

STATE EMPLOYMENT  
RELATIONS BOARD

STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

2017 MAR -6 A 11: 40

In the Matter of )  
Fact-Finding Between: )

CITY OF ALLIANCE, OHIO )

) 2016-MED-10-1143  
) (Full-Time Patrolmen)

-AND- )

OHIO PATROLMEN'S BENEVOLENT ASSN. )  
)  
)  
)  
)

---

FACT-FINDING REPORT  
and  
RECOMMENDATIONS

---

Date of Issuance: March 3, 2017

Dennis E. Minni, NAA  
Fact-Finder

APPEARANCES

Union:

1. Mark J. Volchek, Esq.  
Attorney, Columbus, OH
2. Steve Minich  
Detective/OPBA Director
3. Bob Rajcan  
Detective
4. Mark E. Welch  
Detective

For the

OPBA Staff

For the Employer:

1. Matthew B. Baker  
Clemans-Nelson & Asscs., Inc,  
  
Manager of Administrative Practice
2. Kevin Knowles  
City of Alliance
3. Mike Dreger

Auditor,

Safety

Director, City of Alliance

I. BACKGROUND INFORMATION

This matter first came on for mediation on February 22, 2017 and proceeded to hearing on February 23, 2017 before the undersigned appointed as fact-finder pursuant to Ohio Revised Code Section 4117.14 © (3) and the Ohio Administrative Code by the State Employment Relations Board.

The parties served their required Position Statements on February 22, 2017 in compliance with SERB's directives for same.

The hearing was conducted between the City of Alliance, a municipal corporation in Stark County, OH ("Employer"), and the Ohio Patrolmen's Benevolent Association, an Employee Organization ("Union"), at 504 East Main Street, Alliance, Ohio.

The Union is the sole and exclusive bargaining representative for a bargaining unit of thirty (30) Full-Time Patrolmen and Detectives. The OPBA is also certified to represent a second bargaining unit of Alliance's Safety Department communications employees ("Dispatchers"). There

are other bargaining units in the City including Fire, Supervisory Law Enforcement, Administrative and Municipal Services.

This bargaining unit is comprised of approximately 30 employees in the classifications of Full-Time Patrolman and Detectives. This unit was certified by the SERB so the parties have had a fairly mature collective bargaining relationship. There have been seven (7) bargaining sessions from November, 2016 with the last one being on February 13, 2017 prior to mediation as noted.

As of the mediation session and the fact-finding hearing, the parties reached tentative agreement on a number of open issues reducing them from twenty (20) to the following five (5) issues subject to this Report And Recommendation:

Article 18-Overtime/Hours Of Work;

Article 19-Wages & Longevity

Article 21-Health Insurance Benefits

Article 28-Vacations

Article 43-Terms Of Agreement

The fact-finder incorporates by reference into this Report and Recommendations all tentative agreements between the parties relative to the current negotiations, and any provision of the current collective bargaining agreement not otherwise modified during negotiations and the fact-finding process.

At hearing the parties engaged in mutual discussions over the remaining disputed proposals

from both sides. . Both sides had an opportunity to present witness testimony and/or cross-examine same as well as documentary evidence.

Having sat with these parties for two days I am compelled to note their earnestness, civility towards each other and professional demeanor. They have diligently engaged in this bargaining process and now mutually face core open issues at this stage of interest arbitration.

If there is a commanding theme to be dealt with herein it obviously resides in the economic arena with prudent administration of a vital municipal service, law enforcement, being closely allied.

The undersigned has been provided with a wealth of documentary evidence in support of the respective positions on the remaining unresolved items. Also important to my ensuing analysis behind each recommendation is the verbal presentations presented at the formal fact-finding hearing. Principally, the City acknowledged that it operates its police patrolman function on overtime by necessity. Alliance further explained that its overtime driven managerial policy is made necessary by the City's determination to remain away from fiscal caution (or worse) while delivering the array of law enforcement services its citizens have been provided. Notably, the City did not assert that the Union was deficient in law enforcement productivity. Nor did the City maintain it has an inability to pay or otherwise fund the police operations pertinent to this unit's sworn responsibilities. Both sides presented their respective positions in contract ready language as required by the SERB.

Therefore, the undersigned, sensing that these parties entered into this process in good faith intending to seriously consider an external party's formulating a path to resolution of the remaining issues, makes the following Final Recommendations in heading III below:

## II. FACT-FINDING CRITERIA

In the determination of the facts and recommendations contained herein in the absence of settlement reached by the parties, the fact-finder has considered the applicable criteria required by Ohio Rev. Code Section 4117.14(C)(4)(e), as listed in 4117.14(G)(7)(a)-(f), and Ohio Admin. Code Section 4117-9-05(K)(1)-(6). These fact-finding criteria are enumerated in Ohio Admin. Code Section 4117-9-05(K), as follows:

- (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.

### III. FINAL RECOMMENDATIONS

#### ARTICLE 18 OVERTIME/HOURS OF WORK

In light of the fact that the City needs to fine tune its contractual commitment to economic items, I recommend adoption of all its proposals for Article 18.

Building upon the Fair Labor Standards Act's ("FLSA") counting only "actually worked" hours, the City proposes changes which would move the parties closer to that standard but retaining some enhanced provisions currently in the parties' CBA.

For example, in Section 3 the forty (40) hour per week threshold for calculating overtime would remain intact. Moving away from assessing overtime for hours actually worked in excess of eight (8) in a day provides a cost curtailment change for Management.

Similarly, in Section 4 the Employer's proposal would provide the premium rate of pay for an employee called in only if the employee has already met the forty (40) hour point in a given week. This is not unduly harsh and could be a cost-cutting provision for an entity needing to seek ways to curtail expenditures.

Another cost curtailment recommended is the elimination of compensatory time (Section 8) which is a high cost item for this public employer. Since "comp time" in accounting practice must be carried on the books as a debt it thus impacts the City's bond and credit rating because it elevates the debt-to-income ratio which may be a necessary avenue Alliance will need to pursue if its revenue prospects fail to brighten in the term ahead.

I note that the Section 2 (Prescription/Prior Approval) language remains intact and thus emergency resort to overtime and non-scheduled overtime would remain both as a management tool for the PD and as a benefit for the community being served.

#### ARTICLE 19

#### WAGES & LONGEVITY

In light of the City's need to meet its concerns over the possibility of being placed in financial caution by the Auditor Of State and the economic cost items recommended as per the City's positions herein, I have concluded that the City's offer of one percent (1%) wage raises per year is insufficient.

While I tend to agree that the City makes a compelling argument for culling external comparable cities based upon *per capita* income data rather than the more regional or state-based comparables favored by the OPBA, that approach, in my view, has greater applicability on the Longevity issue in Section 2. I recommend moving to a two-tier longevity scheme as per the City's proposal but do not recommend the City's wage offer.

WAGES are recommended to be structured as follows:

For the 2017 calendar year (thus, retroactively) this unit will receive a two per cent (2%) general wage raise;

Commencing with the first pay period in January, 2018 the unit's general wage increase will be two per cent (2%); and

Commencing with the first pay period in January, 2019, the unit's general wage increase will be two per cent (2%).

While the Union's last table position on wages was for a 4%-3%-3% increase over three (3) years and it remained so thru this stage, I cannot contemplate that amount of increase absent exigent economic circumstances (or past promises) which are not reflected in this record of hearing. What the OPBA did maintain was the premise that the City "always finds the money" as it has in the past and is expected to do this time around as well. What's been shown however is that given the overall economic malaise stemming from 2008, etc., and the termination of the estate tax stream of revenue and other sources not likely to be restored, the City's General Fund has been buoyed up by necessity from other City funding sources. Alliance may be a city in economic decline but it is not without dedicated and talented leadership seeking to keep its citizens served and protected. Its patrolmen are also among those public servants and their contribution to maintaining both service to the citizenry and providing a revenue stream are rather unique in a municipal setting. As a measure to move the City's operations into the immediate future a wage increase beyond 1% per year is favored given the other cost reduction measures recommended herein and measured with the internal comparable yardstick suggested by the Employer.

## **ARTICLE 21 HEALTH**

### **INSURANCE BENEFITS**

I recommend that the parties adopt the Employer's position on health care insurance. I am encouraged by the parties' 2014 creation and intended continued use of a joint health care committee which features an employee majority composition. This committee will continue to monitor the wellness program and study cost containment options for the various insurances, which are comprehensive for this unit's members and their dependants. Participation in this committee will still be on compensated time.

Besides cleaning up some language and adjusting applicable dates, etc., the main concession herein is the move to a 60-40 contribution split from the current 70-30 split. This makes all City bargaining units subject to a 60-40 per cent scheme; a significant cost reduction measure for the Employer. The Union opposed this move primarily because it would impact monthly premiums by about one hundred dollars (\$100.00). On balance, the Union's concern

must be tempered by the recommended wage raises over the next three (3) years.

Another change in the Employer's proposal is the so-called "spousal carve-out" whereby the spouse of a unit member must accept his or her employer's insurance plan at least for single coverage rather than becoming a covered dependant on the City-OPBA plan. If there is no coverage from the spouse's employment there is no impediment to participating in the City-OPBA plan. This too is recommended by the undersigned. It makes sense from an internal comparable viewpoint and does not dramatically drop the unit among its contemporary cities, especially when one considers the *per capita* means of comparison.

## **ARTICLE 28** **VACATIONS**

Several proposed changes have been advanced by Management on the Vacation article. The first of which is to convert the current language from "days" to "hours"; I recommend this change because it is supported by the City's rationale that employees' paycheck stubs are recited in hours instead of days.

Next, Alliance wants to adjust the vacation benefit by eliminating the twenty (20) years of service benefit level which is now at six (6) weeks of paid vacation benefit. I recommend this change since it minimally affects the current unit members in that officers reaching the twenty (20) year service point would still have a generous paid vacation level of five(5) weeks duration-not a hardship and a possible cost containment measure moving forward.

The third Employer proposal is to eliminate working at a premium rate when accepting overtime on a day the employee has taken vacation time off from their regular shift and assignment. This prohibition would exclude being subpoenaed for court testimony or in situations when Department superiors have ordered the vacationing officer to duty.

Despite the above noted exemptions I do not recommend this measure because this PD operates on overtime and there has been no demonstration of intentional abuse of this benefit to the detriment of the City. It is true that since overtime is contractually offered by seniority it is possible that one or two senior officers might accrue the lion's share of the overtime and thus stand numerically well above their fellow unit members when gross earnings are charted. However, as acknowledged by the City, this Department's operation is driven by overtime and in the case of one officer on the Union's bargaining committee who felt he may have been "targeted" by this particular proposal, his explanation that he took vacation in December at the urging of his Chief who wanted to pare down the vacation hours carried over to the ensuing calendar year as a means to bolster the City's "debt" profile. At the same time, this officer, a single gentleman, accepted overtime on a later shift than the one he had been on vacation from (I suspect, given the holiday season) in order to allow a more junior officer to not be "forced in" and have less family time at year's end. Management denied singling out this officer and although I believe them, it does not represent a situation where significant savings may be realized no matter how ardently an employer wants its employees to maximize the rest and/or

relaxation derived from utilization of vacation benefits. When a situation requires overtime coverage the best interests of the citizens needs to be factored into this equation. Effectuating police coverage is of paramount concern in my view and the necessity of overtime should come as no surprise to this Employer, given its proclivity to use it instead of the costlier addition of hiring additional officers.

I do recommend the City's last proposal on Vacations which is to expressly state using vacation leave in one (1) hour blocks as per current practice.

ARTICLE 43  
TERM OF AGREEMENT

Both parties are comfortable with a three (3) year CBA but the City is concerned that should its economic prospects falter and the State Auditor places Alliance on Fiscal Caution or one of the two more serious statuses, all economic terms of this CBA will be made subject to a re-opener bringing the parties back to the bargaining table.

I recommend a three (3) year duration but also recommend the Employer's proposal for an economic re-opener.

This Agreement shall be effective from January 1, 2017 and end at midnight on December 31, 2019 subject to the proposed economic re-opener should the City be placed into Financial Caution or worse.

Respectfully submitted this 3<sup>rd</sup> day of March, 2017 at Strongsville, OH

s/Dennis E. Minni

---

Dennis E. Minni, Esq. NAA  
Fact Finder

CERTIFICATE OF SERVICE

Originals of this Fact-finding Report and Recommendations were served on Mark J. Volchek, Esq., OPBA Staff Attorney (mvolchek@opba.com); Matthew B. Baker,

Mgr. Of Adm. Practice Clemans-Nelson & Assocs., Inc consultants for the Employer, (mbaker@clemansnelson.com); and upon Donald Collins, General Counsel & Administrator, Bureau of Mediation, State Employment Relations Board, 65 East State Street, 12<sup>th</sup> Floor, Columbus, Ohio 43215-4213 (donald.collins@serb.state.oh.us), each by electronic mail this 3<sup>rd</sup> day of March, 2017.

\_\_\_\_\_/S/ Dennis E. Minni\_\_\_\_\_  
Dennis E. Minni, Esq., NAA, Fact-finder