

STATE EMPLOYMENT RELATIONS BOARD
FACT FINDER'S REPORT AND RECOMMENDATION

IN THE MATTER OF:

CITY OF NORTH OLMSTED

AND

OHIO PATROLMEN'S BENEVOLENT ASSOCIATION

Case Number: 2014-MED-09-1101

Before Fact Finder: Thomas J. Nowel
April 16, 2015

PRESENTED TO:

Cheryl A. Farver, Director of Human Resources
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INTRODUCTION

Thomas J. Nowel was appointed to serve as Fact Finder in the case as captioned on the cover page by the State Employment Relations Board on January 15, 2015 in compliance with Ohio Revised Code Section 4117.14 (C) (3). The previous collective bargaining agreement expired on December 31, 2014. The parties met to negotiate a successor agreement on one occasion prior to hearing at Fact Finding. The parties are in agreement that the successor agreement commence on January 1, 2015 and terminate on December 31, 2017. Prior to hearing, the parties engaged in mediated discussion of unresolved issues, and the Report and Recommendation of the Fact Finder generally mirrors agreements in concept. The parties agreed that minimal rationale was to be included by the Fact Finder in the Report and Recommendation and that it would be issued on April 16, 2015.

The Union represents all full-time employees in the Dispatch Division of the City of North Olmsted Safety Department. There are eight employees in the bargaining unit.

Those participating for the Union at Fact Finding include the following:

Jeff Perry, OPBA

Becky Jo Bert, Union Director

Tammy Farris, Assistant Director

Mary Ellen Borocz, Assistant Director

Those participating for the Employer at Fact Finding include the following:

Cheryl Farver, Director of Human Resources

Don Glauner, Safety Service Director

OUTSTANDING ISSUES:

1. Article 8, Association Representation
2. Article 17, Holidays, Section 1
3. Article 17, Holidays, Section 3
4. Article 27, Schooling
5. Article 28, Uniform Maintenance Allowance
6. Article 29, Hospitalization
7. Article 31, Shift Differential
8. Article 32, Wages
9. New Article, Leads Pay
10. New Article, Severance Pay

BACKGROUND

In analyzing the positions of the parties regarding each issue at impasse and then making a recommendation, the Fact Finder is guided by the principles that are outlined in Ohio Revised Code Section 4117.14 (G) (7) (a-f) as follows.

1. The past collectively bargained agreement between the parties.
2. Comparison of the issues submitted to fact finding relative to the employees in the bargaining unit involved 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 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.
4. The lawful authority of the public employer.
5. The stipulations of the parties.
6. Other factors, not confined to those listed above, which are normally or traditionally taken into consideration in the determination of the issues submitted to final offer settlement through voluntary collective bargaining, mediation, fact finding, or other impasse resolution procedures in the public service or in private employment.

During the course of the session, the parties had full opportunity to advocate for their positions, submit exhibits, present testimony and discussion, and engage in rebuttal of the submissions and arguments of the other party. The Fact Finder will transmit the Report and Recommendation, by way of electronic mail and by agreement of the parties, on April 16, 2015.

DISCUSSION AND RECOMMENDATIONS

The Union states that it is not willing to enter into a new collective bargaining agreement which allows bargaining unit employees to be treated in a different manner than other employees at the City. The Union argues that Dispatchers are the lowest paid employees in the Safety Department, and their wages and benefits continue to fall behind other employees in the Department. The Union acknowledges the difficult financial environment in which the Employer found itself during the recession, and it was willing, during that time, to allow for concessions. But now finances have improved and Union proposals are very affordable.

The Employer states that it must engage in negotiations cautiously based on budgetary limitations. In addition, its proposals and responses to those of the Union reflect equity with all other employees in the Safety Department. New proposals by the Union breach the equity which exists between the various bargaining units in the Safety Department. The Employer suggests that the Fact Finder consider the issue of equity in the consideration of the issues which are at impasse.

1. Article 8, Association Representation

The Employer proposes to modify Section 3 of this Article by substituting the work “manning” with the word “staffing.” Following discussion at Fact Finding, the Union agreed that this would be an appropriate modification. It is recommended that Section 3 read as follows.

Article 8, Association Representation

Section 3: Director(s) of the OPBA shall be allowed three (3) hours per month off, with pay, for the purposes of attending OPBA Directors meetings. The Employee must notify the Chief of Police or his designee at least forty-eight (48) hours in advance of such meeting or forfeit their right of pay for such meeting. No shift will be under-staffed due to the calling of such a meeting.

2. Article 17, Holidays, Section 1

The Union proposes to add the Day after Thanksgiving as a holiday pursuant to the list of paid holidays. The Employer opposes the proposal.

UNION POSITION: The Union argues that the addition of a new holiday has not occurred in many years. The day after Thanksgiving is a family day devoted to many holiday activities.

EMPLOYER POSITION: Other employees at the City of North Olmsted do not celebrate this holiday. Adding it would not be consistent with the pattern established at the City.

RECOMMENDATION: The position of the Employer has merit in that other employees at the City are not granted this holiday. The recommendation is to maintain the current list of holidays and not add Day after Thanksgiving.

3. Article 17, Holidays, Section 3

The Union proposes double time (2x) compensation for work on Thanksgiving and Christmas. In its pre-hearing position statement, the Employer agreed to the Union's proposal. The recommendation is for Section 3 to read as follows.

Article 17, Holidays

Section 3: Each employee will receive time and one half their regular hourly wage for all hours worked on a designated holiday (except for "Personal" day), or receive time off in lieu thereof as approved by the Chief of Police. If any of the bargaining unit members work on Thanksgiving or Christmas Day he/she shall be compensated at two times their regular hourly rate of pay (double time compensation) for any and all hours worked within the twenty-four (24) hour period of Thanksgiving and Christmas Day.

This does not provide dispatchers with the contractual right to receive double time payment for all hours worked in excess of eight (8) hours on a holiday excluding Thanksgiving and Christmas.

4. Article 27, Schooling

The Union makes two proposals, an increase in lunch reimbursement from \$4.00 to \$7.00 and an increase in the training dispatcher's allowance from \$250.00 annually to \$300.00. The Employer's pre-hearing position statement indicated that the Union's proposals were acceptable.

RECOMMENDATION: Lunch allowance is increased to \$7.00. Trainer allowance is increased to \$300.00 annually. The article will read as follows;

Article 27, Schooling

Section 1: Full-time employees in attendance at an Employer approved training school shall be compensated at the appropriate rate for travel time from the Employer's premises to the location of the training school and all time spent in the class session unless total hours in the given week are over forty (40). The employee attending such approved training school out of the Employer, shall be reimbursed for lunch in an amount not to exceed \$7.00 per day by the Employer, upon presentation of a receipt for such lunch. The employee attending such training school shall be paid mileage expense for the use of his personal vehicle in accordance with the IRS approved rate or he may be provided a vehicle owned by the Employer.

Section 2: Whenever an employee requires training in dispatch, the designated training dispatcher will receive an additional three hundred dollars (\$300.00) per year. A minimum of two (2) employees will be designated as training dispatchers. These designated dispatchers shall only be compensated for any year for which they were actually designated training dispatchers and training is required. The aforementioned payment shall be made during the first pay period of January, each year of this Agreement for previous year service as a designated training dispatcher.

5. Article 28, Uniform Maintenance Allowance

The Union proposed an increase in the annual uniform maintenance allowance for all Dispatchers. The parties discussed the matter and an agreement was reached to increase the allowance during the first year of the Agreement only and to then maintain status quo for the remainder of the contract term. The recommendation therefore is as follows.

Article 28, Uniform Maintenance Allowance

Section 1: All employees shall receive an annual uniform maintenance allowance in the amount of \$925.00 for contract year 2015. All employees shall receive an annual uniform maintenance allowance in the amount of \$675.00 for contract years 2016 and 2017.

In addition, probationary employees shall receive an advance of one-half (1/2) of the first year's uniform maintenance allowance upon appointment to the department, and one-half (1/2) after completion of six (6) months of service.

6. Article 29, Hospitalization

The Employer proposes an increase in the employee share of the health insurance premium from 10% to 11% in 2015, 12% in 2016 and 13% in 2017. The Union proposed maintaining the 10% contribution level for the duration of the successor agreement.

EMPLOYER POSITION: Increases in the employee share of the health insurance premium are consistent with internal comparables as it is necessary to control the cost of health care at the City.

UNION POSITION: The Union states that Dispatchers are disproportionately impacted by the proposed increase as they are the lowest paid employees in the Safety Department. The proposed increase is not supported by external comparables.

RECOMMENDATION: The Employer's argument, that internal comparables support the proposal to increase the employee share of the insurance premium, is meritorious and illustrates an important pattern. The Employer's proposal is recommended as follows.

Article 29, Hospitalization

Section 2: Employee (s) participating within either an individual or family plan shall contribute an amount equal to eleven, twelve and thirteen (11% for 2015; 12% for 2016; 13% for 2017) percent of the plan premium or expected costs of such medical and vision plan, and the Employer shall contribute eighty-nine, eighty-eight and eighty-seven (89% for 2015; 88% for 2016; 87% for 2017) percent of such costs. The employee contribution shall be withheld via payroll deduction not later than the first pay period each month.

7. Article 31, Shift Differential

The Union proposes an increase from \$.75 per hour to \$1.00 per hour for employees who work second shift hours and afternoon swing shift. The Employer did not express opposition to the modification at hearing. The Union proposal is therefore recommended as follows.

Article 31, Shift Differential

Section 1: All full-time employees working first (1st) shift, also known as day shift, shall not be entitled to any shift differential. All full-time employees working any second (2nd) shift hours, also known as afternoon shift, and afternoon swing shift shall receive a shift differential in the amount of one dollar (\$1.00) per hour. All full-time employees working any third (3rd) shift hours, also known as the midnight shift, shall receive a shift differential in the amount of seventy-five cents (\$.75) per hour.

8. Article 32, Wages

The parties discussed a number of options regarding wage increases for the bargaining unit. The Employer is not claiming inability to pay but rather that negotiated wage increases for the bargaining unit are consistent with those granted to other bargaining units in the Safety Department and other City Departments. The Employer's initial proposal was a wage schedule which represents 68% of the Police Officers' collective bargaining agreement. The Union's initial proposal reflected a

69% differential based upon the Police Officers' Agreement. The parties considered an additional cents per hour option as they worked toward an acceptable compromise which reflected equity and consistency among Safety Department employees.

RECOMMENDATION: Based upon discussions between the parties at fact finding, the following recommendation regarding wages for the successor agreement is as follows.

Article 32, Wages

Section 1: Effective January 1, 2015, Dispatchers shall be paid with the following schedule which will amount to a minimum of sixty-nine (69) percent of the police Union contract.

	Hourly 2015 (69%)	Hourly 2016 (69%)	Hourly 2017 (69%)
Dispatch First Year	17.31	17.66	18.01
Dispatch Second Year	18.60	18.97	19.35
Dispatch Third Year	19.90	20.30	20.71
Dispatch Fourth Year	21.18	21.60	22.03
Dispatch Fifth Year	23.21	23.67	24.14

9. New Article, LEADS Pay

The Union proposed a \$1000.00 annual allowance in 2015 for Dispatchers who obtain and/or maintain LEADS certification. The amount would then decrease to a \$750.00 annual payment beginning in 2016. The Employer opposed the proposal.

UNION POSITION: The Union states that its proposal is consistent with the LEADS payments made to other employees in the Safety Department. Dispatchers utilize LEADS more often than other employees in the Department, yet they receive no additional compensation for their duties and the certification.

EMPLOYER POSITION: The Employer states that the addition of LEADS pay would increase Dispatchers' compensation above the rates of pay of area and regional municipalities. The additional compensation for LEADS did not place police personnel in a higher standing to their peers in the region.

RECOMMENDATION: Based on overall compensation recommended for the Dispatch bargaining unit, the recommendation is to not include a new article in the successor agreement requiring compensation regarding LEADS.

10. New Article, Severance Pay

The Union proposes a comprehensive severance pay package in the event the Employer retains another entity or merges with an existing dispatching service which results in a layoff of bargaining unit employees. The Employer opposes the proposal.

UNION POSITION: The Union argues that there has been pressure on municipalities to merge dispatch services and to eliminate single city dispatch departments. This

proposal will provide some measure of compensation in the event bargaining unit employees are laid off due to future mergers or elimination of the department.

EMPLOYER POSITION: The Employer states that there are no plans to merge with another political subdivision or eliminate the dispatch function at North Olmsted. City Council and the administration have decided to maintain its independent dispatch department. There is no need to include a severance pay plan in the successor agreement.

RECOMMENDATION: It is clear that there are no plans to layoff bargaining unit employees due to merger or elimination of the Dispatch division of the Safety Department. The Employer's argument, that there is no good reason to add a new article to the Agreement regarding severance pay, is sound and compelling. The recommendation is to maintain status quo and not add this provision to the collective bargaining agreement.

CONCLUSION

The Fact Finder has reviewed the pre-hearing statements of the parties and all information presented on the scheduled day of hearing. The Fact Finder has given consideration to the positions and arguments of the parties regarding each issue at impasse and to the criteria enumerated in Ohio Revised Code Section 4117.14 (G) (7) (a-f). In addition to the specific recommendations contained in this Report and Recommendation, all tentative agreements, which were reached by the

parties, are hereby incorporated. Any issues or sub-issues not addressed during negotiations are also intended to remain current contract language for purposes of this Report and Recommendation.

Respectfully submitted and issued at Cleveland, Ohio this 16th Day of April 2015.

A handwritten signature in black ink that reads "Thomas J. Nowel". The signature is written in a cursive style and is positioned above a horizontal line.

Thomas J. Nowel
Fact Finder

CERTIFICATE OF SERVICE

I hereby certify that, on this 16th Day of April 2015, a copy of the foregoing Report and Recommendation of the Fact Finder was served by electronic mail upon Cheryl A. Farver, representing the City of North Olmsted; Jeff Perry, representing the Ohio Patrolmen's Benevolent Association; and Donald M. Collins, General Counsel, State Employment Relations Board.

A handwritten signature in cursive script that reads "Thomas J. Nowel". The signature is written in black ink on a white background.

Thomas J. Nowel
Fact Finder