

STATE OF OHIO

STATE EMPLOYMENT RELATIONS BOARD

In the Matter of Fact-Finding between)	
)	
THE FRATERNAL ORDER OF POLICE/ OHIO LABOR COUNCIL, INC.)	
)	
Union)	SERB Case Nos.: 10- MED -09-1034
)	10- MED -09-1035
)	10-MED - 09-1036
and)	10-MED - 09-1037
)	10-MED - 09-1038
THE CITY OF EASTLAKE,)	
)	
Employer)	

FACT FINDING AND RECOMMENDATIONS

Jennie K. Bullard, Esquire, Fact-Finder

Report Dates: June 10, 2011

APPEARANCES

For the Employer, Eastlake City:

Sandy Conley, Esquire
Clemans Nelson & Associates, Inc.
2351 Arlington Road, Suite A
Akron OH 44319

For the Union:

Brenda Goheen, Esquire
Staff Representative
222 E. Town Street
Columbus OH 43215

1. SUBMISSION

This matter concerns a Fact-Finding proceeding between the County of Eastlake, Ohio (herein referred to as “Employer” or “County”) and the Fraternal Order of Police/ OLC (herein referred to as “Union” or “FOP”). The State Employment Relations Board (herein referred to as “SERB”), in accordance with the Ohio Revised Code Section 4117.4, duly appointed the Undersigned as Fact-Finder in this matter by e-mail correspondence dated . The parties mutually agreed to engage in multi-unit bargaining in Case Nos. 10-MED-09-1034, 10-MED-09-1035, 10- MED-09-1036, 10-MED-09-1037, and 10-MED-09-1038. This agreement was filed with SERB by correspondence dated March 16, 2011. Pursuant to a mutual agreement between the parties a date was scheduled for mediation of the unresolved issues. A day of mediation was conducted on May 20, 2011 wherein tentative agreements were reached on several issues. (The signed tentative agreements are attached to this Fact-Finding Report in Appendix “A.”) A subsequent date for a formal Fact-Finding hearing was scheduled for May 31, 2011. The Fact-Finding proceedings were conducted pursuant to Ohio Collective Bargaining law as well as the rules and regulations of SERB. The parties mutually agreed to extend the statutory timelines for conducting the fact-finding process. This extension was filed with SERB by correspondence dated April 25, 2011.

2. THE HEARING

The parties met with the Fact Finder on May 20, 2011 in the Eastlake City Hall, Eastlake, Ohio and participated in a full day of mediation from 10:00 AM to approximately 5:30 PM. A second day of hearing on May 31, 2011 was scheduled to hear the complete fact-finding process. The Fact-Finder heard testimony, argument and admitted evidence submitted by the parties on all unresolved issues. All witnesses testified under oath.

The Advocates present at the Fact-Finding hearing were:

Sandy Conley, Esquire, for the City of East Lake, Ohio (Employer)
Brenda Goheen, Esquire for the Fraternal Order of Police and the Ohio Labor council (FOP/OLC)
(Union)

In addition to the Advocates for the parties, the following individuals were present at the Mediation/Fact Finding hearings:

For the City/ Employer:
Ted Andrzejewski, Mayor, City of Eastlake
Michael Slocum, Director of Finance
Michael Esposito, Esquire, Employer Advocate

For the Union:
Michael Pitrowski, Esquire, Staff representative, FOP/OLC
Michael Werner, Patrol Unit
Richard Isabella, Patrol Unit
Denise Hinton, Civilian Unit
Karen Luebking, Civilian Unit
Kenna Solymosi, Dispatch Unit

The disputed issues identified and addressed at the Fact- Finding hearing were as follows:

Issue	Article	Units:	Proposed by:
1	Article 9	Layoff and Recall (Patrol and Rank Units)	Employer
2	Article 10	Disciplinary Procedure (All Units)	Union
3	Article 12	Arbitration Procedure (All Units)	Employer
4	Article 21	Part-Time Officers (Patrol/Rank Units)	Employer
5	Article 22	Minimum Manning (Patrol/Rank Units)	Employer
5	Article 22	Workday and Workweek/Staffing (Dispatch Unit) (Section 4. Staffing)	Employer
6	Article 23	Hours of Work/Overtime (Patrol/Rank Units)	Employer
7	Article 24	Salary Schedule	Union/Employer
7	Article 25	Rates of Pay (All Units)	Union/Employer
7	Article 25	Schedule Adjustment (Patrol/Rank Units)	Union/Employer
8	Article 25	Insurances (All Units)	Employer
9	Article 26	Firearms Proficiency (Patrol and Rank Units) (Dispatch Civilian)	Union
10	Article 29	Dispatch Differential Pay (Dispatch Unit)	Union
11	Article 30	Longevity (All Units) (Article 27 in Civilian Unit)	Employer
12	Article 31	Contribution to the Pension Fund by the City and Member (All Units) (Article 28 in Civilian Unit)	Union
13	Article 33	Sick Leave (All Units) (Article 30 in Civilian Unit)	Employer
14	Article 34	Holidays (All Units) Holidays (Patrol and Rank Units) (Dispatcher Unit), (Does not apply to Civilian Unit)	Union/Employer
15	Article 35	Vacations (All Units) (Article 32 in Civilian Unit)	Employer
16	Article 36	Personal Days (All Units) (Article 35, Holidays, Section 2; Civilian: Not Applicable)	Union/Employer
17	Article 47	Duration (All Units) (Article 45 in Civilian Unit)	Union/Employer
18	New Article	Furlough time (All Units),	Withdrawn
19	Side Letter	Criteria for Establishment of Part-Time Officers	Employer
20	Article 32	Roll Call time (Patrol/Rank Units)	Employer
20	Article 22	Workday and Workweek/Staffing (Dispatch Unit)	Employer

The parties agreed that the Fact- Finding Report would be issued by June 10, 2011 and be delivered to the parties via electronic e-mail.

The Fact- Finder has given full consideration to all relevant information received from the parties and to all criteria specified in O.R.C. Sec. 4117.14(C)(4)(e) and Rule 4117-9-05(J) and (K) of the State Employment Relations Board, namely:

- (1) Past collective bargaining agreements, if any, between the parties;

- (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, 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 authority;
- (5) The 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 the issues submitted to mutually agreed-upon dispute settlement procedures in the public service or in private employment.

There are approximately 46 employees in the five (5) bargaining units in this matter as follows:

Civilian Unit	Eleven (11) employees
Dispatch Unit	Six (6) dispatchers
Gold/Multi Unit	Twenty-five (25) patrol officers, two (2) sergeants and four (4) lieutenants

The parties above referenced are signatories to collective bargaining agreements (herein, "CBA") which are in full force and effect between Eastlake City and the Fraternal Order of Police/Ohio Labor Council. The CBAs between the parties became effective on January 1, 2008 and remained in effect through December 31, 2010. This CBA has continued in effect pending the resolution of several remaining disputed issues.

3. BACKGROUND

The City of Eastlake is located in Lake County, Ohio, and is situated just east of the City of Cleveland. According to the 2000 census the population of Eastlake is 20, 255. As with many municipalities in the state of Ohio, the City of Eastlake has experienced financial challenges. The record indicates that in late 2004, the City was declared to be in a state of fiscal emergency by the State Auditor's Office due to its inability to meet its financial obligations. Since that date, the City has undertaken several measures designed to regain its fiscal health. As a result, the Ohio State Auditor released the City of Eastlake from Fiscal Emergency status on December 4, 2007.

Having said that, the City of Eastlake as well as many other cities and counties throughout the nation are facing the problem of having to do more with less. According to the City's financial Director, Michael Slocum, the City's revenues have decreased every year since 2007 to the point that only 12.9 million dollars were received in 2010 which represents a 1.4 million dollar decrease in revenue.

The City was prepared to receive in the neighborhood of 13.5 million dollars in revenue in 2011, but shortly after the City passed its initial budget, the Governor proposed and the Ohio House of Representatives passed a biennial budget which will cut the Local Government Fund to Eastlake by 50%, eliminate the funding for the reimbursements for electric deregulation, eliminate the funding for reimbursements for the Commercial Activities Tax (CAT) and repeal the inheritance tax. As a result of the Governor's and Legislature's actions the General Fund will be greatly reduced over the next three years. The bottom line is that the City of Eastlake wants to avoid any situation which would cause another fiscal emergency.

The members of the Bargaining Units represented in this Fact-Finding are not unsympathetic to the City's needs. They are citizens of the State of Ohio and are well aware of the fiscal situation facing the City of Eastlake. They are also very interested in maintaining a safe environment for the citizens of Eastlake and to maintaining a quality standard of living for their constituents.

4. ISSUES PRESENTED AT FACT-FINDING

As a result of mediation, negotiating and caucusing, the parties were able to sign tentative agreements on nineteen (19) of the twenty (20) unresolved issues presented at the commencement of this process. This amazing progress is totally due to the willingness and diligence of the Advocates and the participants from both the Employer and the Union. The Advocates and parties worked tirelessly and clearly articulated the positions of each client on every aspect of the unresolved issues and provided considerable supportive comparable geographic and financial data.

The only remaining Issue before this Fact-Finder is Issue 20. Article 34 (Patrol/Rank Units), Article 22 (Dispatch Unit).

UNRESOLVED ISSUES:

ISSUE 20.ARTICLE 32, Roll Call Time (Patrol/Rank Units) (Dispatch Unit: Article 22, Section 3)

The Employer's Position:

The Employer proposes to move the roll call to be included within the regular day/shift rather than having employees report prior to the start of the shift. Under the current practice, employees arrive on shift and participate in roll call fifteen minutes prior to the regular work shift. According to the employer, this practice produces considerable compensatory time and produces a reduction of actual work time which the City cannot longer afford. The City avers that the current practice reduces available work time by two and one-half (2.5) hours per bi-weekly pay period, per person.

The Union's Position:

The Union's position is that there should be no change in the current contract language. For the Patrol/Rank Units, employees should continue to receive one-quarter (1/4) hour of time for roll call at the beginning of each regular shift. This time shall be paid in compensatory time on a straight time basis. The Union argues that this time is critically necessary for the employee going off duty to inform the incoming employees of the events of the preceding shift. The Union testified that the Employer's proposal does not significantly impact financial savings and the Union has already acquiesced on a number of very important issues. The Union offered that it does not believe that the Chief of Police will incur problems in scheduling the earned compensatory time. Further, the Union states that this change to the existing roll call practice was not presented at the beginning of the negotiations process but was added just prior to Fact-Finding, therefore it should not be considered at all.

Fact-Finder's Recommendation:

While the City made a strong argument that the future financial picture looks grim under the current political climate, the Fact-Finder is also aware that the Units involved in this Fact-Finding have agreed to significant changes in their bargaining positions in an effort to assist the City in handling its anticipated financial crisis. The employees in the Patrol/Rank Units and the Dispatchers also face financial difficulties in these trying times. The Union has compromised on Minimum Manning, Holiday Pay, Part-time Officers, Longevity and other issues which were of utmost importance to them. Fact-Finding is about looking at the relative positions of the parties and determining what is fair, equitable and can be managed by the parties. The Union's argument that there is a need to have this roll call time to provide critical safety information from the preceding shift is compelling and that asserts that the Employer's position will not provide significant savings. In addition, with some of the other Union compromises such as Minimum Manning and Part-Time Officers, the Employer will be able to adequately schedule personnel to cover the compensatory time earned through the current roll-call policy. Accordingly, in view of the above and the record as a whole, this Fact-Finder recommends that the Union's position with respect to Issue 20, Roll-Call, be adopted and the language contained in the current contract remain as it is currently stated.

SUMMARY:

Thank you very much for the opportunity to work with all of you and to be given the opportunity to help you in resolving the issues to this dispute. It has been an interesting experience to meet with the representatives from both the City of Eastlake and the Fraternal Order of Police and the Ohio Labor Council. The issues presented are difficult ones for both parties but in differing ways. The

Recommendations offered in this Report are provided with the hope that the parties will be able to finalize their new agreement through mutual cooperation.

This Fact-Finder gave due consideration to the positions and arguments offered by the parties and to the criteria enumerated in SERB Rule 4117-9-05 (J) and recommends the provisions as provided herein.

All agreements previously reached by and between the parties and tentatively agreed to, along with any sections of the current agreement not negotiated and/or changed are hereby incorporated by reference into this Fact Finding Report and should be included in the resulting Collective Bargaining Report.

Respectfully submitted this 10th day of June, 2011 at Vandergrift, Pennsylvania,

s/ Jennie K. Bullard

Jennie K. Bullard, Esquire
Fact-Finder

CERTIFICATE OF SERVICE

The undersigned hereby certifies that an electronic copy of this Fact-Finder's Report was e-mailed in pdf. Format this 10th day of June, 2011, to Brenda Goheen, Esquire, bbbgh@live.com, to Sandy Conley, Esquire, sconley@clmansnelson.com, and to the State Employee Relations Board, MED@serb.state.oh.us.

s/ Jennie K. Bullard
Fact-Finder