

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

STATE EMPLOYMENT
RELATIONS BOARD

2008 DEC 10 P 12:39

OHIO PATROLMEN'S BENEVOLENT
ASSOCIATION,

Union

and

THE CITY OF STOW,

Employer

CASE NO. :

07-MED-08-0796

(SERGEANTS AND
LIEUTENANTS)

FACT-FINDER:

STANLEY B. WIENER

DECEMBER , 2008

A fact-finding hearing was held on October 16, 2008, at the Stow City Hall, 3760 Darrow Road, Stow, Ohio.

Representing the Ohio Patrolmen's Benevolent Association ("Union") was S. RANDALL WELTMAN, ESQ. Also appearing and testifying on behalf of the Union were:

1. Lieutenant, ANNE STIRM;
2. Sergeant, STEVE DUNTON.

Representing the City of Stow ("CITY") were Robin Bell, Esq., Regional Manager, Clemans, Nelson and Associates, Inc. Also appearing and testifying on behalf of the City were:

1. JOHN EARLE, City Chief Labor Negotiator;
2. DANO KOEHLER, Service Manager;
3. JONATHAN NOE, Consultant, Clemans, Nelson and Associates, Inc.

I. BACKGROUND

There are two police bargaining units represented by the Union; the Patrolmens' unit composed of approximately 34 members and the Sergeants and Lieutenants' union of nine members. (Six sergeants and three lieutenants.)

Bargaining with the Patrolmen began in mid-2007, and continued through fact-finding after which an agreement was reached in July of 2008 in mediation as part of a Conciliation Settlement report.

Negotiations with the Sergeants and Lieutenants began after the settlement with the Patrolmen. This unit agreed to most of the Patrolmens' settlement, except for two financial items, which it believes is unique to its unit. The City also, at this hearing, has raised an issue which was not part of the Patrolmens' settlement.

The termination date of the current contract is December 31, 2007. The new contract would be from January 1, 2008 through December 31, 2010.

II. MEDIATION

Mediation was attempted. However, none of the impasse issues were resolved.

III. ISSUES AT IMPASSE

- A. Uniform allowances
- B. Work day
- C. Rank differential

I am required to take into consideration the factors set forth in Ohio Revised Code section 4117.14(G)7(a) to 7(f). I have done this for all of the issues at impasse. Also, I have carefully reviewed the exhibits, position statements and testimony of the parties.

IV. POSITIONS, FINDINGS AND RECOMMENDATIONS

A. Uniform Allowances

1. Promotional Allowance

2. Detective Annual Supplemental Allowance

3. Sergeant and Lieutenant Annual Allowance

1. The Union is requesting an increase in the current promotional allowance from the current \$100.00 to \$500.00. The City has offered to increase the allowance to \$200.00.

2. The Union requests that the detectives' annual supplemental uniform allowance be increased from the current \$150.00 to \$300.00. The City has offered no increase in the annual allowance.

3. The Union has requested an increase in the annual uniform allowance of \$75.00 per year, effective January 1, 2008. The City has offered no increase in the annual uniform allowance.

Union Position:

(1) Promotional Allowance

The purpose of the Promotional Uniform allowance is to cover the costs for the modifications of the new uniform required by a promotion. The current \$100.00 allowance

is insufficient. The Union believes that \$500.00 would adequately cover the new uniform.

(2) Detectives supplemental allowance and (3) the annual uniform allowance.

The Patrolmens' contract effective January 1, 2008, includes a detective supplemental uniform allowance of \$150.00 and a \$75.00 per year increase in the annual uniform allowance. There is no valid reason not to include these increases for sergeants and lieutenants. The Union assumed that it would be treated equally with the patrol officers.

City Position:

(1) Promotional Allowance

The Union is requesting a 400% increase in the promotional uniform allowance. This request is unreasonable and excessive. The promotional allowance is unique in the area and actually amounts to a bonus. An increase of \$200.00, effective January 1, 2009, would be more than adequate.

(2) Detective Supplemental Uniform Allowance

The majority of the cities surveyed by Stow do not have a separate detective supplemental uniform allowance. The standard annual uniform allowance should be sufficient.

(3) Annual Uniform Allowance

The current annual uniform allowance is \$1,134.00. This is approximately 7.5% above the average for area cities and would appear to be more than adequate for the members' annual uniform costs for the next contract period. The Union has not presented any evidence to justify the increase requested.

Findings:

I find that the increase requested for the promotional uniform allowance is excessive and should be scaled down.

I further find that the request by the Union for the increase in the detectives' supplemental uniform allowance and the \$75.00 per year increase in the annual uniform allowance has already been agreed upon by the City and the Patrolmen in the new three-year contract, effective January 1, 2008, and as such, should be part of the wage package for the sergeants and lieutenants.

Recommendations:

I recommend that the promotional uniform allowance be increased from \$100.00 to \$250.00, effective January 1, 2008.

I further recommend that the uniform supplemental allowance for the detectives be increased by \$150.00 effective January 1, 2008, and that the uniform allowance for the Union be increased \$75.00 per year, effective January 1, 2008.

B. Work Day (Shift)

The City is proposing a new paragraph to Article XIII, Section 13.01 as follows: "*The actual work shift for each bargaining unit member shall be eight and one-half (8 ½) hours, including a one-half (½) hour unpaid lunch period. The unpaid lunch period shall not count toward, or be included in, any overtime or premium pay calculations for pay purposes.*"

City Position

The sergeants and lieutenants being supervisors should have the same work shift as all City non-safety supervisors, namely 8 ½ hours, including a ½ hour unpaid lunch.

The union members have eight hour shifts and a lunch period is taken within the shift and, therefore, the sergeants and lieutenants actually are assigned to work less than eight hours per day.

Shifts for all City supervisors at 8 ½ hours is a fair operating policy for the City.

An 8 ½ hour shift, including a half (½) hour lunch period will add efficiency to the police department by providing shift overlap which will aid in shift changes and communication without incurring overtime.

Union Position

The present eight hour shifts are standard for safety forces and have been in place for years. The City has failed to present any comparable safety department contracts. This is an eleventh hour proposal.

Findings

The City's request is logical. However, I do find merit in the Union's position. This is an important issue that should have received more attention during negotiations.

Recommendation

At this time, I do not recommend that the City's proposal for a new paragraph to Article XIII, Section 13.01 be adopted. I do recommend, however, that the City's proposal be seriously considered prior to the next contract commencing January 1, 2011.

C. Rank Differential Rate of Pay

The Union requests that the sergeants receive an additional increase of one percent (1%) above the pattern settlement of 3.25% in order to increase the rank differential between the police officers and sergeants. It also requests that the lieutenants receive an additional one percent (1%) above the pattern settlement in order to further increase the rank differentials between the sergeants and lieutenants.

The Union is seeking to establish a defined rank differential to replace the current reflected differential. The new rank differential for sergeants would be defined at 15.47% above the top level patrol officers; and the new rank differential for lieutenants would be defined at 11.44% above the top level sergeants.

The City opposes both the additional one percent (1%) pay increases for the sergeants and lieutenants.

Union Position

Police departments often establish a certain cost price that they pay for supervisory functions. This is referred to as a rank differential. In the present contract, the rank differential is reflected in the wage scale, but is not defined as a percentage. The Union seeks to define the rank differential.

The present reflected rank differential between the sergeants and patrol officers is 14.47%. With the one percent (1%) increase, this rank differential should be defined and locked into the contract at 15.47%.

The present reflected rank differential between the sergeants and lieutenants is 10.44%. With the requested one percent (1%) increase, the differential would be defined

and locked into the contract at 11.44%.

The proposed rank differentials are justified by an analysis of comparable jurisdictions. The rank differentials between patrol officers and sergeants for Akron, Cuyahoga Falls and Summit County range from 16% to 16.5%.

The rank differentials between sergeants and lieutenants for eight other jurisdictions range from 13% to 16.13%.

City Position

Pattern bargaining has been practiced in Stow for approximately 21 years to determine employee wage increases. The first union to settle has historically set the pattern. The wage pattern then applies to all unions (including OPBA Patrolmen, OPBA Sergeants and Lieutenants, OPBA Dispatchers, AFSCME, and Firefighters), non-union workers and managerial employees.

The sergeants and lieutenants unit comprises the City's smallest group, making up 3.8% of the full-time employees.

The City commenced bargaining with the patrolmen's unit with the understanding that when settled, the contract would establish the wage pattern for all of the labor units, including the sergeants and lieutenants. The agreed upon wage increase was 3.25% in each of the years 2008, 2009 and 2010 or 9.75% over three years effective January 1, 2008.

The 3.25% annual wage increase is at the high end of area settlements, including police units.

The Union by its additional wage demand of 1% for sergeants would increase the average annual wage rate to 3.58% or 10.75% over three years.

The additional demand of 1% for lieutenants would increase their wage rate by 11.7% over three years.

The pay rates for the City's sergeants and lieutenants are very competitive.

For Stow, the top rate of pay for sergeants is \$66,253.00. This is higher than six of eight comparable jurisdictions. The average of the eight jurisdictions (without Stow) is \$63,978.00.

The top rate for Stow lieutenants is \$73,169.00. This exceeds four out of six comparable jurisdictions. The average of these six jurisdictions without Stow is \$70,892.00.

For Stow, the calculated rate differential for sergeants and lieutenants over the top patrol officers is 14.47%. This exceeds the calculated rate differential of seven of the eight comparable jurisdictions.

For lieutenants, the calculated rank differential over the sergeants is 10.44%, which is lower than quite a few comparable jurisdictions; however, the total rank differential of sergeants and lieutenants is 24.9%, which is higher than the average differential of all the comparable jurisdictions examined.

Finally, all City workers, both union and non-union, rely on this pattern bargaining process. It has proven itself over the years.

Findings

By virtue of years of "pattern bargaining", the rank differential is reflected by contract wage increases for all employees rather than by a defined percentage.

Generally, I am not enamored with the City's system of establishing a basic wage increase for all employees by pattern bargaining.

There may well come a time that such a procedure could result in wages for the sergeants and lieutenants not comparable to other jurisdictions in the area.

However, at this time, there is no question that the wages of the Union have not been prejudiced by a lack of a defined rank differential. The Union's wages are very competitive and in fact exceed the average wages for the area.

Recommendation

I recommend that the Union's proposal for an additional one percent (1%) increase for sergeants and lieutenants and for a defined rank differential not be accepted; and, that the wage increases for the sergeants and lieutenants be limited to the annual increases of 3.25% for the years 2008, 2009, and 2010, effective January 1, 2008.

Respectfully Submitted,



STANLEY B. WIENER
FACT-FINDER

CERTIFICATE OF SERVICE

True copies of the foregoing report were sent this 8th day of December, 2008, by

Federal Express to the following:

Robin Bell, Esq.
Clemans, Nelson & Associates, Inc.
2351 S. Arlington Road, Suite A
Akron, OH 44319

S. Randall Weltman, Esq.
Ohio Patrolmens' Benevolent Association
10147 Royalton Road, Suite J
North Royalton, OH 44133


STANLEY B. WIENER