

IN THE MATTER

STATE EMPLOYMENT
RELATIONS BOARD

OF

Nov 12 9 10 AM '96

FACTFINDING

BETWEEN

THE FRATERNAL ORDER OF POLICE/
OHIO LABOR COUNCIL, INC.

AND

THE CITY OF MASON, OHIO

Hearing: October 29, 1996
SERB Case Nos.: 96-MED-04-0411 & 0422
Date of Report: November 8, 1996
Issue: Factfinding

Union Representative:

Guy Kaufman
FOP/Ohio Labor Council, Inc.
163 Ellington Road
Riverside, Ohio 45431

City Representative:

C.J. Schmidt
Wood & Lamping
2500 Cincinnati Commerce Center
600 Vine Street
Cincinnati, Ohio 45202

REPORT AND RECOMMENDATIONS

Michael Paolucci
Factfinder

Administration

By letter dated July 1, 1996, from the Ohio State Employment Relations Board, the undersigned was informed of his designation to serve as factfinder for the Parties. On October 29, 1996, a hearing went forward in which the Parties presented arguments and documentary evidence in support of positions taken. The record was closed at the end of the hearing on October 29, 1996, and is now ready for a factfinding report.

Factual Background

The City is located northeast of Cincinnati, Ohio, approximately five (5) miles from the I-275 freeway; the Union represents both the Sergeants and Patrol Officers in the city. However, although the undersigned was originally appointed to do factfinding for both the Sergeants and the Patrol Officers, only the Agreement with the patrol officers unit was at issue at the time this hearing was conducted.

Prior to the beginning of the hearing, the possibility of mediating the dispute was explored by the undersigned, but upon advice of both Parties it was determined that such efforts would not be worthwhile and a hearing was held. Following the hearing, the undersigned again engaged the Parties in mediation but was not successful.

During the factfinding hearing on October 29, 1996, eighteen (18) Articles were at impasse with some of the Articles containing multiple portions in issue. The Articles presented at the hearing are as follows:

1. Article 5 - Management Rights;
2. Article 9 - Stewards/F.O.P. Business;

3. Article 11 - Discipline;
4. Article 12 - Personnel Files;
5. Article 19 - Hours of Work;
6. Article 20 - Court Time;
7. Article 21 - Call-In Pay;
8. Article 22 - Holidays;
9. Article 23 - Vacation;
10. Article 24 - Insurance
11. Article 25 - Uniforms;
12. Article 26 - Training;
13. Article 27 - Sick Leave;
14. Article 34 - Miscellaneous Provisions;
15. Article 35 - Wages;
16. Article 36 - Fitness Program;
17. Article 37 - Mid-Term Bargaining Procedures; and,
18. Article 38 - Retroactivity.

Each issue will be handled below.

Section 4117-9-05 of SERB's administrative rules addresses the issues that a factfinder must consider when making recommendations. That section, in pertinent part, reads as follows:

(K) The fact-finding panel, in making recommendations, shall take into consideration the following factors pursuant to division (C)(4)(e) of section 4117.14 of the Revised Code:

- (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. (emphasis added)

The issues will be addressed separately giving consideration to all of the required factors.

ARTICLE 35 - WAGES

(Including Retroactivity)

CITY POSITION

The City offers 3%, 3%, and 3% wage increases in each year of a three (3) year contract. It argues that it has already agreed to a generous wage package and that higher wage increases than that being offered would be unreasonable. It offers as proof of the generous compensation package the fact that every time a vacancy occurs the City receives over three hundred (300) applications. It contends that its offer is comparable to local cities and would maintain the city's ranking in pay in those cities.

The City opposes making wages retroactive to the end of the previous contract. Therefore,

it asks that its proposal be adopted.

UNION POSITION

The Union proposes 6%, 6%, and 6% wage increases in each year of a three (3) year contract. It argues that since the sergeants received 5%, 5%, and 5% then it deserves a similar increase. It argues that although the nearby city of Lebanon has a smaller work force, it receives higher pay. It contends that it needs to receive the amount requested in order to maintain its comparability to other like cities in the area. The Union argues that wages should be made retroactive to the date of the end of the previous contract. It argues that to do so is traditional and no rationale has been given that would justify not granting retroactivity.

RECOMMENDATION

It is recommended that the patrol officers receive a 5%, 5%, and 5% wage increase in each year of a three (3) year contract. This is based primarily on the internal comparable of the sergeants unit. That unit is a valid, persuasive comparable and strongly influences this portion of the report as well as the remainder of the issues. Thus, based on that units contract, as well as the other factors introduced at the hearing, it is recommended that the above-referenced wage increases be made.

In addition, it is recommended that the wages be made retroactive to the end of the previous contract. It is a commonly accepted method of negotiating to make wages retroactive and, lacking any evidence that bargaining was done in bad faith, no reasons exists to change that tradition. Therefore, it is recommended that wages be made retroactive.

ARTICLE 35 - WAGES

Officer in Charge payment (OIC)

UNION POSITION

The Union proposes adding language that would pay patrolmen when they act as a senior "officer-in-charge," hereinafter OIC. It argues that all other cities in the area have senior officer pay in one form or another. It argues that since more responsibility is placed on the affected officer, then more pay is deserved. Thus, it contends that some sort of OIC pay should be included in the Agreement.

CITY POSITION

The City opposes the addition since it argues that it must be able to maintain the wage differential between sergeants and the patrol officers. It contends that its compensation package is already generous enough and this addition is unreasonable in light of the already high compensation the officers receive.

RECOMMENDATION

It is recommended that the Union proposal be adopted with several limitations. Since it is a new cost addition, the amount paid must necessarily be modest so that the City can measure the exact cost. Further, it is recommended that the institution of the OIC Pay be put off until the beginning of 1997 in order to allow the City to gear up for the extra administrative steps that must be included. Consequently, it is recommended that the OIC Pay be made effective during the first pay period of 1997.

In addition, it is recommended that language be included that explicitly states that the assigning of the OIC officer is entirely within management's right. Based on all the foregoing, the recommended method of calculating OIC pay is as follows:

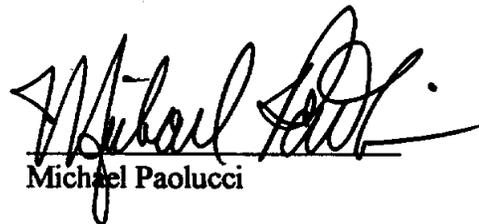
When an officer works over sixteen (16) hours in the same pay period as an OIC officer, the affected officer shall be paid a stipend of .50 cents per hour for all hours worked as an OIC officer.

ALL REMAINING ISSUES:

For the remaining issues it is recommended that the patrol officers be given the same language that exists in the sergeants Collective Bargaining Agreement.

Furthermore, for all monetary issues not specifically addressed above (Wages and OIC Pay), it is recommended that they be made effective as of the date that this report is accepted, assuming such is done.

November 8, 1996
Cincinnati, Ohio



Michael Paolucci