

STATE EMPLOYMENT RELATIONS BOARD
STATE OF OHIO

STATE EMPLOYMENT
RELATIONS BOARD

Nov 23 9 54 AM '96

CITY OF OAKWOOD, OHIO	:	S.E.R.B. CASE NO.
	:	96-MED-08-0633
and	:	
	:	
FRATERNAL ORDER OF POLICE,	:	
OHIO LABOR COUNCIL, INC.	:	
	:	
	:	
MITCHELL B. GOLDBERG,	:	<u>FACT FINDING REPORT</u>
APPOINTED FACTFINDER	:	

I. INTRODUCTION

On October 4, 1996, the undersigned, Mitchell B. Goldberg, was appointed as a factfinder for the subject case in accordance with Section 4117.14(C)(3) of the Ohio Revised Code. A hearing was required to be conducted and the parties were to be served with a written report no later than October 18, 1996, unless the parties mutually agreed to extend the period of factfinding as provided under Ohio Administrative Code Rule 4117-9-05(G). The parties did agree to extend the period of factfinding pursuant to said rule.

The above factfinding hearing was held on November 20, 1996 in Dayton, Ohio. The following persons appeared for each of the parties:

For the City: John C. Lombard, attorney; Jay Weiskircher, Deputy City Manager, and John Hohensee, Safety Department Director.

For the F.O.P.: Guy Kauffman, F.O.P./O.L.C. Representative; Walter S. Conroy, Lieutenant, and James Wickett, Lieutenant.

Pursuant to agreement between the parties, pre-hearing statements were submitted to the factfinder prior to the hearing pursuant to Rule 3117-9-05 of the Administrative Rules. The bargaining unit consists of Lieutenants and excludes the Public Safety Director, Captain, and all other employees. There are approximately four employees in the bargaining unit.

The current bargaining unit expired on November 5, 1996. The parties have been in negotiations since that time for a replacement Collective Bargaining Agreement. A general discussion of the function of the public employer and the function of the employees in the bargaining unit was submitted. The following recommendations of the factfinder are to be considered retroactive to the expiration date of the last contract.

II. MEDIATION

The undersigned factfinder was not requested by the parties to mediate any of the matters which were submitted for factfinding. The following issues were submitted for factfinding:

- 1) Article 6 - Wages
- 2) Article 8 - Vacation
- 3) Article 13 - Life Insurance
- 4) The City's proposal for sick leave incentive
- 5) Article 11 - Funeral Leave
- 6) F.O.P.'s proposal for scheduling change of Staff Services Lieutenant

7) Article 27 - Duration

III. ACKNOWLEDGEMENT

In making the following factfinding report, this factfinder gave consideration to the criteria listed in Rule 4117-9-05(G) of the State Employment Relations Board.

IV. UNRESOLVED ISSUES

Issue No. 1 - Wages

The F.O.P. is proposing an across-the-board increase of 4.3% for the first year of a three-year Contract. This would increase the annual aggregate compensation under Step A to \$51,979.78 and \$54,585.62 under Step B. Thereafter, for the balance of the three-year contract, the F.O.P. proposes that the City pay the Bargaining Unit members 18% more than the amount paid to Oakwood Public Safety Officers on November 5, 1997 and on November 5, 1998. The F.O.P. has been able to maintain at least an 18% pay spread between the Patrol Unit and the Lieutenant's Unit over the last five years. The City's proposal, which is considerably less than the 4.8% pay increase which is being given to the Patrol Unit on October 26, 1996, will diminish the historical spread of pay between the two units. There is a contractual precedent for putting into place a percentage spread between the two units. A Public Safety Officer who works in place of a Lieutenant when the Lieutenant is off work receives 15% more pay. The Lieutenants deserve to be among the highest-paid safety personnel in the area, considering the fact

that they serve as police officers, fire fighters, and emergency medical technicians/paramedics. Furthermore, the work of the Lieutenants has increased dramatically over the years. In the past, the Public Safety Department operated with eight mid-management positions. There were two Captains, and six Sergeants. There are now only eight management positions, one Captain and four Lieutenants. The workload, however, has increased. The number of patrol staff has remained the same, and the City has recommended adding one or more Sergeant positions to be instituted in recognition of the additional workload.

The F.O.P. states that its proposal is reasonable, considering that the per capita income in the State of Ohio has increased 5.5% in 1995. The F.O.P. further has presented statistical information both in Ohio and in Michigan showing that its proposal is in line with compensation received by other similarly situated police/fire supervisors.

The City is proposing a three-year contract with fixed percentage increases of 3.7%, 3.4%, and 3.4%. The City has always taken into consideration the fact that the safety personnel in Oakwood perform multiple services, including Fire Department work and emergency medical work. This accounts for the fact that they are among the highest-paid safety personnel in the area. The City is not interested in maintaining a percentage spread between the Patrol Officers and the Lieutenants as proposed by the F.O.P. The

4.8% increase paid to the Patrol Officers in October, 1996 was for the last year of a three-year contract. The City does not plan on paying the Patrol Officers increases of that nature in the future. The City believes that the Officers and the Lieutenants should receive pay increases in accordance with contracts that have been negotiated in this geographical area which provide for only a 10% increase over a three-year period. The City is proposing to pay the Lieutenants a 10.5% increase over the next three years. When other benefits are considered, such as a sick leave incentive and holiday pay, the total increase will be approximately 14.2% over the three-year period, which is more than generous. Oakwood will still remain among the highest-paid safety personnel in the area. It will remain similar to Centerville and somewhat less than Morraine, which has a high tax base due to its industry. Oakwood has very little industry and therefore its residents are taxed at high levels.

Recommendation: The parties each presented statistical information to support their respective positions. I do not believe that it is appropriate at this time to institute an automatic percentage spread between the Patrol Officers and the Lieutenants. I believe that the City should have some flexibility in this regard due to the fact that it intends to implement a Sergeant's position in the future. The Lieutenants' compensation should take into consideration the pay given to the Sergeants and should consider the fact that some of the duties now being performed by Lieutenants

will ultimately be performed by the new Sergeants. I therefore recommend that the Lieutenants receive a 3.7% across-the-board increase for the first year and a 3.6% across-the-board increase for each of the remaining two years of the contract.

Issue No. 2 - Vacation

The F.O.P. proposes to add two additional days of vacation at the 20-year step for the Lieutenant who works eight-hour shifts. The rest of the Lieutenants work on a 24-hour on/48-hour off schedule similar to the traditional Fire Department schedule. The F.O.P. believes that the additional vacation time for the day shift Lieutenant is justified and supported by comparables.

The City provided evidence that the existing vacation time is in line with other communities similarly situated to Oakwood.

Recommendation: No change in the current Contract language.

Issue No. 3 - Life Insurance

The F.O.P. proposes that a retiring employee shall be entitled to a paid-up life insurance conversion of a minimum whole life policy in the amount of \$10,000.

The City argues that the present life insurance benefits to retired employees is more than adequate. Currently, each Lieutenant receives \$80,000 of life insurance benefits. Part of

these benefits are provided through a \$50,000 flexible premium life insurance policy. The City signs ownership of the policy over to the retiring employee, and the employee can choose to either receive a paid-up life insurance policy or use the accumulated cash value in the policy to pay the premium until such time that the cash value is exhausted.

The amount being paid to retired Lieutenants is somewhat less than the amount that the F.O.P. is seeking; nevertheless, I can find no compelling reason to increase this benefit which would increase the cost to the City.

Recommendation: No change in the existing Contract language.

Issue No. 4 - Sick Leave Incentive

The City is proposing a sick leave incentive in order to curb the amount of time off being taken by Bargaining Unit members and patrol officers. The City's proposal permits Lieutenants to convert 20% of their unused sick leave days from the previous year into cash. Given the history of this Bargaining Unit, this will provide considerable compensation to the Lieutenants because they very rarely use their allotted sick leave time.

The F.O.P. obviously accepts this proposal, but seeks to better the compensatory aspects of it. The F.O.P. wants the

conversion to be 25% instead of 20% and also proposes some language changes.

I have decided to accept the City's compensation proposal with some language changes suggested by the F.O.P.

Recommendation: The new Section 10.6 will read as follows:

Payment for non-usage of sick leave benefits. Employees who have a balance of 120 sick leave days may convert to cash, 20% of their unused sick leave from the previous contract year. The conversion will take effect on or near November 5 of each year. The conversion of unused sick leave days to vacation days according to Section 10.3 does not count as used sick leave time for purposes of the above cash conversion. This calculation shall be based on a maximum accrual rate of fifteen (15) sick leave days per calendar year. For each hour of sick leave converted to cash, the employee shall receive an hour of his hourly rate of pay in effect as of November 6 of the preceding year. The employee's total accumulated sick leave will be reduced by the number of sick leave hours converted. Payment under this Section shall be made on or before December 31 of each year.

The City's proposal to permit the conversion of sick leave days into cash brings with it a suggested structure for discipline of employees who are excessively absent from work. The F.O.P. agrees with this proposal with some minor language changes which were agreed upon by the City. The new Section 10.7 of the Agreement shall read as follows:

Discipline for excessive absenteeism. Employees shall be subject to the following discipline if they have accrued during any calendar year:

Incidents

Discipline

4	Oral counseling
5	Verbal reprimand
6	Written reprimand
7	Written reprimand
8	Employee may be subject to further discipline

"Incidents" is defined as any single day or block of successive days absent during scheduled work days without returning to work. Any employee who comes to work and becomes ill and leaves prior to working one-half day will be charged with an incident. If an employee leaves after working more than one-half of their scheduled work day, the employee will be charged a one-half day incident.

Exceptions to the discipline described herein may be made for work-related injuries or extended illness of the employee or his family upon certification by a licensed physician and approval of the Safety Director.

An employee who returns to work from an injury or illness and then leaves again due to the same cause, will not be charged with another incident.

Issue No. 5 - Funeral Leave

The F.O.P. proposes that the day shift Lieutenant should have two days for a funeral leave instead of the one day which is presently in the Contract.

The City states that other eight-hour employees of the City only receive one day and that there is no reason to increase the day shift Lieutenant's funeral leave to two days.

Recommendation: No change in the current Contract language.

Issue No. 6 - Scheduling of Staff Services Lieutenant

The day shift Lieutenant works from 8:00 a.m. until 5:00 p.m. with one unpaid lunch hour. The officers who work for this Lieutenant, however, work eight consecutive hours, including meal time. The Detectives work from 8:00 a.m. to 4:00 p.m., and the Dispatchers work various shifts for eight hours which include a paid lunch period. The F.O.P. believes that the day shift Lieutenant should be paid consistent with the Detectives who work under him.

The City believes that there should be no increased compensation for the day shift Lieutenant. The City needs coverage until 5:00 p.m. by a Lieutenant or Captain. The day shift Lieutenant performs more administrative assignments than do the Crew Lieutenants. The City is trying to curb the amount of time off which is provided to both the Officers and the Lieutenants. The City Office is open until 5:00 p.m., and the day shift Lieutenant should remain until that time in order to provide necessary services to the City.

The F.O.P. would prefer to adjust the day shift Lieutenant's schedule from 8:00 a.m. to 4:00 p.m., but the City believes that it will be left short-handed if this is the case. Moreover, the Chief's schedule and the Captain's schedule is identical with the day shift Lieutenant's schedule of 8:00 a.m. until 5:00 p.m.

Considering the fact that the day shift Lieutenant's duties are more administrative in nature than that of the Crew Lieutenant's, it seems appropriate that the City should be able to maintain its coverage until 5:00 p.m. It also appears from the evidence presented that the Lieutenants rotate periodically such that each serves as a day shift Lieutenant during the course of their duties. Therefore, the work assignment is spread evenly among the Lieutenants. I, therefore, see no compelling reason to change the work schedule for the day shift Lieutenant.

Recommendation: No change in the current Contract language.

Issue No. 7 - Duration

Both parties seek a three-year Contract, and therefore, the Contract shall be in full force and effect from November 6, 1996 through November 5, 1999. The rest of Article 27 shall remain in place.

Date: November 27, 1996

Mitchell B. Goldberg
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