

STATE EMPLOYMENT  
RELATIONS BOARD

JUL 25 9 58 AM '96

STATE EMPLOYMENT RELATIONS BOARD  
STATE OF OHIO

In the Matter of Fact-finding ]  
Between: ]

CITY OF BROOK PARK, ]  
Employer ]

and ]

OHIO PATROLMEN'S ]  
BENEVOLENT ASSOCIATION ]  
(DISPATCHERS/CLERKS), ]  
Employee Organization ]

Case No. 95-MED-10-0962  
Raymond J. Navarre  
Fact-finder

FACT-FINDING REPORT  
and  
RECOMMENDATIONS

Date of Issuance: July 23, 1996

Date of Hearing: July 8, 1996

Location of Hearing: Brook Park City Buildings  
6161 Engle Rd.  
Brook Park, Ohio

Present for the Fact-finding: Marc Bloch  
Mark Humenik  
Duvin, Cahn & Hutton  
Representing the City of Brook Park  
Eileen McNamara  
Human Resources, City of Brook Park

Lou D'Amico  
Representing OPBA  
Alleyson Thomas  
Mary Lou Dunn  
Dispatchers/Clerks, City of Brook Park

Note that for purposes of identification in this document, The City of Brook Park and their representatives will be referred to as the **City** and representatives of The Ohio Patrolmen's Benevolent Association, Dispatchers/Clerks will be referred to as the **Union**.

Time: The Fact-finding was scheduled for 9:30 AM and concluded just before noon.

## BACKGROUND

The collective bargaining agreement between the City of Brook Park, City, and The Ohio Patrolmen's Benevolent Association, Union, expired on December 31, 1996. The Employer and the Union started bargaining in the late fall of 1995. The City and the Union could not agree on a new collective bargaining agreement and a Fact-finder was called upon to assist in settling this matter. Prior

to the hearing, the City and the Union presented the Fact-finder with statements regarding their positions on unresolved issues. It is to be noted that the City listed seven (7) unresolved issues and the Union listed eight (8) unresolved issues. The eighth (8th) unresolved issue is addressed below.

Before the formal part of the hearing started, the Fact-finder met separately with the City and the Union. This meeting was to determine if any of the unresolved issues could be resolved before the formal hearing.

The union had proposed an eighth (8th) unresolved issue, the establishment of a position of Dispatch Supervisor. At the beginning of the hearing, a discussion showed that the City had already decided to establish a position of Dispatch Supervisor. There was some discussion concerning the details of the establishment of this position but the Union agreed to withdraw this as an open issue.

#### FACT-FINDING CRITERIA

In determining the facts and making the recommendations contained in this document, the fact-finder considered the applicable criteria as required by the Ohio Revised Code Section 4117.14 and the Ohio Administrative Code Section 4117-9-05. These criteria are:

- (1) Past collectively bargained agreements, if any between the parties;
- (2) Comparison of 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, and 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; and,
- (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.

## FINDING of FACT and RECOMMENDATIONS

There were seven (7) open issues at the July 8, 1996 meeting between the Union and the City. These were the issues submitted by the City and the Union to the Fact-finder.

The finding of fact will be put below for each issue, followed by the Fact-finder's recommendation in respect to that issue and when applicable, the language recommended for the bargaining agreement. The Fact-finder's report needs to be considered in its entirety as to the overall effect on the parties and their bargaining positions.

## OPEN ISSUES

### 1. ARTICLE VIII - DUTY HOURS

The Union is proposing to add the following language to the contract:

Dispatchers/Clerks who regularly rotate shifts with eight (8) hours or less between shifts shall receive sixteen (16) hours per year compensatory time.

The City proposes a bonus of sixteen hours per year computed at time and one-half. The Fact-finder proposes the following language to represent the City's position:

Dispatchers/Clerks who regularly rotate shifts with eight (8) hours or less between shifts shall receive sixteen (16) hours per year computed at time and one-half (1 1/2) as a bonus.

It is to be noted that the City only made this offer in the form of a bonus and not as compensatory time. As noted above, the actual wording is that of the Fact-finder and not the City.

In respect to the compensatory time issue, the City made a number of points that it feels should be considered when addressing the issue of compensatory time. The City wants and feels it should pay its obligations when they occur rather than having outstanding liabilities. Also, there is an uncertainty in respect to such

outstanding liabilities. Only when they are redeemed, does the City know their full and true monetary value. The City also notes that in its negotiations with the firefighters, which involved fact-finding and conciliation, the compensatory time system was eliminated. The contract with the police, which is up for ratification, does not have compensatory time in it. Finally, the present contract with Dispatchers/Clerks does not contain compensatory time.

The Union's position is that the issue concerns the mental health of the Dispatchers/Clerks. On a regular basis, Dispatchers/Clerks are required to rotate shifts with eight (8) hours or less between shifts. This causes mental stress to the Dispatchers/Clerks. The compensatory time would compensate for the stress and help the Dispatchers/Clerks to deal with the stress caused by the situation.

### RECOMMENDATION

After considering the findings of fact above and the statutory criteria, the Fact-finder's recommendation is that the collective bargaining agreement include the following language which embodies the City's proposal.

Dispatchers/clerks who regularly rotate shifts with eight (8) hours or less between shifts shall receive sixteen (16) hours per year computed at time and one-half (1 1/2) as a bonus.

#### 2. ARTICLE XI - HOLIDAYS - SECTION 1

The Union proposes to add the following language:

Employees shall be entitled to eight (8) personal hours per year. An employee who works overtime on a holiday shall be paid double time. An employee who works a holiday which is also the employee's birthday, shall be paid double time.

The City's position is to maintain the current contract language.

The City noted that all units now receive four hours personal time. No unit receives the more than four (4) personal hours now.

The Union presented a survey of surrounding communities listing Holiday/Personal Days for these communities. Brook Park is at position 17 on a list of 18. Also, the Union talked about the need for extra personal time to help the Dispatchers/Clerks deal with the pressures of their job.

The City noted that an average for holidays granted in the state is in the area of 10 to 11 days.

It was noted that in respect to the issues of double time pay for overtime on holidays and for an employee who works on a holiday which is also the employee's birthday, no other units have these compensations at this time. The Fact-finder's basic considerations here were based on parity and past practice.

### **RECOMMENDATION**

After considering the findings of fact above and the statutory criteria, it is the Fact-finder's recommendation that the collective bargaining agreement remain as it is now, giving the full-time employees four (4) personal hours as exists in the Collective Bargaining Agreement effective through December 31, 1995 in Article XI titled Holidays. It is noted further, that as is stated in this same section of the agreement, when a full-time employee works on one of the holidays listed in this section of the agreement, the employee will be paid time and one-half for the hours worked.

#### **3. ARTICLE XII - COMPENSATION**

The Union is proposing a 21% increase over the life of the contract as follows:

Effective January 1, 1996:	7%
Effective January 1, 1997:	7%
Effective January 1, 1998 :	7%

The City is proposing a 10% increase over the life of the contract as follows:

Effective January 1, 1996:	4%
Effective January 1, 1997:	3%
Effective January 1, 1998:	3%

The City noted that in 1993 parity was disrupted when the Dispatchers/Clerks were awarded a higher wage settlement. This settlement was to bring the unit up to area comparability. The Union's proposal of 21% wage increase over the life of the contract would greatly disrupt parity with the other units.

The City also noted that because of the NASA budget cuts, the City faces the loss of 1500 jobs. This requires that the City work at reducing costs to maintain financial health.

The Union noted that there is a Residency Requirement for Dispatchers/Clerks. Property is expensive in Brook Park and it costs more to purchase property or to even rent property. This warrants a need for a higher level of compensation.

However, the Fact-finder notes that in examining the total picture, especially the compensations paid in surrounding communities for comparable work, it would seem that there is still a need to raise the compensation of the Dispatchers/Clerks so it compares to similar units in the area but without greatly disrupting the parity with the other units.

### RECOMMENDATION

After considering the statutory criteria and the findings of fact as put forth above, the Fact-finder's recommendation is that the collective bargaining agreement contain the following increase in compensation as follows:

Effective January 1, 1996:	5%
Effective January 1, 1997:	4%
Effective January 1, 1998	4%

Compensation shall be retroactive to January 1, 1996. The increase shall be calculated from the compensation listed on pages 14 and 15 of the Agreement between City of Brook Park and Ohio Patrolmen's Benevolent Association (Dispatchers/Clerks) effective January 1, 1993 through December 31, 1995.

#### 4. ARTICLE XIV - CLOTHING ALLOWANCE

The Union is proposing an increase in the employees' annual clothing allowance from a total of \$400 to a total of \$600. The Union also proposes that \$300 of it be through city purchase orders and \$300 be for clothing maintenance. \$150 of the clothing maintenance to be paid on July 1 and \$150 on December 1 each year.

The City proposes to maintain the annual clothing allowance at \$400.

The City in its exhibit noted the average clothing allowance for units in surrounding communities was \$417.65.

The Union's position is that firefighters receive an annual clothing allowance of \$650 and police \$700. Also, the Union said the clothing was expensive and in its use there was a lot of wear on it. The exhibit presented by the Union surveying the annual clothing allowance of units in the surrounding communities showed Brook Park at the 6th position on a list of 18.

The Union and City in discussing this issue, agreed that the clothing maintenance would be paid in July and December.

A very important consideration by the Fact-finder in considering the proposals for this collective bargaining agreement is the issue of parity. The Fire Department receives an annual clothing allowance of \$650 and the Police Department receives an annual clothing allowance of \$700.

### RECOMMENDATION

After considering the statutory criteria and the finding of fact as presented above, the fact-finder's recommendation is that the collective bargaining agreement contain language giving the Dispatchers/Clerks unit an annual clothing allowance of \$600 (\$300 through City purchase and \$300 for clothing Maintenance).

#### 5. NEW ARTICLE - COMPENSATORY TIME

The Union is proposing that Dispatchers/ Clerks receive compensatory time in lieu of overtime compensation.

The City's proposal is to maintain the current contract language.

The arguments presented by the City and the Union were noted and discussed in reference to Issue 1 on pages 4 and 5 of this document.

In respect to the issue of parity, the Fire Department does not have compensatory time in its collective bargaining agreement. The Police Department proposed collective bargaining agreement, which is up for ratification, does not contain compensatory time.

The City also noted, it is the exception not the norm for Dispatchers/Clerks to have compensatory time in their collective bargaining agreements. Considering the dispatchers/clerks in surrounding communities to Brook Park the majority of these do not receive compensation time.

The collective bargaining agreement for January 1, 1993 through December 31, 1995 for the Dispatchers/Clerks does not allow compensatory time.

The City maintains that it is a responsibility for a city to pay its bills as it incurs them. Deferring obligations to a later time can present some problems as to the value of the time when it is redeemed as well as the uncertainty as to when the time will be redeemed.

The Union maintains that there is a need for compensatory time for the Dispatchers/Clerks because of the stress of the job.

### RECOMMENDATION

After considering the statutory criteria and the findings of facts as presented above, it is the Fact-finder's recommendation that the current language of the collective bargaining agreement be maintained and compensatory time not be allowed.

#### 6. NEW ARTICLE - MINIMUM STAFFING REQUIREMENT

The Union is seeking a minimum staffing requirement of two (2) Dispatchers/Clerks per shift.

The City is seeking to maintain the current contract language.

The basic issue here is the rights of management. There are two important things to take into account in addressing this issue: the Revised Code and the present practice.

The Revised Code reserves to management the right to control staffing levels.

The present collective bargaining agreement grants management the right to determine size of the work force (Article III. Section 1(C)).

### RECOMMENDATION

After considering the statutory criteria and the findings of fact as stated above, the Fact-finder recommends that the collective bargaining agreement contain the current contract language and the staffing requirements for Dispatchers/Clerks be left to the discretion of management.

#### 7. NEW ARTICLE - TAKING OF CITIZEN COMPLAINTS

The Union proposes to eliminate from the duties of the Dispatchers/Clerks the taking of citizen complaints.

The Employer wishes to continue the practice of Dispatchers/Clerks taking citizen complaints.

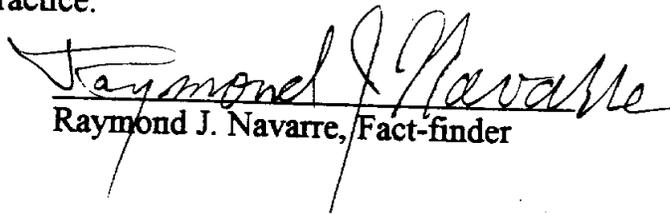
The Fact-finder's considerations are similar to those stated above in Number 6. To address this issue there is a need to consider the Revised Code and past practice.

The Revised Code grants management certain rights and one of them is the assignment of duties to employees. In this as in all cases, rights must be balanced with obligations. In the exercise of the right of assignment of duties, management needs to take into account all aspects of the situation such as safety, ability to perform and similar aspects.

Past practice has been for the Dispatchers/Clerks to take citizen complaints. In Article III, Section 1 (D), (G) and (J).

### RECOMMENDATION

After considering the statutory criteria and the findings of fact presented above, the Fact-finder's recommendation is that the Dispatchers/Clerks continue to take citizen complaints, as is the present practice.

  
Raymond J. Navarre, Fact-finder

Dated July 23, 1996