

State of Ohio
State Employment Relations Board
Fact Finding Proceedings

AUG 6 10 48 AM '98

Report & Recommendations
of the Fact Finder

As Issued
August 4, 1998

In the Matter of:

City of Youngstown

(Employer)

-and-

Ohio Patrolmen's Benevolent Association

(Union)

Case No. 98-MED-03-0228

Hearing:

As the result of an evidentiary session held on June 30, 1998
at the City of Youngstown City Hall in Youngstown, Ohio.

Appearances:

On Behalf of the Union:

S. Randall Weltman
Janice Ware

OPBA Attorney
Negotiating Committee

On Behalf of the Employer:

Edwin Romero
John A. McNally, IV

Manchester, Bennett, Powers & Ullman
Assistant Law Director

Gregory James Van Pelt
Labor Arbitration
Mediation & Dispute Resolution

1691 Lyndhurst Road
Lyndhurst, Ohio 44124

Submission

This being a new bargaining unit without predecessor contract, the Parties here set out in good faith to negotiate an initial collective bargaining agreement. Although this attempt was largely successful, three issues remained unsettled. Accordingly, the Parties determined to avail themselves of the dispute resolution process available under the State Employment Relations Board. Therefore, in accordance with the provisions of Section 4117.14(C)(3) of the Ohio Revised Code, the undersigned was appointed Factfinder in the present matter, effective on May 13, 1998.

The Parties were afforded an opportunity to present evidence and argument in support of their respective positions at an evidentiary hearing on June 30, 1998. Statements of the Parties' respective positions were properly provided the Factfinder prior to the hearing, in accordance with Ohio Administrative Code requirements.

Issues at Impasse

The Parties initially identified four issues as unresolved:

1. **Wages**
2. **Compensatory Time**
3. **Transfer of Previous Service**
4. **Pregnancy Leave** - settled at Hearing by mutual agreement of the Parties

Statutory Considerations

In weighing the positions presented by the Parties, the Factfinder was guided by the considerations delineated in OAC 4117-9-05(K):

- | | |
|------------------------|---|
| 4117-9-05(K)(1) | Past Collectively bargained agreements, if any, between the parties; |
| 4117-9-05(K)(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; |
| 4117-9-05(K)(3) | The interests 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; |
| 4117-9-05(K)(4) | The lawful authority of the public employer; |
| 4117-9-05(K)(5) | Any stipulations of the parties; |
| 4117-9-05(K)(6) | Such other factors, not confined to those listed above, which are normally or traditionally taken into consideration in the determination of the issues submitted to mutually agreed-upon dispute settlement procedures in the public service or in private employment. |

Background

In 1994, the City of Youngstown's police and fire dispatching was performed by a consolidated dispatch center administered by the Mahoning County Commissioners, but housed in the Youngstown City Hall. In early 1997 the City undertook its own emergency dispatch operations, and in that effort hired four Emergency Dispatch Technicians already performing those tasks for the City, under the employ of the County Commissioners. At the time of this administrative shift, Emergency Dispatch Technicians were afforded a choice between continuing as County employees or accepting City positions; the four chose transfer to the City.

In March of 1998 the OPBA was certified as agent for the approximately eighteen Emergency Dispatch Technicians presently comprising the bargaining unit, and negotiations between the City of Youngstown and the OPBA began in pursuit of an initial collective bargaining agreement. Having reached agreement on all but three issues, the Parties now submit the matters at impasse to the undersigned Factfinder.

In consideration of this background, the following recommendations are respectfully submitted:

Findings and Recommendations

Wages

OPBA Offer and Position:

In the first year of the agreement the Union proposes an increase in the base rate of pay for bargaining unit members to \$10.09 per hour, in the form of a wage scale with annual seniority increases over three years of employment. Effective January 1, 1999, the OPBA asks the City to pick up the remaining 4.25% pension payment in lieu of increases in Employees' base rate. And in the final year of the Agreement, the Union asks a 5% increase in bargaining unit members' base pay.

In support of this proposal, the OPBA presents evidence to indicate that Youngstown Emergency Dispatch Technicians are required to handle more calls than neighboring communities. In Akron, 35 dispatchers and 7 civilian supervisors answer 503,000 calls in a community of 220,000 people, says the Union. In contrast, Youngstown handles 521,000 calls with only 2 Supervisors and 11 trained dispatchers, in a community of only 90,000.

Moreover, the OPBA submits evidence it says indicates bargaining unit members are substantially below the wage rates paid similar employees in comparable northeastern Ohio communities. Analysis of seven communities in the area labor market demonstrates Youngstown dispatchers with three years of experience are paid approximately 75% of the average wage rate, according to the Union.

In making this proposal, the OPBA contends the City does not, and cannot, argue that it lacks an ability to pay the increases it seeks. Therefore, it asks that the Factfinder recommend its wage proposal.

City's Offer and Position:

Youngstown maintains that members of this bargaining unit have received several wage adjustments as well as a 4.25% pension pickup in the last eighteen months. In addition, while it does not argue an inability to pay the increases sought by the OPBA, the City does point out that the State imposed a fiscal watch on City finances as recently as 1997 and that its financial situation remains tenuous, despite a substantial windfall from Worker's Compensation. Accordingly, the Employer contends no further wage increases are appropriate for this bargaining unit.

Discussion and Recommendation:

As the OPBA points out, Youngstown dispatchers with three years of experience receive some 25% less in compensation than the average of seven neighboring northeastern Ohio jurisdictions. However, further analysis of the Union's evidence indicates that the wage rate at hiring paid by Youngstown is reasonably competitive with those jurisdictions cited by the OPBA. Moreover, while the City received a one-time refund of some \$4,000,000 from Worker's Compensation, there is evidence to suggest that its basic financial situation is less secure than the Union asserts.

In consideration of these factors it seems reasonable to balance the need to elevate wages paid the experienced Emergency Dispatch Technicians on whom the City depends, while continuing to attract capable entry-level Employees. In that regard, a salary schedule as proposed by the OPBA would seem efficacious here. However, the City's resources are finite, and its hiring salary is currently competitive. The OPBA's proposal would effectively raise the rate at hire by some 5%, putting the City of Youngstown ahead of comparable communities in the area.

The OPBA's request that the City assume payment of bargaining unit members' entire pension deduction beginning in 1999 is not without precedent in other City contracts, and will be recommended here, in lieu of an increase in base salary.

A schedule allowing the City to retain its current rate for new hires and allocate its resources to compensate its experienced dispatchers will therefore be recommended:

	Effective January 1, 1998	Effective January 1, 1999	Effective January 1, 2000
<i>Start</i>	<i>\$9.62</i>	<i>4.25% pension pickup</i>	<i>3% increase in base</i>
<i>After 1 year</i>	<i>\$10.09</i>	<i>"</i>	<i>"</i>
<i>After 2 years</i>	<i>\$10.70</i>	<i>"</i>	<i>"</i>
<i>After 3 years</i>	<i>\$11.30</i>	<i>"</i>	<i>"</i>

Compensatory Time

OPBA Offer and Position:

At present bargaining unit members must take payment for overtime hours worked, without the option of compensatory time off, says the Union. It argues that the stresses involved in the Emergency Dispatch Technician position require that employees have access to sufficient time away from their duties. Moreover, it argues that as the position as well as the bargaining unit are new, members have had little opportunity to accumulate vacation and other leave times to permit this time off. Accordingly, the Union proposes provisions to allow for the accumulation of compensatory time off, up to a cap of 450 hours.

City's Offer and Position:

The Employer maintains that by City Ordinance comp time is unavailable to members of all City bargaining units, with the exception of police officers. The establishment of compensatory time and its accumulation by the present bargaining unit would create a contingent liability for the City which it asserts would be difficult to fund. Accordingly, the City rejects the OPBA's proposal, and asks the Factfinder to recommend no provision for compensatory time for dispatchers.

Discussion and Recommendation:

The City is unquestionably prudent in its reluctance to permit bargaining unit members to accumulate compensatory time, and to consequently create a difficult contingent liability for itself in so doing. However, the present bargaining unit is new, its members have little seniority with the City and accordingly little opportunity to accumulate leave time of any kind. Moreover, the OPBA's assertion that Emergency Dispatch Technicians operate in often stressful circumstances has some merit, just as Youngstown ordinance recognizes the stresses at work on its police officers and their consequent need for time off.

Therefore, it is recommended that bargaining unit members receive a choice of pay or compensatory time for overtime hours worked, as proposed by the OPBA. However, the City's difficulty in funding such a liability must be considered, and accordingly a limit of forty hours of accrued compensatory time will also be recommended:

"Employees who work overtime may, at the time overtime is worked, elect to be compensated for the overtime in either cash payment paid with the normal payroll, or receive compensatory time off. Each eligible employee may accrue a maximum of forty (40) hours of compensatory time."

Transfer of Previous Service

OPBA Offer and Position:

Four of its present bargaining unit members were first employed by the Mahoning County Commissioners to perform exactly the same duties they presently provide the City, says the Union. The shift in responsibilities was administrative, not functional, the OPBA argues, and the experience of these bargaining unit members should be recognized and rewarded by their present Employer. Accordingly, the OPBA proposes that all bargaining unit members who have previously worked for other public employers receive credit for that experience in the determination of seniority, wages, vacation and longevity.

City Offer and Position:

The City maintains that the four bargaining unit members who previously worked for the County Commissioners were afforded a choice between working for the City or remaining in the employ of the County, with full knowledge of the relative advantages and disadvantages of each option. Ohio Revised Code Section 9.44 as amended limits the application of previous employment in other jurisdictions, the City argues, and the provision should be applied to members of the present bargaining unit as well as all other City employees.

Discussion and Recommendations:

In promulgating ORC 9.44, it is clear the legislature intended to limit “double-dipping” and other abuses in the civil service. Consequently, it is somewhat disingenuous of the City to argue, as they do, that the previous service of dispatchers who performed exactly the same duties in exactly the same facility using precisely the same equipment should not be recognized.

Moreover, evidence indicates that at least some of these Employees were originally hired with the understanding that they would be City, not County, workers. Administrative juggling of the area’s emergency dispatch operations does not negate the experience of these dispatchers that is specifically applicable to the City’s operation. There is no question that the experience of these veterans is beneficial to the Employer in the efficiency of its emergency dispatch system and the training of less experienced personnel. Therefore recognition of the service of those bargaining unit members previously employed by the County and transferred to the City with its resumption of dispatching services will be recommended.

While the experience of approximately four dispatchers formerly performing the same duties under employment of the County must reasonably be considered as present work experience, the same argument cannot be made in support of bargaining unit members formerly

employed by other jurisdictions. Even the most experienced of these Employees, in the most directly comparable position, could not be expected to similarly contribute to the effectiveness and continuity of a service they were not previously providing. Accordingly, the recommendation for transfer of previous service will be limited to those bargaining unit members formerly employed by the County in the same position:

"Effective January 1, 1998, the City shall credit the time worked by bargaining unit members employed by the Mahoning County Commissioners in the same or similar job classifications prior to March 1, 1997. This credit shall be applicable and utilized when determining seniority, wages, vacation and longevity."

Summary of Recommendations

Wages

	Effective January 1, 1998	Effective January 1, 1999	Effective January 1, 2000
<i>Start</i>	\$9.62	4.25% <i>pension pickup</i>	3% <i>increase in base</i>
<i>After 1 year</i>	\$10.09	"	"
<i>After 2 years</i>	\$10.70	"	"
<i>After 3 years</i>	\$11.30	"	"

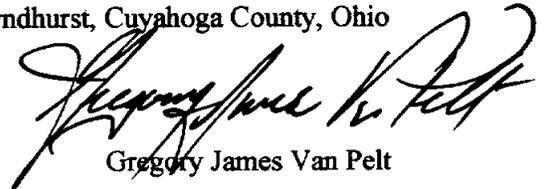
Compensatory Time

Compensatory time, with accrual limited to 40 hours.

Transfer of Previous Service

Recommended for and limited to bargaining unit members formerly employed by the County.

Respectfully submitted this
this fourth day of August, 1998
at Lyndhurst, Cuyahoga County, Ohio



Gregory James Van Pelt

Factfinder

State Employment Relations Board