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STATE EMPLOYMENT
RELATIONS BOARD

Aug 27 10 03 AM '97

STATE OF OHIO

STATE EMPLOYMENT RELATIONS BOARD

Case No:
97-MED-03-0347

In the Matter of the Fact Finding

Between

THE CITY OF OREGON

and

OREGON POLICE PATROLMEN'S ASSOCIATION, INC.
LOCAL NO. 1, IUPA, AFL-CIO

REPORT AND RECOMMENDATION OF FACT FINDER
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HEARING BACKGROUND

The above matter was heard on August 1 1997 pursuant to administrative appointment. There have been several bargaining sessions held at the Municipal Building in Oregon, Ohio. The immediate bargaining history of the parties is of an established nature and has been productive in the past. The relationship of these parties appears to be cooperative and professional. Uniquely, after the record was closed on the hearing date, the City unilaterally submitted revised positions on certain issues. The undersigned was expecting a conference phone call to learn of the results of the parties' continued negotiation on three (3) issues held, in abeyance for this purpose. The OPPA, however withdrew its request for an additional hearing session (after same was granted) and the parties corresponded their resultant positions in writing as then proposed. Aside from the additional time required to read and react to this situation there was no unfair advantage in terms of evidentiary development.

The Public Employer, a municipality, employs in this bargaining unit some thirty-six (36) sworn peace officers and dispatchers. Herein the Employer shall be referred to as the "City" or "Management" in this Report.

The Employee Organization, hereinafter referred to as the "Union" or the "OPPA", is formally known as Local No. 1 of IUPA. Its members perform typical police functions on a full time basis; at least three (3) officers are on road patrol during each of the three daily shifts. Additional manpower needs spend officers' time for court duty, D.A.R.E., property room and photo functions.

The City comprises some 28.5 miles of area and has 18,000 residents. It abuts the City of Toledo on its western flank and contains farm lands in its eastern sector. Two oil refineries have formed the economic crux of activity in recent years. This business profile has changed and will determine short term housing starts and tax base variations.

The parties requested no mediation be attempted presumably since there were approximately ten (10) open issues at the start of the hearing. The format of the session was in the nature of a formal hearing with an equal opportunity to explain or detail the respective positions to the Fact Finder.

The OPPA committee was comprised of Labor Counsel Christine A. Reardon, Esq., Local President Randy Jacobs, Treasurer William Daniels and Officer Tony E. Castillo.

The City was represented by Law Director Paul Goldberg, Assistant Law Director Philip Wurster, City Administrator Ralph Lange and new Police Chief Thomas Gulch also attended the hearing.

MEDIATION

Since the parties requested to proceed immediately to hearing in the manner addressed above in this Report And Recommendation formally hearing the evidence and rendering an opinion became the prime object of my involvement to the exclusion of mediation with the parties.

The advocates provided their full cooperation to me which helped to understand the list of open issues in one day's session.

RESOLUTION CRITERIA

The following recommendations take into consideration the factors enumerated in Section 4117.14 (C) (4) (e) of the Ohio Revised Code. These are:

1. Past collectively bargained agreements, if any, between the parties;
2. Comparison of the unresolved issues relative to the employees in the bargaining units 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 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 mutually submitted to agreed upon dispute settlement procedures in the public service or in private employment.

My intent was to deal with the crux of the matter in a direct and forthright manner. The relative positions have been amply demonstrated and argued. There is no need in my view to author a treatise on the subject matter that separates the parties. Similarly, the parties understand their own and each others' proposals so I will not "pad" this Report by extensive reiteration of same. Where a proposal touches only contract language without ostensible cost I will provide a rationale for my choice. The parties have submitted contract ready language for their respective proposals and when referenced as a recommendation, these submissions are deemed to be incorporated by reference.

Ultimately, the resolution of this contract's terms will reside in respective wills of the parties. If either prefers to seek a divergent outcome than what is hereinafter recommended, their participation in conciliation must be weighed against the possibility of receiving an award further from what this undertaking represents.

ITEMS FOR RESOLUTION

As a result of the above enumerated meetings the parties presented the following unresolved issues to the Fact Finder for the following recommendations:

1. **ARTICLE 13 (H): OVERTIME PROCEDURES**

UNION POSITION

Although the Department attempts to call in off-duty officers first, if current or next shift officers decline overtime assignments, call-in becomes compulsory by seniority, starting with off-duty officers before prior shift personnel. This demand would pay double time for called-in officers except for those in training or on court duty.

CITY POSITION

The City's concern is that if granted, more officers would refuse overtime in order to create a double time premium pay situation for the junior officer ultimately compelled to come in on an overtime assignment. It is not felt that the time and one-half pay rate currently granted is a hardship on the officer thus called in. Police know that there must be coverage when they come on the force.

RECOMMENDATION OF THE FACT FINDER

Since this compulsory call-in has happened once in 1997 to date

2. **ARTICLE 16 (H): DETECTIVE ON-CALL**

UNION POSITION

The Department pays the four detectives \$60.00 per week to be on on-call status. Their services are reached by means of a pager from 4 pm to 7 am and entire weekends. The difficulty in scheduling family or personal matters which results stems from being needed to remain in the area for such call-ins.

Raising this stipend to \$100.00 per week would make adequate compensation for this increasing service.

CITY POSITION

The City's position is that with four (4) detectives they only need to be on call one week out of the month. Scheduling events is not impossible and is compensated fairly at \$60.00. That stipend is for being; actually call-ins render premium pay for the work performed in addition. Union data on this practice is lacking and thus suspect as to real need.

RECOMMENDATION OF THE FACT FINDER

I find no hardship worthy of additional premium compensation on these facts. Most of the younger detectives are called in to crime scenes and their career development as detectives is enhanced by the experience so it seems to me to be a positive thing especially since the demand is a pricy one in terms of percentage boost. I recommend the City's proposal.

3. APPENDIX SUB-PART 4: SHIFT DIFFERENTIAL-SPECIAL SERVICES BUREAU

UNION POSITION

The Department pays only \$.08 per hour differential for day shift and the DARE, Juvenile, Court and Vice officers do not receive overtime opportunities and must use street clothes not subject to the clothing allowances.

If this premium would be raised to \$.40 per hour the City would not need to beg officers to bid on these jobs.

Toledo pays extra for these types of officers on day shift.

CITY POSITION

The City's position is that an incentive is not needed. First shift positions have an appeal of their own and the types of police work involved is not hard to fill. Detectives get cars and do "desk time" coveted by patrol officers. They do not need an additional premium pay increment to offset lost overtime or uniform allowances.

RECOMMENDATION OF THE FACT FINDER

Again, I find no hardship worthy of an additional premium for these day shift officers. Career development as detectives is also a factor and choice is what puts an officer in these positions. I recommend that the \$.08 per hour differential be retained.

4., 5 and 6. PENSION PICK-UP; WAGES; AND STIPENDS & ALLOWANCES:

UNION POSITION

The OPPA addresses the economic piece of this agreement as follows:

A 2% pension pick-up; 5% per year wage raises for each of the contract's three years and keep all stipends (e.g. \$200.00 cash per yr., LEADS, firearms, 911, special weapons) at their current levels.

CITY POSITION

The City's costing of these demands states that it would spend \$764,552.00. Positioning itself as being equitable, Oregon offers only 3% per year, no bonus, additional pick-up on pension or other stipends.

RECOMMENDATION OF THE FACT FINDER

When weighing the respective economic positions I discerned that bonuses and stipends were used to offset the lack of retroactivity in the past. I emphatically would recommend a wage raise sufficient to pass out of the shadow of static economic measures which make future negotiations more complex than necessary. Again, I am aware that it is more than "3s" against "5s" at issue herein. However the balance of the wage piece is best achieved by a raise of 4.5% in year one, 4% in year two and an additional 4% in the last year of the contract. The 2% pick-up on pension demand shall not be granted.

As the economic picture unfolds for this community it will still need to maintain its police function as well as its infrastructure. This is a growing "upscale" suburb and its police function is an important facet of community integrity. Internal comparability, while not stressed by the City is also a factor in my mind and I would not put money into fringes that would separate the police department from other units or non-union employees.

7. ARTICLE 10 (B) BIDDING FOR ASSIGNMENTS:

PARTIES' POSITION

The OPPA and the Employer asked the Fact Finder to address the recitation of "just cause" in Section "D". I feel the City's proposed language is as clear on the point as anything I could author. Therefore, I recommend that proposed language.

RECOMMENDATION OF THE FACT FINDER

See above.

8. ARTICLE 12 (A) PAY DAY:

UNION POSITION

The OPPA wants pay checks distributed on Wednesdays before a Thursday holiday.

CITY POSITION

Accounting department needs checks dated on the same day distributed. Not really opposed to this concept.

RECOMMENDATION OF THE FACT FINDER

I recommend trying a Wednesday distribution per the Union's language. If it proves to be onerous for the Finance Department they will breach the agreement and the OPPA needs to decide if its worth grieving or overlooking.

9. ARTICLE 14 (F) BONUS DAYS:

UNION POSITION

The OPPA says this is a give back and an economic item.

CITY POSITION

An incentive not to use sick leave. Sliding scale benefit of additional vacation days (or cash) for not calling off sick.

RECOMMENDATION OF THE FACT FINDER

I recommend trying this proposal. If it results in no appreciable reduction in sick leave usage perhaps the Employer shall lead the movement to disband it. This sounds progressive so I am allowing it to be tried.

10. ARTICLE 14 (J-3F) HOSPITALIZATION PREMIUM CAP:

UNION POSITION

The OPPA seeks a hedge against high premiums in the future. With a work force that is one-half less than seven years of seniority, this may keep premiums low today but what about the future?

CITY POSITION

If there are no increased health care costs then the point at which the co-pay feature is triggered won't be reached. Therefore this is a no cost item.

RECOMMENDATION OF THE FACT FINDER

I recommend the Management position on this issue.

11. ARTICLE 15 (A) VACATIONS:

UNION POSITION

The OPPA seeks to move the 6 week vacation point up to be reached after 20 years of service, not 25 years. The ten year gap currently in effect is a bit too long of a wait fore another week of vacation.

CITY POSITION

If there are no northwest Ohio cities in the Union's survey it is flawed. This benefit level is very good as it is now.

RECOMMENDATION OF THE FACT FINDER

I recommend the adoption of the OPPA position and make the 6 week vacation point occur after the twentieth year of service.

12. ARTICLE NEW: PAID EXERCISE TIME; WORKER'S COMP WAIVER

UNION POSITION

The OPPA demand seeks three (3) hours of paid work out time like the command officer's unit has. It opposes waiving its

worker's compensation coverage for such use of the work out facility.

CITY POSITION

If there are three (3) hours per week spent on fitness routines, there are three hours less police coverage per week. If there are injuries it becomes an expense item.

RECOMMENDATION OF THE FACT FINDER

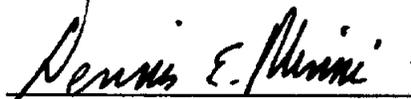
I do not recommend adoption of the Union's position. Making the decision to use the facilities at the City is a personal choice for each officer. They can choose not to work out or not to work out at the City's provided facility.

Even when an officer selects the City gym to exercise it is not a mandated police function so worker's comp claims should be waived per the City's position. Analogous to this situation is where an employee decides to exercise on City grounds (park, field etc.) on his or her break time is that within the course and scope of the employment when the exercise is not required by the Employer?

This issue compels siding with the Employer on both points.

My thanks again to the parties and their advocates for their attention to this matter and bringing about an atmosphere conducive to resolution.

Respectfully submitted this 25th day of August, 1997 via fax and Priority Mail to the parties and regular mail to the SERB.



Dennis E. Minni
Fact finder