

Council), Gerald Bayus (City Council), Robert M. Platt, Jr. (Law Director), Dennis E. Linville (Mayor).

II. BACKGROUND

This proceeding involves collective bargaining negotiations between the Ohio Patrolmen's Benevolent Association (OPBA) and the City of Cortland, Ohio (City). The OPBA has had a collective bargaining relationship with the City for a number of years. The unit, consisting of seven (7) full-time employees, is comprised of patrol officers. The City of Cortland, located within Trumbull County, has a current population in excess of 6,000 residents.

Prior to hearing, the parties had met six times and negotiated to impasse. The contract expired on June 30, 1998. Negotiations, and the initial hearing, were extended by mutual agreement of the parties.

The first hearing was held on July 13, 1998 in City Hall. At that time, the parties were offered the opportunity to engage in mediation in lieu of a formal fact-finding hearing and accepted the same. At the conclusion of that session, the parties tentatively agreed to a mediated settlement of all the open issues, subject to the formal agreement of their respective constituencies. Via letter dated August 4, 1998 the Fact-finder was formally notified that the parties had not mutually agreed to the tentative settlement.

Accordingly, a fact-finding hearing was requested and scheduled for August 28, 1998.

III. ISSUES

During the course of good-faith negotiations covering a number of sessions, the parties tentatively agreed to all issues but one and those mutually-resolved provisions of the contract are hereby formally recognized and adopted by the Fact-Finder. As a result, the only open issue remaining between the parties is wages.

IV. FACT-FINDER'S REPORT AND RECOMMENDATIONS

In issuing this Report and Recommendations, the Fact-Finder took notice of all the oral and written testimony presented by, and as stipulated by, the parties, as well as those six factors which the State Employment Relations Board requires, including but not limited to:

1. Prior collective bargaining agreements, if any, between the parties.
2. Comparison of the issues in the instant case with those issues involving other public and private employees doing comparable work, giving consideration to the factors peculiar to the area and classification involved.
3. The public interest and welfare, the ability of the employer to finance and administer the items involved, 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, which are normally or traditionally considered in the determination of issues submitted to mutually agreed-upon dispute settlement procedures in the public service or in private employment.

In the preparation of this Report and Recommendations, the Fact-Finder did in fact consider these six (6) factors.

This Report and Recommendations sets forth recommendations which the Fact-Finder believes are reasonable and fair and which both parties can be comfortable recommending to their respective constituencies, although acceptance of the same will involve a degree of mutual sacrifice on the part of both parties.

Opening Statements:

Both parties took the opportunity to make opening statements.

The Union opened the hearing by stating that the current terms of the contract, except wages and the items previously agreed to by the Union and the City, should be maintained. It asked for wage increases of 5% in the first year, 5 1/2% in the second, and 5 1/2% in the third, with any raises in the first year retroactive to July 1, 1998.

The City, which emphasized that its offer was fair, offered pay increases of 4%-4%-3% over three years.

REPORT AND RECOMMENDATIONS

Article 30 – Wages.

Union

At the hearing, the Union requested requested wage improvements of 5%, 5 1/2% and 5 1/2% for each year of the three (3) year contract, with any adjustments retroactive to July 1, 1998.

In support of its position, the Union provided the following documentation. Union Exhibits 3 and 4 showed that comparable police departments in Trumbull County, i.e., Niles, Hubbard, and Girard, had average annual patrol officer rates well in excess of average rates for comparable, ten year officers in Cortland (Niles officers averaged \$35, 848, Hubbard averaged \$35, 527, Girard averaged \$36, 454 – Cortland officers, on the other hand, averaged \$32,212). (Warren, Ohio, arguably not a comparable jurisdiction because of its significantly larger population, averaged \$36,318). In conclusion, the Union calculated that the differential between Cortland officers and these other municipalities at each step in the pay scale ranged from 8.3% to 23.56% lower for Cortland officers.

The Union calculated that each 1% rise in Officer wages would only cost the City approximately \$2,777.46 annually

The Union then contended that the City could finance the proposed wage increases by the savings it will realize on dispatching services effective with the new dispatching contract (an estimated \$10-15,000 annually).

In anticipation of the argument that Cortland was not as well off financially as the other municipalities listed in this survey and so could not afford to grant the increases requested by the Union, the Union showed that the 1990 federal adjusted gross income of Cortland residents (\$38,517) was higher than that of any of the other municipalities (ranging from \$28,727 – \$30,285).

The Union concluded by pointing out that the Officers had been restrained on wage demands in previous contracts and now was the time whereby they should begin to close the substantial wage disparities (on average 10% underpaid) between their unit and the average annual pay of comparable police forces in Trumbull County. The Union testified that its wage documentation regarding comparable markets clearly showed that it had met its burden under the statute of justifying its proposed wage increases. It also stated that the City had the financial resources, including the power to raise taxes, to pay for the increases and that if the City chose not to do so, the police should not have to “pay the price” of an unfair wage increase. Further, it also emphasized that the significant cost savings to be realized from the new 911 contract could be applied toward the proposed wage increases. In summary, it states that its requested increases total only \$10,000 over the three years of the contract and it has already shown that the City will realize over \$25,000 in savings over the same period.

City

The City, in defense of its suggested wage increases of 4%, 4% and 3%, points out that even with this increase, City expenses would exceed revenues in years two and three of the contract (i.e, the Police Levy Fund would be spending more money that it receives, per a letter to the Mayor and City Council from the City Finance Director). Also, the City emphasizes that it has current unfunded obligations of unpaid police sick and vacation leave of over \$107,000.

In addition, the City pointed out that in attempting to settle this contract, it has already agreed to grant improvements in bereavement leave, sick leave and personal days, all of which will require additional expenditures of funds.

As to funding mechanisms, the City admits that while it has the discretion to pass an income tax, this is something Cortland has chosen not to do. Therefore, while it is true that its average household income may be higher than that of other Trumbull County communities, unlike them it currently has no income tax to generate additional revenue.

The City's comparables included Weathersfield Township, Hubbard, Bazetta Township, Niles and Howland Township. Out of these six "comparables", calculations showed that with a 4% increase, the City's officers with 3 years of service would rank fourth on that list, those with 7 years of service would rank fourth, those with 14 years of service would rank fourth, and those with 20 years of service would rank fourth.

[The Union pointed out that unlike their comparables which included only cities in Trumbull County, the City had included three townships which traditionally cannot afford pay to pay as much as cities. Therefore, and with reference to an arbitrator ruling which rejected using townships as comparables with cities, the Union asked that the Fact-finder discount the City's comparables.]

Finding and Recommendation:

The Fact-Finder recognizes that both parties produced "comparable" wage data from within Trumbull County, although the City's contained a mix of township and city data, and the Union's contained only city-related information.

Based on the testimony and documentation of both parties, a comparison of this unit's pay with other similarly situated employees in other county municipalities, and the SERB average statewide settlement data which is averaging approximately 3.7%, the Fact-Finder concludes that the Union's proposed increases are on the high side, and the City's are too low.

According to the comparables presented by the Union, the average pay of this police unit is lower, and in some cases significantly lower, than that enjoyed by other comparable cities in Trumbull County. While the Union took the position that the pay of a township police force should not be used as a comparable for purposes of a city police wage adjustment since a township's tax raising capabilities are more limited than that of a city and therefore their average wages tend to be lower, the City's own data confirms that this unit's average pay is not only lower than other cities, but lower than some townships.

Since the City did not technically argue an inability to pay, and its own data indicated that Cortland police were underpaid relative to surrounding Trumbull county municipalities, the Fact-Finder finds that something exceeding the average statewide settlement is warranted to provide this unit with some "catch-up", even after taking into consideration the City's admirable attempts to be fiscally responsible with its budget and its explanation of the unfunded liabilities it might face by granting additional increases beyond its proposal (although the existence of other funding sources did come up at the hearing, i.e., inheritance taxes). The Fact-finder is also not unmindful of the fact that this unit's wages do not reflect a variety of benefits that have associated costs, and may perhaps be even more generous than those of comparable municipalities; however, there was no documentation of this fact provided. (Also, the Fact-finder rejects the Union's innovative but unsubstantiated contention that a City's theoretical ability to raise revenue through unpassed taxes should be factored into its present ability to pay.)

Accordingly, in light of all of the above factors, and considering the other economic improvements that this unit has received in this contract through negotiation, the Fact-Finder recommends wage increases of 4 1/2%, 4%, and 4% over the life of the contract, with retroactivity to July 1, 1998. In conclusion, the above Findings and Recommendations include the entirety of the Fact-Finders' Report.

Issued: September 1, 1998

Respectfully submitted,



Jared D. Simmer

Fact-Finder

CERTIFICATE OF SERVICE

I hereby certify that the above Fact-Finder's Report and Recommendations were served upon the following parties, to wit, the City of Cortland, Ohio (via Mayor Dennis E. Linville) and the OPBA (via Mr. Nicholas Codrea) by overnight mail service, and upon the Ohio State Employment Relations Board (via G. Thomas Worley) by first class mail, this day of September 1, 1998.



Jared D. Simmer

Fact-Finder