

STATE EMPLOYMENT RELATIONS BOARD

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In the Matter of Fact-finding Between:

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THE CITY OF EUCLID, EUCLID, OHIO)	Case No. 98 MED 09 0825
)	
and)	REPORT AND RECOMMENDATIONS
)	
FRATERNAL ORDER OF POLICE, LODGE No. 18)	Margaret Nancy Johnson Fact-finder

Introduction

The bargaining unit represented by the Fraternal Order of Police, hereinafter "FOP" or "Union," consists of approximately one hundred (100) police officers, Patrolmen through Captain, who provide law enforcement services for the the City of Euclid, hereinafter "City," in Cuyahoga County, Ohio. Over the course of several months, the parties were able to successfully negotiate most of the modifications to their Collective Bargaining Agreement which expired on December 31, 1998. Unable to resolve four remaining issues, the parties engaged in fact-finding pursuant to the State Public Employee Collective Bargaining Act. In accordance with Section 4117.14(C)(3), of the referenced act, the State Employment Relations Board appointed Margaret Nancy Johnson as fact-finder. Pre-hearing statements on the four issues remaining in contention were timely submitted by the parties to the fact-finder.

This matter came on for hearing on April 21, 1999, in a conference room at the Shore Cultural Center in Euclid, Ohio. Craig M. Brown and Barry Y. Freeman, Attorneys with the law firm of Duvin, Cahn & Hutton, represented the interests of the City of Euclid. Also in attendance on behalf of the City were Patrick J. Murphy, Director of Law, and Captain David Maine, Executive Officer, Euclid Police Department. Robert H. Phillips, Attorney with the Phillips Legal Group, argued the case on behalf of the Fraternal Order of Police. Members of the Union Negotiating Committee present at the hearing included: Jim Savage, David Schervish, Joe Benski, Ken Kucinski, Dave Brooks, Pat Golden, and Bob Nolan.

Issues

The four issues upon which the parties could not agree are: wages, retirement incentive, uniform allowance, and medical coverage.

Criteria

In submitting recommendations on the issues remaining in contention, the fact-finder has taken into consideration the criteria set forth in Rule 4117-9-05(J) of the State Employment Relations Board.

Position of the Parties

I WAGES

A. The 4.5% increase proposed by the Union is based upon the fact that the salary paid to the Euclid police is considerably below the average paid to comparable units in municipalities throughout the county. Indeed, Euclid falls nearly \$5,000 behind the average. While acknowledging its in-service premiums, the FOP points out that these benefits do not make up for the difference in salary between the Euclid FOP and police departments in neighboring communities. Other units also negotiate a variety of benefits. Wages supplements and allowances are not unique to Euclid.

Significantly, the FOP points out that the statewide average increase in wages for three year contracts is between 10.5% and 11.5%. Compared to the wage and benefit increases which neighboring bargaining units are receiving, the three-year 9% proposed by the City is inadequate. Moreover, and importantly, there is no justification for the City wage proposal. The ability of the City to pay the proposed increase has never been challenged. Arguments on parity are misplaced as data suggests a widening in pay rates within the safety forces based upon differences in job duties and functions.

Finally, the FOP contends that it ought not to be bound by a wage increase negotiated by other units because those other units negotiated away their residency requirements. A 3% wage increase was the exchange for elimination of residency from the contracts. As the FOP and the City had previously removed residency from the contract between the parties, the union is in a position to enhance its wage objectives.

B. The City proposes a 3% wage increase for each year of the contract, the same increase it has successfully negotiated with most of its other unions and anticipates negotiating for the few remaining units. There is no justification for treating this unit any differently from the others with which the City bargains. Historically, the City has negotiated pattern settlements with its unions, and to deviate from the established settlement in this instance would be destructive of the good faith underlying the process.

Moreover, the 3% offered by the City more than adequately compensates this unit. Compared to other suburban police officers, this unit receives a median total compensation package. Indeed, a review of the economic benefits paid to the Euclid police establishes that these employees receive superior uniform allowances, longevity, and proficiency allowances, all of which must be taken into account when considering a wage adjustment.

II RETIREMENT INCENTIVE

A. The Union proposes a bonus of 6% of First Class basic salary payable in the last years of the career of an officer. While the incentive would affect only a nominal number of officers in any one year, it would, nonetheless, provide an appropriate compensation for years of service to the community.

Different cities have adopted a variety of forms of revenue enhancements. Indeed, within the City of Euclid, the Firefighters have negotiated education differentials. The type of enhancement the Union seeks in this proposal provides an across the board benefit for retiring employees. As the City has the financial ability to pay, there is no reason not to incorporate this proposal into the agreement.

B. In opposition to the proposal the City points out that no other bargaining unit with which it negotiates has a retirement incentive. The City already pays generously for longevity in comparison to other police departments in the county. Only one other city provides close to the longevity this police department receives. Thus, there is no reasonable justification for this proposal.

III UNIFORM ALLOWANCE

A. The Union proposes increasing the uniform allowance by \$100 each year of the contract for uniformed officers, and \$25 per month for detectives. Costs for proper and safe equipment is steadily rising. A vest with a life of three to five years can cost the employee between \$500 and \$1,000. In other departments gear is given to employees and replaced as needed. Detectives are required to spend a considerable amount of time making court and personal appearances. As increases have not previously been sought, the proposal of the Union is reasonable and fair.

B. The City points out that the uniform allowance provided to the bargaining unit is already one of the best in the County. Indeed, it is the second highest in the county and one of only six departments providing over \$1,000. There is no justification for the increase proposed by the Union as the non-wage compensation paid by the City already exceeds most county police and makes the total compensation package paid to the unit within \$2,000 of the top package paid in the County.

IV HOSPITALIZATION

A. The Union proposes elimination of the employee premium contributions and deductibles. Health care costs for the city have actually been reduced, and it is only fair to pass along some of the savings to employees.

In addition, the FOP now seeks the contact lens benefit previously negotiated by the parties. Although contact lens were to be made available to employees, this benefit has not materialized. In these negotiations the Union seeks a benefit already agreed upon.

B. In regard to health care benefits, the change proposed by the City has already been adopted by other units. By offering to eliminate all employee co-payments in exchange for a \$50.00 increase in deductibles effective January 1, 2000, the City actually provides a financial benefit to employees.

Discussion

Unable to resolve all economic issues during collective bargaining, the parties have brought four issues to fact-finding for recommendation: wages, retirement incentive, uniforms and hospitalization. Underlying the controversy in this instance is the impact of the concept of parity. In resolving this wage dispute, the factfinder must consider and analyze the effect, if any, of parity on the issues in contention.

I WAGES

As most bargaining units have settled for an across-the-board 3% wage increase, as well as modifications to health benefits, the City contends that the FOP should follow suit. Deviations from the established pattern would, the City argues, create chaos in its bargaining relationships with employees. Pointing out that in prior interest proceedings, hearing officers have acknowledged and sustained the role of parity, the City asserts this bargaining unit should not receive a benefit package different from that received by the other units.

Opposing the economic proposals of the City and supporting its demand for a 4.5% wage increase, the FOP relies upon a wage comparison with police departments in neighboring jurisdictions. Countering the insistence of the City on internal parity, the FOP cites a general decline in wage parity between police and fire departments, with police receiving greater wage adjustments. As the erosion of parity between police and fire personnel is attributable to changes in technology, equipment, training and job demands, including work schedules, the FOP argues there is no justification for uniformity with City firefighters. Rather, differences in the wages and benefits should reflect the differences in the jobs of police officers and fire personnel.

Today's buzz-word in bargaining, parity appears to be replacing comparability as a measurement for appropriate wage increases. Subsequent to 1984, public employees engaged in "catch-up" and "adjustment" bargaining, seeking comparability with units performing similar services. But currently, contract negotiations between parties with mature bargaining relationships have become more a matter of determining proper rate increases than a mechanism for job evaluations. Thus, the scope of bargaining is increasingly a consideration of what constitutes a fair and reasonable rate increase within a given jurisdiction. While the academic study submitted by the FOP on parity between police and fire personnel is of interest in these proceedings, it is not a conclusive statement on an appropriate wage adjustment. The question to be addressed by this fact-finder is not whether police should be paid more than fire personnel, but, rather, whether police are entitled to a rate increase greater than that given to any other unit within the city.

In support of its contention that the police unit is entitled to a greater rate increase, the union argues that every other unit settled for a lower than average rate increase because of the elimination of the residency requirement from such contracts. A comment made by a member of the firefighters

bargaining committee to a police committeeman was offered as evidence of the willingness of the firefighters to settle for a lower wage increase in return for the removal of residency. As the police Agreement did not include the residency restriction, the FOP contends its unit should not be held to the same wage increase.

While cogently presented, the argument of the FOP presupposes a proportionality between wages and residency. Except for the opinion expressed by one firefighter to a member of the FOP negotiating committee, however, there is no evidence of bargaining history to sustain such a conclusion. Indeed, there is no evidence the FOP had accepted a wage increase lower than that received by the other units when its residency requirement was removed from the FOP agreement. On the contrary, evidence of bargaining history does indicate an established pattern of parity which has been upheld by prior hearing officers in impasse disputes involving economic issues. In 1996, for example, a fact-finder reported "all parties, the unions and the City, are wedded to the concept of internal parity." Acknowledging that exact parity is elusive, the hearing officer, nonetheless, found the concept of parity to be a guiding principle on the economic issues presented to him for resolution.

Applying the same rationale to the instant proceedings, this fact-finder feels compelled to uphold the 3% wage increase. In doing so, she recognizes that during the process of collective bargaining, each unit pursues its own interests. Thus, not all contracts with organized employees are exactly the same. A perusal of the modifications negotiated by the FOP, for example, includes provisions on grievance procedures and union business which differ from the language in the firefighters' contract. Sustaining a higher wage increase for one union, however, would require substantive evidence of a justification for the difference.

The Union argues that a consideration of external comparables provides the requisite justification for the wage increase herein sought. While the base salary for first class patrolmen in the City is \$39,948, police departments throughout this and in contiguous counties pay a base salary of well over \$40,000. Thus, the FOP argues that the wages paid by the City to its police force fall substantially below the average (32nd out of 35 in Cuyahoga County), and that the rate increase it proposes is appropriate.

Addressing the question of external comparables, the fact finder notes that significant economic benefits paid to this unit compensate for the lower base rate. An analysis of firearm proficiency, uniform allowance, longevity, life insurance, holidays, personal days, compensatory time--all taken from the the Clearinghouse Report submitted by the Union--impact upon the salary paid to this Union. While there are jurisdictions such as North Olmsted, Mayfield Heights, and Independence, whose benefits and base salary exceed that of the City, there are comparables such as University Heights and Cleveland Heights, whose salary and benefits package are less than that provided

the Euclid Department. The term comparability does not denote exactitude, but, rather, a degree of similarity. This fact-finder is of the opinion that the wages paid to the Euclid Police Department are not such as to warrant a salary increase greater than the per centage negotiated by the City with its other units.

The fact-finder has also considered the argument that the 3% offered by the City is below the average rate increase for public employees in the State. Again, however, the increase offered by the city is not so substantially below the average as to warrant modification by a neutral. Most other units within the city have agreed to the per centage offered. Indeed, it is the same per centage negotiated by the FOP for its unit in North Olmsted.

In the absence of an explanation for a distinction in rates, treating all employees the same is reasonable and sound management. Disproportionate wage increases for one unit may have a deleterious impact on employment relationships within the City and undermine good will between the parties. The fact-finder recommends a 3% wage increase for each year of the three year contract with the Police.

II RETIREMENT INCENTIVE

In the absence of agreement on the part of City, the fact-finder does not recommend the retirement incentive proposed by the Union. Establishing new forms of compensation differs from enhancing existing benefits. This fact-finder is of the opinion that new contractual commitments are best negotiated rather than compelled. As pointed out by the City, the department already has in place a superior longevity payment to compensate employees for their service to the community. Indeed, there appears to be no justification for the incentive proposed by the Union.

III UNIFORM ALLOWANCE

The parties have in place a uniform allowance by which employees receive \$500.00 on February 1 of each year of the contract. In addition, each employee receives \$400.00 twice each year. Thus, a total of \$1300.00 is paid in uniform allowance. Unit members assigned to the Detective Bureau receive \$775 each year. The proposal of the Union would give employees \$1400 each year and detectives \$1055.00. The factfinder is of the opinion that the proposal of the Union is excessive. Only Fairview Park receives a greater uniform allowance than that provided to this bargaining unit. Nonetheless, it is the generous "benefits" paid to employees in this bargaining unit that brings their compensation to a median level. Indeed, the basic salary of these employees remains low. Thus, in order to continue to maintain the unit at a level comparable to surrounding police departments, some adjustment in uniform allowance is justified, and the fact-finder recommends that the \$400 presently paid twice a year be increased to \$425; the annual \$500 be increased to \$525; and, the \$775 presently paid to detectives be increased to \$850.

IV HEALTH INSURANCE

On the health insurance, the fact-finder does believe that

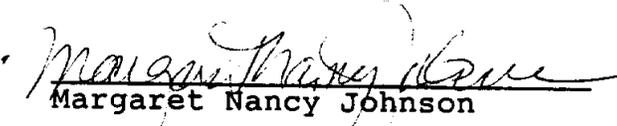
uniformity is proper. Health care concerns confront individual employees across the board. There can be no justification for providing one group of employees with health benefits that differ from those given to another. As the other bargaining units have agreed to the City's proposal, this fact-finder recommends the same benefit be extended to this bargaining unit. In addition, however, the fact-finder recommends that contact lens coverage be included in the vision plan. Apparently, the parties had already negotiated coverage for optional contact lens. It is proper that this benefit be extended to employees.

Conclusions

The above recommendations are submitted with the intent of making adjustments for this bargaining unit while deferring to the concept of parity. Although the fact-finding recognizes that each unit with which the city negotiates has a different bargaining history, there does not appear to be a justification for providing this unit with a rate increase greater than that given to the other units. Accordingly, the fact-finder recommends as follows:

- I A 3% wage increase for each year of the contract
- II No retirement incentive
- III Insurance coverage for optional contact lenses.
Maintain current language
Effective January 1, 2000 increase deductible for individual coverage to \$200.00 and deductible for family coverage to \$300.00.
- IV Increase uniform allowance to \$525.00 payable February 1 of each year; and \$425.00 payable in June and December of each year;
increase allowance for detectives to \$850.00

Respectfully submitted,


Margaret Nancy Johnson

A copy of the foregoing Report and Recommendations were hand delivered to Craig Brown and Barry Freeman at the law offices of Duvin, Cahn and Hutton, at Erieview Tower, 1301 East Ninth Street, Cleveland, Ohio; Robert M. Phillips, of the Phillips Legal Group, at 55 Public Square, Cleveland, Ohio; and mailed to G. Thomas Worley, Administrator, Bureau of Mediation, State Employment Relations Board, 65 East State Street, Columbus, Ohio 43215-4213, this 17th day of May, 1999.