

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

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RELATIONS BOARD
2005 MAY -6 P 2:03

In the matter of	*	04-MED-10-1149
	*	
Fact-finding between:	*	04-MED-10-1150
	*	04-MED-10-1151
	*	
Sylvania Township Trustees	*	
	*	Fact-finder
	*	Martin R. Fitts
	*	
and	*	
	*	
Ohio Patrolmen's Benevolent Association	*	
(OPBA) Police Dispatch Unit	*	March 31, 2005
	*	

REPORT AND RECOMMENDATIONS OF THE FACT-FINDER

APPEARANCES

For Sylvania Township (the Employer):

Jonathan J. Downes, Attorney
Brad Peebles, Township Administrator
Joe Valvano, Chief of Police
Susan Wood, Assistant Township Administrator

For OPBA (the Union):

Joseph J. Allotta, Attorney
Justin D. Burnard, Attorney
Tammy Martin, Union Director
Jane M. Dufendock, Union Director

PRELIMINARY COMMENTS

The State Employment Relations Board (SERB) appointed the undersigned as Fact-finder in this dispute on December 6, 2004 for all three bargaining units in the Sylvania Township Police Department. The Fact-finder conducted mediation sessions on January 24, 2005 and on February 7, 2005. During negotiations the parties reached tentative agreements on numerous issues, with two bargaining units reaching settlements. The remaining bargaining unit consists of all Dispatchers, Record Clerks, Administrative Secretaries, Property Room Managers and Secretaries employed by the Sylvania Township Police Department. There are approximately 17 employees in this bargaining unit. The fact-finding hearing for this bargaining unit was held on March 4, 2005 at the offices of the Sylvania Township Trustees in Sylvania Township, Ohio. Both parties attended the hearing, presented written positions, and elaborated upon their respective positions. There were four issues at impasse: Hours of Work and Overtime; Sick Leave; Holidays; and Wages. Thus these four issues were submitted for Fact-finding.

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 March 4, 2005 hearing.

ISSUES AND RECOMMENDATIONS

Issue: Article 16 – Hours of Work and Overtime

Positions of the Parties

The Employer proposed that five changes be made in Section 16.8 dealing with compensatory time. It proposed that “anniversary year” be changed to “calendar year” for the purposes of defining the time period of one year for the purposes of Section 16.8. It proposed that the a hard ceiling of 140 hours of compensatory time accumulation replace the current provisions for a revolving 120 hours. It proposed allowing an employee to carry over no more than 80 hours of compensatory time to the next year, up from the current 40 hours. It proposed adding a provision that would state that the use of compensatory time cannot create overtime. And it proposed the deletion of language that currently provides for situations under which compensatory time can be taken and create overtime.

The Union proposed the retention of current contract language in Section 16.8.

Discussion

The Employer argued that these changes are necessary to help reduce the amount of overtime that is ultimately used to cover the use of compensatory time. It argued that this unit is 25% of the department manpower, yet represents 50% of the overtime costs.

The Union noted that the current language has been retained in the tentative agreements reached by the Employer with the other two Police Department bargaining units. It argued that the primary cause for the problems cited by the Employer is the manner in which scheduling is done. It argued further that if attendance issues are a factor, then the Employer should give the new attendance policy some time to have effect, and the Employer should utilize the provisions of that policy to curb any attendance problems within this unit. It also argued that the addition of one more dispatcher could have a great effect on resolving the Employer’s concerns.

When it agreed to maintain the current language and provisions of Section 16.8 with regard to compensatory time in the other two Police Department contracts, the Employer tacitly acknowledged that the language itself is adequate. Therefore the Fact-finder can only conclude that what makes the language not workable in this contract has more to do with either the scheduling process or staffing levels within this bargaining unit, as alleged by the Union, or the excessive use of sick leave, as argued by the Employer.

If indeed scheduling or staffing levels are what makes the current language unworkable, then the solutions are entirely within the ability of the Employer to control. It can make changes in the scheduling procedure or staffing levels as suggested by the Union. If, in fact, attendance due to sick leave usage is the problem, as the Employer alleges, then again the Employer has within its control the ability to implement the provisions of the fairly new attendance policy, including its disciplinary provisions. The Fact-finder agrees with the Union that the attendance policy has not been in place long enough to determine its effectiveness in addressing the problems that the Employer cited in its arguments in support of its proposals to amend Section 16.8.

Findings and Recommendation

The Fact-finder finds the Union's argument compelling that the current language should be retained, just as it was retained in the other two bargaining unit contracts within the Police Department.

Therefore, the Fact-finder recommends the Union's proposal for the retention of current language in Section 16.8.

Issue: Article 19 – Sick Leave

Positions of the Parties

The Union proposed that three amendments be made to Article 19. First, it proposed that Section 19.1 be amended to include "bonus days" and "compensatory time" as constituting hours worked for the purposes of accumulating sick leave.

The Employer proposed that Section 19.1 remain unchanged.

The Union proposed that Section 19.6 be amended to include the Sylvania Township Attendance Policy in its entirety.

The Employer proposed that Section 19.6 be amended to provide that excessive absenteeism would be handled in accordance with Sylvania Township's Attendance Policy, which would be attached as Appendix D of the agreement.

The Union proposed that Section 19.7 regarding sick leave bonus days be changed to increase the ability of the employee to earn such days.

The Employer proposed that Section 19.7 remain unchanged.

Discussion

Regarding its proposed changes for Section 19.1 and 19.7, the Union argued that these language changes are part of the tentative agreements reached by the other two Police department units, and it feels that fairness dictates that they be incorporated into this agreement as well.

The Employer argued that these changes were part of a package deal that included the deletion of the holiday stipends in both of those other agreements, as well as other issues.

The Fact-finder believes that maintaining similar language and provisions in collective bargaining agreements for units that work side-by-side, as this unit does with the two other Police Department units, makes administrative sense. That being said, the Employer's argument that the other bargaining units traded-off other things for these provisions is important to consider. The Fact-finder considers the recommendations for Section 19.1 and 19.7 below to be part of an overall package of recommendations contained elsewhere in this Report, and considers the totality of the recommendations to be fair to both parties.

Regarding Section 19.6, the parties are not at odds over the content of the Attendance Policy. Rather the dispute is over whether to incorporate the policy into the body of the collective bargaining agreement or to include the policy as an appendix to the agreement. The Union argued that its membership is more comfortable with the language appearing in the body of the agreement itself. The Employer argued this proposal will simply make the body of the agreement lengthier, and have no effect on the actual administration of the policy. In the end, the Fact-finder sees no negative consequence if the Union's proposal is adopted, while there is a positive aspect of greater employee buy-in for the policy.

Findings and Recommendation

Regarding Section 19.1 and Section 19.7, in taking into account recommendations found elsewhere in this Report, including that which calls for the deletion of the holiday stipend provisions in Section 20.3, the Fact-finder concludes that this recommendation provides the balance that the Employer achieved with the other two bargaining units.

Therefore, the Fact-finder recommends the Union's proposal for the amendment of Section 19.1 to include bonus days and compensatory time.

The Fact-finder also recommends the Union's proposal for the amendment of Section 19.7 to change the method of earning sick leave bonus days

Regarding Section 19.6, the Union's proposal may be cumbersome, but it is not unreasonable and will have no negative effect on the implementation of the attendance policy. It will, however, add to the comfort level of the Union members, which makes it the preferred proposal.

Therefore, the Fact-finder recommends the Union proposal for the inclusion of the language of the Township's Attendance Policy into Section 19.6 of the agreement.

Issue: Article 20 – Holidays

Positions of the Parties

The Employer proposed the deletion of Section 20.3, which provides for the payment of a holiday stipend equal to 16 hours of pay.

The Union proposed the retention of the current contract language in Section 20.3

Discussion

The Employer argued that this provision has been deleted from the other two bargaining unit agreements within the Police Department, and also does not exist in the Township's agreement with the Teamsters bargaining unit. It argued that this is tied to other areas of the agreement where it has proposed gains to offset the deletion of this benefit.

The Union argued that the other two Police Department bargaining units received more from the Employer to delete this provision than this unit has. It noted that this is an actual take-away of dollars from the employees and that it doesn't believe there has been a fair trade-off in economic benefits elsewhere to justify the removal of this provision.

The Fact-finder agrees with the Employer that consistency with the other collective bargaining agreements is desirable. However, a fair and reasonable trade-off must be reached with this bargaining unit in order for this to be accomplished. Considering the gains for the bargaining unit provided for in the recommendations for Section 19.1 and Section 19.7 found above, plus the recommendations found later for a modified equity increase in base wages, the Fact-finder believes that an adequate balance has been reached that includes this recommendation to delete the holiday stipend.

Findings and Recommendation

The Fact-finder believes that the recommendations contained in this Report result in a fair balance for the Union the loss of the holiday stipend provision.

Therefore, the Fact-finder recommends the Employer's proposal for the deletion of the provisions of Section 20.3 calling for the payment of a holiday stipend.

Issue: Article 22 – Wages

Positions of the Parties

The Union proposed that Section 22.1 and Exhibit A be amended to provide for equity increases for each classification in each of the three years, in addition to percentage increases in wages. It proposed equity increases of \$0.25 for Dispatchers in 2005, an additional equity increase of \$0.25 for Dispatchers in 2006, and an additional equity increase of \$0.25 for Dispatchers in 2007. It proposed equity increases of \$0.75 for all other classifications in 2005, an additional equity increase of \$0.50 for all other classifications in 2006, and an additional equity increase of \$0.50 for all other classifications in 2007. In addition, it proposed an across-the-board wage increase of 4% in 2005, an additional across-the-board wage increase of 3% in 2006, and an additional across-the-board wage increase of 3% in 2007.

The Employer proposed amending Section 22.1 and Exhibit A to provide for an across-the-board wage increase of 4% in 2005, an additional across-the-board wage increase of 3% in 2006, and an additional across-the-board wage increase of 3% in 2007.

Discussion

The parties are in dispute only as to the Union's proposal for an equity increase in the base wages for each classification in the bargaining unit. The Union presented comparables demonstrating that the wages rates for these classifications are lower than surrounding jurisdictions.

The Employer countered that turnover is low for these positions, which it argued is due to satisfaction with compensation. It further argued that the employees in this bargaining unit pay considerably less for health insurance than those in the union's comparables.

The Employer's arguments are substantial, especially with regard to the low health care cost contributions of these employees. But the fact remains that the wage rates for this bargaining unit are at the low end of the area comparables for similar jurisdictions. That

being said, the Union's proposals are simply too aggressive, especially when factoring in the employees' current contributions toward health care costs. The wage parity sought by the Union simply cannot be gained in the course of a single labor agreement, and likely is not justified in its entirety due to other economic benefits provided for in this agreement. They would also impact the Employer's budget too greatly. However, adopting the Union's proposal for an equity increase for the first year impacts the budget much less severely, provides some of the wage equity sought by the Union, yet factors in the low health insurance costs paid by the employees. Even after increasing the current base wage rate by \$0.25/hour for Dispatchers and \$0.75/hour for the remaining classifications, these positions will still be at the low-end of the area comparables. However, this would result in wage rates that are more equitable in the local labor market, while still respecting the fiscal integrity sought by the Employer.

Findings and Recommendation

In addition to recommending the agreed-upon across-the-board increase of 4%/3%/3%, the Fact-finder believes that the Union's argument for an equity increase is compelling for the first year only.

Therefore, the Fact-finder recommends that Section 22.1 and Exhibit A be amended to provide that the base wage rate for Dispatchers be increased by \$0.25/hour over the current rate, and the base wage rate for all other classifications be increased by \$0.75/hour over the current rates.

Following that equity increase, the Fact-finder recommends that Section 22.1 and Exhibit A be amended to provide for an across-the-board wage increase of 4% in 2005, an additional across-the-board wage increase of 3% in 2006, and an additional across-the-board wage increase of 3% in 2007.

Additional recommendations of the Fact-finder

In addition to the above, the Fact-finder has reviewed all other tentative agreements reached by the parties during their negotiations, including those reached in mediation conducted by this Fact-finder.

The Fact-finder recommends all tentative agreements reached by the parties during these negotiations, including those reached in mediation with this Fact-finder.



Martin R. Fitts
Fact-finder
March 31, 2005