3.75%

DISCUSSION: The tentative agreement contained increases mirrored in the City's position statement. Assuming that the average out-of-pocket medical expenses due to the changes recommended in the medical coverage in Issue No. 1 will not exceed the City's estimate, the proposed increases are still in excess of the cost-of-living increases.

The Union pointed out that the fire fighters in this, the last year of their 3 year contract received a 5% increase. They, however, are covered under the revised

medical plan and receive the same \$1,200 stipend proposed for the police.

In 2005, non-union City employees received increases of 0% to 5.6% depending upon their performance rating. They too are covered under the modified medical plan and did not receive the stipend offered the safety forces by the City. (See Union Ex. A)

Average pay for patrolmen ranks below Beachwood, Brecksville, Highland Heights and Mayfield Heights, all of which are within Cuyahoga County. On the other hand, the City rates are comparable to Tallmadge, Stow and Hudson, which are in Summit County and Streetsboro, which is in Portage County. Aurora is not at the top wage-wise, nor is it at the bottom. Comparable cities paid 2005 wage increases less than the proposal offered the police forces herein. Dispatchers rank toward the lower end pr the spectrum when compared to Twinsburg, Mayfield Heights and Solon, but those cities paid 2005 increases in the 3% range. Sergeants pay also appears to be at the lower end of the scale when compared against the cities contained in Exhibit E, but the wage increase of 4.25% will reduce the disparity to some degree (assuming that all other things are equal) and the \$1,200 stipend equals another 2+% for sergeants and 2.25+% for patrolmen. The wage structure for the City police force is not inherently unfair to the employees. The offer, when considered with the proffered stipend, is competitive with neighboring jurisdictions.

RECOMMENDATION: The Fact Finder recommends annual wage increases of 4.25%, 4% and 3.75%, commencing January 1, 2005.

ISSUE NO. 5

UNIFORM ALLOWANCES

ART. 31

DISCUSSION: The parties negotiated a \$100 increase in the Uniform Allowance, except for first year patrolmen which was to remain at \$1,000. The tentative agreement contained such an increase. The proposed increase brings the City into line with other municipalities. (See Union Ex. E).

RECOMMENDATION: The Fact Finder recommends that the uniform allowance for members of each unit be increased by \$100, except for first year patrolmen, which is to remain at \$1,000.

ISSUE NO. 6

OVERTIME PAY AND COURT TIME
ART. 33 and ART. 34

UNION POSITION: The Union sought to have the patrolmen's and dispatcher's contract modified to contain the same language as the sergeant's contract for purposes of computation for overtime and court time entitlement.

CITY POSITION: The City acknowledged the differences between the contracts.

DISCUSSION: According to Witness Ballou up until 2 years ago overtime pay for the 3 branches was calculated the same, but that language was omitted from the last patrolmen's and dispatchers contract. The history of the parties indicates that until 2 years ago overtime was calculated the same manner for the 3 units. The Police Chief admitted that the change occurred about 2 years ago. The history of the parties indicates that overtime computations should be the same between the 3 units.

RECOMMENDATION: The Fact Finder recommends that the new patrolmen and dispatcher agreements contain the same language as the current sergeant's agreement regarding computation of hours for overtime compensation and court time.

ISSUE NO. 7

CONTRACT DURATION
ART. 43

RECOMMENDATION: A 3-year contract, commencing January 1, 2005 and terminating on December 31, 2007 is recommended.

Respectfully submitted,

I. Bernard Trombetta

SERVICE

A copy of the foregoing Fact Finder's Report and Recommendation was served upon Mark Volcheck, attorney for the Union, P.O. Box 338003, North Royalton, OH 44133 and Ronald Habowski, 215 West Garfield Road, #230, Aurora, OH 44202 on the 9th day of June 2005 by ordinary U.S. Mail.

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June 9, 2005

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Gentlemen:

Enclosed is the Fact Finder's Report and statement for services rendered. Thank you for selecting me as your fact finder in this matter.

Thank you for your cooperation.

Very truly yours,

I. Bernard Trombetta

IBT/rcl

enc.

c.c. Dale A. Zimmer, Admr. SERB ✓