

STATE EMPLOYMENT RELATIONS BOARD
STATE OF OHIO

In The Matter of Fact Finding Between

Hamilton County Communications Officers	}	Case No.(s): 13-MED-05-0719
Employee Organization	}	
	}	
AND	}	
	}	
Hamilton County Commissioners	}	Fact Finding Report
Ohio Public Employer	}	Michael King, Fact Finder
	}	

This matter was heard on December 12, 2013, in the City of Cincinnati, Ohio.

APPEARANCES:

For The Union:

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For The Employer:

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I. Introduction And Background

The undersigned, Michael King, was appointed Fact Finder by the State Employment Relations Board (SERB) on October 11, 2013. As Fact Finder the undersigned was tasked to conduct a hearing and issue a report with recommendations on each of the unresolved issues between the parties in their negotiations for a Collective Bargaining Agreement (CBA).

The bargaining unit consists of approximately sixty (60) employees. These employees are responsible for receiving 911 calls in Hamilton County, and for dispatching emergency providers as appropriate. This bargaining unit has limited bargaining experience with Hamilton County. Its members previously were represented by the Fraternal Order of Police, Ohio Labor Council (FOP). They were covered under a collective bargaining agreement entered into between FOP and Hamilton County that extended through December 31, 2012. SERB certified the Communications Officers as a separate bargaining unit on March 14, 2013. During the certification election a total of forty-six (46) ballots were cast. Forty-five (45) were cast for Communications Officers of Hamilton County. One (1) was cast for "No Representative," and none (0) were cast for Fraternal Order of Police.

Negotiations on a contract began in July 2013. The parties met for approximately eight (8) negotiating sessions. During or subsequent to those sessions the parties were able to reach agreement on all but two issues. Issues identified as being at impasse are Wages and Vacation Scheduling.

Prior to the hearing the parties timely submitted pre-hearing statements pursuant to SERB Rules. Those statements were reviewed prior to the hearing, and discussed fully at the hearing. Each party was presented a full opportunity to present documents, exhibits and testimony as that party deemed appropriate.

II. Fact-Finder's Report

In reviewing the issues at impasse, and arriving at recommendations, I considered the parties written submissions and exhibits, oral presentations and testimony and the following factors as required by law:

- 1] Past collectively bargained 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 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 agreed-upon dispute settlement procedures in the public service or in private employment.

In preparing this report I have attempted to make recommendations that are reasonable based on the evidence presented, and that balance the legitimate economic interests of both parties.

The fact-finding hearing in this matter occurred on December 12 2013, and the record was closed immediately thereafter.

III. Unresolved Issues

Issue # 1 Vacation Scheduling

Currently vacation scheduling is done utilizing a system that relies heavily on employee seniority. Vacation scheduling options are given first to the most senior employees, with less senior employees selecting vacation times afterwards.

The relevant FOP collective bargaining agreement includes contract language on vacation scheduling as follows:

Section 25.4: Vacations are scheduled and approved in accordance with the workload requirements of the Employer. The Employer reserves the right to designate time periods when vacations may be restricted or denied due to operational requirements. As the Employer determines that operations permit, employees may exercise Communications Center seniority in the selection of time off for vacation. Vacation requests for the next year shall be turned in and posted before the year end. After the initial vacation request period is closed, all remaining vacation requests shall be granted on a first come first serve basis.

- A. Employees may use only vacation time they have accrued to this point and vacation time that will be earned by the date of the vacation time selected.
- B. Compensatory time may not be used to reserve vacation time for the initial vacation time selections(s) in the vacation book.
- C. The vacation book will start circulation September 15th of each year for vacation picks for the following year.
- D. The vacation book must remain with the Communications Center at all times. No exceptions will be made.
- E. Each employee will have a minimum of four (4) days after the vacation book is presented to him/her by the shift supervisor to make vacation selections. As “split shift” personnel must select their choices from two separate shift vacation books, their four (4) day period will begin upon receipt of both shift vacation books.
- F. The appropriate shift supervisor will initial the book with the designated start and end dates for when the book needs to be turned back in by the employee making his/her vacation selections. Each employee will also date and sign the book upon receipt, as well as return the book to the appropriate shift supervisor after completing the employee’s original vacation date selections.
- G. The employee may make changes and/or additions to his/her original vacation selection only after their shift’s vacation book has been completed. Changes and/or additions will be on a “first come, first serve” basis.
- H. Vacation time requests made in the vacation book will be accompanied by a Request for Leave Form. All Request for Leave forms will be completed, signed, dated, and turned in with the vacation book to the appropriate supervisor.
- I. An employee’s failure to comply with any of the steps outlined above will result in a forfeit. The employee’s next opportunity to request vacation time will be after the vacation book has circulated through the remaining shift seniority list, which will default to a “first come, first serve” basis unrelated to seniority status.

Management Position And Proposed Changes:

The Employer states its position as follows: “(Hamilton County) proposes to introduce a few limitations in order to make the process fairer. First, an employee may not select more than two (2) consecutive weeks or eighty (80) hours during the first circulation of the vacation book. Second, an employee may not select more than three (3) consecutive weeks or one hundred twenty (120) hours of vacation time. And third, an employee may not select more than five (5) holidays. Employees may make changes or additions to their vacation selections any time after the vacation book has been circulated on a ‘first come, first serve’ basis.”

According to Management, the current system is overly-generous to a few long-tenured employees, at the expense of junior employees. For the first five (5) years, a less-tenured employee can’t get any holiday off and few weekend dates are available. They argue that this “has transitioned into a sick leave and FMLA issue,” as junior employees resort to alternate means to obtain desirable dates for time off. Moreover, the current system is a major culprit in the high turnover rate for employees within this bargaining unit, a current annual turnover rate of approximately one-third.

Finally, Management states that the majority of other bargaining units in Hamilton County don’t use seniority in vacation scheduling. There aren’t any vacation books and vacation time is scheduled on a first come first served basis.

Union Position:

The Union strongly disputes any suggestion that the current system either severely disadvantages lesser-tenure employees, or that the current system greatly contributes to the turnover rate of Communications Officers. It proposes what it says are minor changes in the vacation selection process. Those changes are: 1] language modifications to clarify the number of vacation books and shift selection: 2] further specify the time period each Communications Officer has the vacation book, and 3] language modification relating to vacation request submissions to reflect the current PayCor system.

To buttress its claim that the current system doesn't unduly disadvantage less-tenured employees, the Union offers its analysis of actual vacation hours available. Each month, according to this analysis, a substantial number of available hours remains unused. That analysis follows:

2012 Vacation Time Study-- Initial Picks in Hours (by Shift)													
1st Shift													
	Jan-12	Feb-12	Mar-12	Apr-12	May-12	Jun-12	Jul-12	Aug-12	Sep-12	Oct-12	Nov-12	Dec-12	Total Hours
Days in Month	31	29	31	30	31	30	31	31	30	31	30	31	
Vacation Hr Allotment (Monthly)	496	464	496	480	496	480	496	496	480	496	480	496	5856
Vacation Hrs Used	164	156	168	372	300	404	460	360	264	268	288	288	3492
Available Vacation Hrs NOT Used	332	308	328	108	196	76	36	136	216	228	192	208	2364

2nd Shift													
	Jan-12	Feb-12	Mar-12	Apr-12	May-12	Jun-12	Jul-12	Aug-12	Sep-12	Oct-12	Nov-12	Dec-12	Total Hours
Days in Month	31	29	31	30	31	30	31	31	30	31	30	31	
Vacation Hr Allotment (Monthly)	496	464	496	480	496	480	496	496	480	496	480	496	5856
Vacation Hrs Used	108	197	189	200	228	224	312	156	239	285	196	260	2594
Available Vacation Hrs NOT Used	388	267	307	280	268	256	184	340	241	211	284	236	3262

3rd Shift													
	Jan-12	Feb-12	Mar-12	Apr-12	May-12	Jun-12	Jul-12	Aug-12	Sep-12	Oct-12	Nov-12	Dec-12	Total Hours
Days in Month	31	29	31	30	31	30	31	31	30	31	30	31	
Vacation Hr Allotment (Monthly)	496	464	496	480	496	480	496	496	480	496	480	496	5856
Vacation Hrs Used	48	96	72	132	288	316	336	216	124	64	160	256	2108
Available Vacation Hrs NOT Used	448	368	424	348	208	164	160	280	356	432	320	240	3748

2013 Vacation Time Study-- Initial Picks in Hours (by Shift)													
1st Shift													
	Jan-13	Feb-13	Mar-13	Apr-13	May-13	Jun-13	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Total Hours
Days in Month	31	28	31	30	31	30	31	31	30	31	30	31	
Vacation Hr Allotment (Monthly)	496	448	496	480	496	480	496	496	480	496	480	496	5840
Vacation Hrs Used	156	152	240	368	312	416	396	300	208	260	216	224	3248
Available Vacation Hrs NOT Used	340	296	256	112	184	64	100	196	272	236	264	272	2592
2nd Shift													
	Jan-13	Feb-13	Mar-13	Apr-13	May-13	Jun-13	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Total Hours
Days in Month	31	28	31	30	31	30	31	31	30	31	30	31	
Vacation Hr Allotment (Monthly)	496	448	496	480	496	480	496	496	480	496	480	496	5840
Vacation Hrs Used	126	177	185	177	217	273	288	245	166	152	136	249	2391
Available Vacation Hrs NOT Used	370	271	311	303	279	207	208	251	314	344	344	247	3449
3rd Shift													
	Jan-13	Feb-13	Mar-13	Apr-13	May-13	Jun-13	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Total Hours
Days in Month	31	28	31	30	31	30	31	31	30	31	30	31	
Vacation Hr Allotment (Monthly)	496	448	496	480	496	480	496	496	480	496	480	496	5840
Vacation Hrs Used	96	56	196	196	196	316	368	240	160	216	124	348	2512
Available Vacation Hrs NOT Used	400	392	300	284	300	164	128	256	320	280	356	148	3328

Finding And Recommendation

I find no credible evidence that use of the current seniority-based vacation scheduling system is a primary cause of low morale and high employment turnover. I am unpersuaded by Management's assertion that some departing employees check an exit box stating that dissatisfaction with leave and vacation policy was a factor in the departure. That is one of what Management says are eight (8) or more boxes all of which may be checked by a single departing employee. There is no weighting analysis to determine which of the multiple checked boxes had the greater impact on the decision to depart. Likewise, although Management states that it has conducted a survey of employees to ascertain the reasons for low morale, it hasn't shared that data. Thus, that information can't factor into this recommendation.

As noted below, low morale appears fundamentally related to depressed wage rates. Although funded for sixty-seven (67) communications officer positions, the County hasn't been able to hire and maintain that number of communications officers. Approximately four (4) years ago employment briefly reached that level, but only for a period of approximately three (3) weeks, according to Management testimony.

Therefore, I recommend adoption of the Union's position on this issue, and suggest that the parties incorporate into the collective bargaining agreement the wording proposed by Hamilton County Communications Officers.

Issue # 2 Wages

Management Position:

Management proposes a mid-year merit-based wage increase of up to three (3) percent for 2014, and a wage reopener for 2015. "The Employer acknowledges that most employees of Hamilton County have weathered the economic crisis without any wage increase, and the Communications Center is no exception," County representatives explain. They add that the county itself is still recovering from economic woes. It has endured six years of budget reductions and more than 700 layoffs. This should be a period for Hamilton County to continue its economic recovery by focusing on stabilization and growing its general fund surplus.

While Management doesn't really argue an inability to pay a higher wage, it argues that payment of a larger amount is imprudent. Revenues generated by the Communications Center are in decline. The Center charges user communities \$18.30 each time it dispatches a 911 response. This has resulted in some communities encouraging residents not to call 911 for dispatching. Over the last two (2) years the Communications Center has had approximately 6,000 fewer detail dispatches.

The Center is primarily funded from the County’s general fund. It is desirable to decrease the general fund subsidy of the Communications Center.

Management acknowledges that its communications officers’ wages haven’t kept pace with surrounding jurisdictions. Some of those other jurisdictions, however, weren’t prudent in their spending going into the economic downturn. Some of those communities continued to raise wages even as the financial crisis approached, Management states. Also, the surrounding communities primarily use step systems for wage increases while Hamilton County uses a merit system.

Management identifies the following comparables:

Annual Wages for Comparable Area Counties		
Butler County	\$48,191.95	2012 Annual Rate, Dispatcher VIII
Clermont County	\$41,412.80	2012 Annual Rate, based on hourly rate of \$19.91
Warren County	\$46,820.80	2013 Annual Rate (2012 Rate not provided)
Lucas County	\$42,577.60	2012 Annual Rate, based on hourly rate of \$20.47 for Clerk III/Dispatcher
Summit County	\$36,999.00	2012 Annual Rate for Communication Technician II
Stark County	\$38,563.20	2012 Annual Rate for Communication Technicians
Average Annual Wage	\$42,427.56	

Union Position:

The Union believes that Hamilton County’s merit-based pay system has been an abysmal failure. It hasn’t provided the prompt and predictable feedback and evaluations that are an essential element in any merit system. Moreover, it has left employees with wages that are substantially below those of peer communities.

2014 Communications Officer Ten Year Wage Comparison-- Area Counties			
	Ten Year Wage		
Butler County	\$ 48,191.95	Hamilton County	\$ 42,030.00
Clermont County	\$ 41,826.72	% Below Area Average	8.53%
Warren County	\$ 46,820.80	\$ Below Average	\$ 3,583.16
Average for Area Counties	\$ 45,613.16		

The Union proposed to scrap the current merit system, and to replace it with a compensation system that is based on eleven (11) career steps. There would be a three-year period between steps, and each higher step would result in an average wage increase of 4.79%. Full transition into the step system would occur over a two-year period.

Finding And Recommendation

In a memorandum to Hamilton County Board of Commissioners dated October 7, 2013, County Administrator Sigman wrote as follows:

Due to the five year lapse in compensation changes (2008-2013) and adjustments to the pay plans twice in the past 10 years, the County has experienced significant management challenges in attracting and maintaining a quality workforce. . . . However, the sustained lack of adjustments to the actual compensation within said plans has placed the County in a competitive disadvantage to other employers and created vast salary inequities for new hires versus tenured staff. For example, external hires with mid-career experience command market rate salaries that are higher than more tenured internal staff.

Further, Administrator Sigman states, surrounding counties together with private businesses have experienced the same economic downturn as Hamilton County. However, those other entities have approved some wage increases over the last five years. He cites Butler County, Clermont County, Franklin County and Warren County. As a result, he says, Hamilton County has difficulty attracting and retaining good employees. "Hamilton County is training and developing employees in a specific job or skill set, only to have the employee, along with his skill and expertise, leave for another political entity or private sector position."

I find that Butler, Clermont and Warren County are a part of the same labor market. I find that it is appropriate to compare wage levels in those counties with the wage levels for Hamilton County Communications Officers. I find that wage levels for Hamilton County Communications Officers substantially trail those of the jurisdictions both parties identified as comparable jurisdictions.

Further, I find that the merit pay system hasn't functioned for these employees for at least three (3) years. Management acknowledges that the system didn't function, but says that was merely because there weren't any raises to give. Thus, the County became lax in performing employee evaluations and providing prompt and useful feedback and direction to employees regarding their performance.

Nonetheless, Hamilton County insists that it is committed to a merit-based compensation system. It believes that the system can be fixed and/or reactivated.

So long as the merit system can be, and is promptly repaired I find no reason to scrap the system. However, I do find that a catchup wage increase is appropriate, and should be implemented during 2014.

I recommend a general wage increase for this bargaining unit of three (3) percent, with said increase to be effective during the first full pay period of March 2014. In addition, I recommend that the merit system be reactivated, and that merit pay increases of one (1) percent up to three (3) percent be granted as appropriate in 2014, and continued in subsequent years of the contract.

Michael King
Appointed Fact Finder

Date: January 9, 2014
Beachwood, Ohio