

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

In the matter of
Fact-Finding between

CITY OF AVON LAKE)	
Employer)	SERB CASE NO. 14-MED-03-0287
)	
-and-)	JEFFREY A. BELKIN,
)	Fact-Finder
THE FRATERNAL ORDER OF POLICE/)	
OHIO LABOR COUNCIL, INC.,)	
Union)	

This matter was heard at Avon Lake, Ohio on August 13, 2014. The parties' representatives are listed below:

For the Union:

Otto J. Holm, Jr.	FOP/OLC Representative
Patricia A. Schroer	FOP/OLC Representative

For the Employer:

Sandy Conley, Esq.	Employer Advocate
Joe DeTillio	Avon Lake H.R. Director
Melisa Fisco	Assistant Employer Advocate

FINDINGS AND RECOMMENDATIONS

I. BACKGROUND

The bargaining unit involved in this proceeding consists of “all full-time [police] dispatchers and secretary records clerk.” It is one of six units recognized by the City, but the only one not to have settled its agreement as of the date of fact-finding.

Through the course of their negotiations the parties were able to tentatively resolve all but two outstanding issues: wages and grievance arbitration. The main bone of contention on the wage issue is the potential of increased workload due to expansion of the Avon Municipal Court, which is housed in the same building as the Avon Lake Police Department. Dispatchers not only maintain court records, but also monitor court records and serve as matrons for female prisoners who are incarcerated directly from court. A letter from Judge Bilancini of the Avon Lake Municipal Court, dated March 18, 2014, describes a dramatic increase in overall caseload of 12% from 1012 to 2013, including an increase of traffic cases of a “whopping 27%” during that period.

It became clear at the fact-finding that the increase in dispatchers’ workload, as the result of increased core activity, needed to be addressed through the collective bargaining process.

II. FACT-FINDERS REPORT

In reaching the Findings and Recommendations on the unresolved issues, the undersigned has considered the parties' pre-hearing statements, oral presentations, exhibits and witness statements. Also taken into account were the factors mandated by statute:

Past collectively bargained agreements, if any, between the parties;

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;

The interests 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;

The lawful authority of the public employer;

Any stipulations of the parties;

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.

III. UNRESOLVED ISSUES

A. ARTICLE 11 – WAGES

Union Proposal

“Section 11.1. Effective July 1, 2014, the base rate for all bargaining members in each pay range shall increase by \$1,500.00 AS AN EQUITY ADJUSTMENT TO THE WAGE SCALE ALONG WITH A GENERAL WAGE INCREASE OF 2% PER YEAR FOR THE CONTRACT TERM.”

City Proposal

“Commencing July 1, 2014: a ten cents (\$.10) per hour wage equity adjustment plus a (2%) general wage increase.

Commencing with the pay period that includes July 1, 2015: a ten cents (\$.10) per hour wage equity adjustment plus a two percent (2%) general wage increase.

Commencing with the pay period that includes July 1, 2016: a ten cents (\$.10) per hour wage equity adjustment plus a two percent (2%) general wage increase.”

Positions of the Parties

Union

1. No other dispatchers in the area have the added responsibility of monitoring court proceedings and prisoner details.
2. Because of dual roles working dispatch/records and court/prison details, a wage adjustment of \$1500 is appropriate, bringing the unit in line with other comparable cities.
3. The \$1500 increase plus a 2% (per year) increase will not put this unit above comparable cities.

4. The Union has forgone wage increases for the last few years, while the City proceeds with improvement projects.
5. The City has a stable economy, indicating the “healing financial woes” of the City.

City

1. All other City bargaining units have settled for a 2% wage increase each contract year.
2. The USW 836 – 1 unit (office clericals) settled for 2% each year, plus annual increases of \$.15, \$.15, and \$.10.
3. The dispatchers wages are already “slightly above” comparable municipalities in Lorain County.
4. The City must pursue levy renewals, and has “incurred loss of revenue streams.”
5. The City’s proposal (with the equity adjustment) works out approximately to about 2.5% each contract year.

6. The duties of the dispatchers are comparable to those in other jurisdictions, contrary to the Union.
7. The increase in court filings in 2013 did not appreciably increase the dispatchers' workload.
8. Moving to a "full-time court," i.e., having court in session three days a week instead of two days, will not increase the number of case filings; but rather will spread the number of cases over the extra day.

Findings and Recommendations

1. The Union has pointed to other area jurisdictions that pay dispatchers somewhat higher wages than the rate of the Avon Lake dispatchers.
2. However, the internal comparables presented by the City establish a consistent pattern of a 2% equity increase, plus additional cents per hour. That pattern is justified as a response to no wage increases over the past several years.
3. The closest comparable internal classification is the clerical employees unit represented by the USW 836.
4. While the dispatchers unit is considered a "non-strike" unit under applicable state law, the dispatchers are neither licensed nor armed, and do not wear uniforms. Although they monitor female inmates, the dispatchers have no hands-on responsibilities for those prisoners.

5. The evidence established additional duties and responsibilities for the dispatchers as the result of increased court sessions.
6. The extra duties and responsibilities by the dispatchers warrant a somewhat higher wage adjustment than was received by the office clerical unit.
7. While the facts justify a higher wage adjustment for the dispatchers is appropriate, the increase should track those of other city units, especially the office clerical unit.

Therefore, based on the facts presented, the undersigned recommends the following wage adjustment:

Commencing July 1, 2014: a twenty-five cents (\$.25) per hour wage equity adjustment plus a two percent (2%) general wage increase.

Commencing with the pay period that includes July 1, 2015: a fifteen cents (\$.15) per hour wage equity adjustment plus a two percent (2%) general wage increase.

Commencing with the pay period that includes July 1, 2016: a ten cents (\$.10) per hour wage equity adjustment plus a two percent (2%) general wage increase.

[See Exhibit A]

B. ARTICLE 19 – GRIEVANCE PROCEDURE

City Proposal

The City has proposed a change in the method of selecting arbitration, from alternative “striking” from a list supplied to FMCS, to a “ranking” process:

~~“Upon receipt of~~ ***Simultaneous with*** a notice to arbitrate, ~~either party may~~ ***the Union shall*** request the Federal Mediation and Conciliation Service to submit ***to each party*** a list of ~~seven (7)~~ ***nine (9)*** impartial persons qualified to act as arbitrator. ~~In accordance with its then applicable rules and regulations.~~ The notice to FMCS shall specify that the Arbitrators are to be members of the National Academy of Arbitrators and residents of the State of Ohio.

Within fourteen (14) ~~calendar~~ days of receipt of the list of arbitrators, each party shall rank the list by striking any name to which it objects and ranking the remaining names by number to indicate the order of preference (number one [1] being the first choice) and shall return the ranked list to the FMCS.

The Federal Mediation and Conciliation Service shall assign an arbitrator based upon the ranking of the parties (arbitrator with lowest combined ranking) and shall notify the parties of the arbitrator assigned to the grievance. The arbitrator shall arrange with the parties the date, time, and place of the meeting.

~~The parties shall use the alternate strike method from the list of seven (7) arbitrators submitted to the parties by the FMCS. The FOP shall be the first to strike a name from the list in the first arbitration under this Agreement, with the parties then alternating which party shall strike first. The first party will strike a name from the list, then the other shall strike a name and alternate in this manner until one (1) name remains on the list. The remaining name shall be designated as the arbitrator to hear the dispute in question. Each party shall have the option to completely reject one list of names provided by FMCS and request another list.”~~

Union Proposal

The Union proposes to maintain the language of the prior Agreement.

Positions of the Parties

City

The City states that the “two USW bargaining units have already agreed to this process and the City seeks an internally consistent selection process...”

Union

The arbitration selection process sought by the City is inconsistent with the vast majority of FOP-represented units in Ohio.

Findings and Recommendation

The City's proposal is based on the premise that a "ranking" method of arbitrator election (commonly used by the American Arbitration Association) is preferable to the "striking" method employed by FMCS. Further, the City's representatives have been successful in persuading a growing number of unions around the state to switch to the "ranking" method. On the other hand, no evidence was produced that the current "striking" method has failed to yield competent arbitrators in Avon Lake.

While understanding the City's wish to make the proposed change, I believe that the method of arbitrator selection is best left to the parties; and absent substantial evidence that the current method is unworkable, should not be imposed by a third party. Given the absence of such evidence, and the Union's adamant opposition, there is not a sufficient basis on which to recommend the City's proposal in fact-finding.

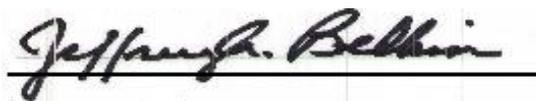
Recommendation

The current status quo regarding the method of selecting arbitrators should be maintained.

C. TENTATIVE AGREEMENTS

All contractual provisions tentatively agreed to by the parties prior to fact-finding, are hereby recommended.

Respectfully submitted,

A handwritten signature in black ink, reading "Jeffrey A. Belkin", is written over a solid black horizontal line.

Jeffrey A. Belkin
Arbitrator

Shaker Heights, Ohio
September 10, 2014

EXHIBIT A**ARTICLE 11
WAGES**

SECTION 1. The parties do hereby agree that the following schedule of gross rates of pay for employees covered by this Agreement shall be effective on the dates as specified to wit:

~~A. Commencing July 1, 2011 through June 30, 2014 as follows:~~

POSITION	STEP	HOURLY	BI-WEEKLY	ANNUALLY
Dispatcher	I	\$17.42	\$1,393.60	\$36,233.60
Dispatcher	II	\$18.25	\$1,460.00	\$37,960.00
Dispatcher	III	\$19.09	\$1,527.20	\$39,707.20
Dispatcher	IV	\$19.94	\$1,595.20	\$41,475.20
Dispatcher	V	\$20.92	\$1,673.60	\$43,513.60

~~Excluding normal step increases there shall be no wage increase for Step 5 employees for the duration of this Agreement.~~

A. Commencing July 1, 2014: \$.25 per hour wage equity adjustment plus 2% general wage increase:

	7/1/14 - 6/30/15	\$.25 + 2%
	HOURLY	ANNUAL
Dispatcher I	\$18.02	\$37,488.67
Dispatcher II	\$18.87	\$39,249.60
Dispatcher III	\$19.73	\$41,031.74
Dispatcher IV	\$20.59	\$42,835.10
Dispatcher V	\$21.59	\$44,914.27

B. Commencing with the pay period that includes July 1, 2015: \$.15 per hour wage equity adjustment 2% general wage increase:

	2015 -2016	\$.15 + 2%
	HOURLY	ANNUAL
<i>Dispatcher I</i>	\$18.54	\$38,556.69
<i>Dispatcher II</i>	\$19.40	\$40,352.83
<i>Dispatcher III</i>	\$20.27	\$42,170.62
<i>Dispatcher IV</i>	\$21.16	\$44,010.05
<i>Dispatcher V</i>	\$22.18	\$46,130.80

- C. *Commencing with the pay period that includes July 1, 2016: \$.10 per hour wage equity adjustment 2% general wage increase:*

	2016 -2017	\$.10 + 2%
	HOURLY	ANNUAL
<i>Dispatcher I</i>	\$19.01	\$39,539.98
<i>Dispatcher II</i>	\$19.89	\$41,372.05
<i>Dispatcher III</i>	\$20.78	\$43,226.19
<i>Dispatcher IV</i>	\$21.68	\$45,102.41
<i>Dispatcher V</i>	\$22.72	\$47,265.57