

STATE EMPLOYMENT
RELATIONS BOARD

2001 MAR -6 A 11: 51

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In the Matter of Conciliation *
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Between *
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Fraternal Order of Police- *
Ohio Labor Council *
*
and *
*
The City of Ashtabula, OH. *
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SERB Case Numbers:
00-MED-0003,0004,0005
Before: Harry Graham

APPEARANCES: For Fraternal Order of Police-Ohio Labor Council

Charles L. Wilson
Michael Piotrowski
Fraternal Order of Police-Ohio Labor Council
2721 Manchester Rd.
Akron, OH. 44319

For City of Ashtabula, OH.

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INTRODUCTION: Pursuant to the procedures of the Ohio State
Employment Relations Board a Factfinding/Mediation session
was held in this matter on January 15, 2001. At that session
a number of issues between the parties were resolved.
Subsequently the parties agreed to dispense with a formal
Factfinding hearing. A Conciliation (interest arbitration)
hearing was held on February 21, 2001 before Harry Graham.
The parties agreed upon the format of that hearing. The last-
best-offer, issue-by-issue procedure utilized under Ohio law

was changed to conventional interest arbitration. The parties presented their offers to the arbitrator who was given authority to alter them.

ISSUES: At the hearing the parties were in agreement over the issues in dispute between them. Those issues are:

1. Court Time Overtime
2. Shift Differential
3. Education Allowance
4. Wage Increase

ISSUE 1, COURT TIME OVERTIME

POSITION OF THE UNION: The Union proposes that the present provision for payment Court Time be changed. It proposes an increase from the current four hours at straight time to four hours at premium pay. It also proposes that the current four hour straight time payment for appearances of four hours or less while on "vacation" be expanded to include all "days off."

In support of this proposal the Union points out that the Agreement between the City and Fire Fighters Local 165 provides for pay at the rate of time and one-half (1.5T) for attending classes while off-duty or for compliance with a work-related subpoena or court time. Traditionally police and fire employees have enjoyed parity or equal pay and conditions. The Fire Fighters enjoy more lucrative compensation than police in the area of supplemental pays. Internal consistency requires an award in its favor the Union

contends.

POSITION OF THE EMPLOYER: The City urges no change be made in the Court Time article. It points to a comparison of officers in Ashtabula with their counterparts in Geneva, Conneaut and the Ashtabula County Sheriff's office. These are urged to be the correct comparison groups by the City. None of those jurisdictions provide Court Time payment as lucrative as does Ashtabula. Further, the City notes that while the Fire Fighters have an element of premium pay, Court Time, paid at a higher rate than do police officers, they do not utilize it. Fire Fighters do not go to court as a routine part of their jobs. Police Officers do. There is nothing substandard in the current Court Time pay made to Ashtabula Police Officers in the opinion of the City. As that is the case, no change should be made the City asserts.

DISCUSSION: Putting to one side discussion of the jurisdictions urged upon the Arbitrator as being comparable by the City, it is fact that the present Court Time stipend in the Agreement is not substandard. It represents the norm in the industry. Court time is normally paid at the straight time rate. No change is justified and none is awarded.

Vacation days and days off are similar in that both contemplate the employee being off-duty and away from work. If an employee is called to court during vacation his or her

vacation is disrupted. The same situation applies if an employee is required to attend court on a day off. Free time is compromised. The proposal of the Union expanding the guaranteed court time payment from "vacation" to "days off" in Section 7.06 of the Agreement is awarded. The final sentence of Section 7.06 should read: "If said days off Court appearance exceed four (4) hours, said employee shall be compensated at the rate of time and one half (1.5) for the entire period of appearance."

ISSUE 2, SHIFT DIFFERENTIAL

POSITION OF THE UNION: Presently premium pay is made to officers who work on either the second or third shifts. Those on the second shift receive a .35 per hour premium. Those on third shift are paid .45 per hour additional. The Union proposes that officers on the second shift receive the same .45 per hour as those on the third shift.

This proposed increase is justified the Union insists. The parties have engaged in lengthy negotiations on the issue of scheduling. No agreement has been reached. Ashtabula officers rotate shifts regularly. The City retains broad authority in the area of scheduling. As that is the case, equity demands officers receive the same premium for both second and third shifts the Union contends.

POSITION OF THE EMPLOYER: The City is opposed to the proposal

of the Union. No justification for it exists it asserts. Further, examination of the jurisdictions urged upon the Arbitrator as being comparable show that one, Geneva, pays shift differential at a higher rate than Ashtabula, one, Conneaut pays at a lower rate and the Ashtabula Sheriff Department makes no shift differential payment whatsoever. The data do not support the proposal of the Union according to the City. Hence, it should not be awarded in its opinion. DISCUSSION: The data are mixed. The position of the City is not supported unambiguously. (City Ex. 2). Further, the history of bargaining on this issue is instructive. The parties have been at loggerheads over this matter for some time. As all officers receive the shift differential payment and it has not been shown that the tasks of second or third shift officers differ materially, the proposal of the Union must be awarded.

ISSUE 3, EDUCATION ALLOWANCE

POSITION OF THE UNION: The Union seeks a doubling of the existing education allowance to \$500.00 for an Associate Degree and \$1,000.00 for a Bachelor's degree. The education stipend has remained unchanged for the past two contracts. Standing alone, this warrants adoption of its proposal the Union claims. Further, as the Union views the Agreement covering the Fire Fighters, it provides substantial payments

to them for attainment of specialized skills, eg. Haz Mat Technician. As the premium paid Fire Fighters for enhancing their skills is above that paid Police Officers, the Union seeks an increase in education allowance to reduce the disparity.

POSITION OF THE EMPLOYER: Once again, the City proposes no change in this item: education pay. Neither Geneva nor the Ashtabula County Sheriff make pay for education. The current rate is adequate according to the Employer.

DISCUSSION: None of the standard criteria utilized in interest arbitration apply directly to this issue. History is helpful. No increase in education pay has been made for the past two agreements. The passage of time mandates an increase. It does not require award of the Union proposal in full. A doubling of a particular benefit in one agreement is highly unusual and not to be expected absent extraordinary circumstances. These were not shown by the Union in this situation. Given the absence of any increase in education pay for many years and its institutionalization in Ashtabula an increase in this benefit must occur. Pay for an Associate's degree should increase to \$375.00 per year effective May 1, 2001. Pay for a Bachelor's degree should increase to \$750.00 per year effective May 1, 2002.

ISSUE 4, WAGE INCREASE

POSITION OF THE UNION: There are several elements to the wage proposal of the Union. It proposes that all who are represented with the exception of Dispatchers receive three, 4.25% wage increases. Dispatchers have historically received 74.4% of the pay of a top-rated patrol officer. The Union seeks that remain unchanged. Pay of Police in the United States has historically been related to pay for Fire Fighters. It is commonplace that parity between the two groups occurs. In Ashtabula that is not the case. The relationship between the two groups is particularly adverse to the police. As the Union views the data, they are behind Ashtabula Fire Fighters. Not only is this a substantial inequity in the Ashtabula situation, it is particularly galling to the Police as the tendency in the nation is for police-fire fighter parity to have been breached. Now, police are being paid more than Fire Fighters in the United States. This is shown by the famous study in the April, 1996 issue of the Monthly Labor Review, "The Erosion of Police and Firefighter Wage Parity" by Professors Hoover, Dowling and Bouley. The situation in Ashtabula is the opposite of the nationwide situation. Were the proposal of the Union to be awarded the disparity between the two groups would not be eliminated. It would only be narrowed.

The Union urges a comparison group of communities based

upon population 30% above or below that of the City of Ashtabula. Its comparables cover a wide area of northeast Ohio, being located in Lake, Geauga and Trumbull Counties. The communities urged upon the Arbitrator as being comparable are:

Eastlake
Howland Township
Madison Township
Painsville Township
Willoughby
Willowick
Niles

All police departments in these communities are smaller than Ashtabula's. Howland Township has 16 officers, Madison Township has 17 and Painsville Township has 18. Ashtabula, with 30 officers is the largest in the group. It has the fewest Dispatchers among those communities providing dispatch service.

Union Exhibit 8B in this proceeding represents the comparison of top wage rates for officers in Ashtabula with those in the comparison group selected by the Union. Excepting only Howland Township and Niles, Ashtabula officers are below all others. Their counterparts in Willoughby earn \$54,100 in contrast to the \$40,525 earned in Ashtabula. Only Sergeants in Howland Township earn less than those in Ashtabula. Ashtabula Sergeants are paid \$44,172. Those in Willoughby \$59,259. Dispatchers in Ashtabula are paid \$30,150.

Willowick, the highest paying community for Dispatchers, pays \$31,033. As officers and dispatchers in Ashtabula are not compensated as well as their counterparts in comparable communities nor as well as Ashtabula Fire Fighters, the Union seeks an award of its proposal without modification.

POSITION OF THE EMPLOYER: The City proposes wage increases of 3.0%, 3.5% and 4.0% respectively for each year of the Agreement. The same should be provided Dispatchers in its opinion. Pointing to the same group of comparison jurisdictions as does the Union, Conneaut, Geneva and the Ashtabula County Sheriff Department the City points out that it is ahead of all with respect to patrol officers and sergeants pay. At the hearing the City asserted that the wage data provided by the Union was erroneous in that it included wage increases that had occurred and that would occur due to the result of negotiations elsewhere. Even factoring in adoption of its proposal without modification, Ashtabula police will remain ahead of those working in the jurisdictions the City regards as being comparable.

The City views the relationship between the police officers and dispatchers not to be immutable. It is not fixed. Rather, it has changed over time. Nothing is sacred about the 74.4% differential between the two groups. All should receive the same wage increase it asserts.

Other groups of represented employees have reached agreement with the City. The Fire Fighters and AFSCME-represented employees have settled on the 3.0%, 3.5% and 4.0% proposed for the Police. Internal comparability is a significant criterion in matters of this nature. In this instance, the City contends it must be given great weight. A different settlement would disrupt the practice of pattern bargaining in the City and should be avoided it asserts. For these reasons, the City contends its proposal on wages should be adopted without modification.

DISCUSSION: The comparison group proffered by the Union has no particular utility in this proceeding. Niles, Eastlake, Willoughby, Willowick are not in geographic proximity to Ashtabula. Obviously, Howland, Madison and Painsville Townships, as Townships, are not normally considered when dealing with City police departments.

Similarly, the comparisons urged upon the Arbitrator by the City are inappropriate. Conneaut and Geneva are so different from Ashtabula as to make them useless as comparison standards. Sheriff's Departments are not usually compared to City police Departments either.

That the City has reached agreement with other represented groups on identical wage increases, 3.0%, 3.5% and 4.0% for each year of the contracts, furnishes strong

support for its position in this proceeding. Pattern settlements are not often disturbed. It was not suggested by the Union that the City had engaged in other than arms-length bargaining with unions representing different groups of employees in City service: eg. AFSCME and IAFF. There is no "sweet-heart" deal aroma surrounding those bargains. As legitimate outcomes of negotiations they must be given great weight in this proceeding.

Examination of Article XVIII, pp. 18 and 19 of the patrol officers Agreement, shows a salary schedule requiring seven (7) years of service to reach the top step. This is unusual. The seven years of service requirement to advance to the top of the patrol officer salary is longer than is normally seen. The number of steps to reach top step is obviously considered part of the compensation package. Based upon the inordinately high number of steps, they should be reduced. Steps 2, 4, and 6 should be eliminated from the Agreement effective March 1, 2001. This will advance a patrol officer to top step more rapidly than is the present case. The text of the Agreement should be renumbered to reflect the reduction in the number of steps to reach top step. Any employee due to move to a salary step that has been abolished should move to the next new existing step. The entry rate for patrol officers should be set at \$2,000.00 below the salary for a first year patrol

officer.

In the Agreement covering Sergeants and Captains at pages 9 and 10 is set forth the compensation formula for rank officers. It shows their compensation to be based on that of the top patrolman rate. During the lifetime of the expired Agreement the differential between top rated patrol officers and Sergeants and Captains was increased. As was the case with the number of steps, rank differential is a significant part of compensation. Rank differential in Ashtabula remains low. It must be increased. Effective the first pay period of May 2001 all Sergeants who have completed their promotional probationary rate should be paid nine and one-half percent (9.5) more than the top paid patrol officer. Probationary sergeants should be paid four and three-quarters percent (4.75%) more than the top paid patrol officer rate.

Effective the first pay period of May, 2001 Captains should be paid nine and one-half percent (9.5%) more than a non-probationary Sergeant. Probationary Captains should be paid four and three quarters percent (4.75%) more than a non-probationary Sergeant. These percentages should increase on May 1, 2002 to ten percent for regular Sergeants and Captains and five percent for probationary Sergeants and Captains. To the changes in rank differential and elimination of four step increases found in the current Agreement should be added wage

increases as follows:

Patrol Officers:

Effective Immediately: \$1200 lump sum payment
Effective First full pay period, March, 2001, 3.0%, Effective
First Full pay period May, 2001, 3.5%, Effective first full
pay period May, 2002, 4.0%

Sergeants:

Effective Immediately: \$1300.00 lump sum payment,
Subsequently 3.0%, 3.5% and 4.0% as outlined above.

Captains:

Effective Immediately: \$1400.00 lump sum payment,
Subsequently 3.0%, 3.5% and 4.0% as outlined above.

There is no reason why salaries of Dispatchers should be fixed in arithmetic relationship to that of patrol officers as proposed by the Union. The limited comparison data presented on this issue (Union Ex. 10B) shows that Ashtabula Dispatchers, while earning less than others in the (dubious) comparison group presented by the Union, do not fall far behind. Consideration is also given to the timing problem alluded to by the City. Dispatcher wage rates presented in Union Exhibit 10B reflect increases not yet occurring for Dispatchers in Ashtabula. Dispatcher wages should increase as follows:

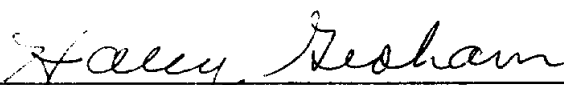
Dispatchers:

Effective Immediately: Lump sum payment \$1000.00,
Subsequently, 3.0%, 3.5% and 4.0% as outlined above.

The lump sums set forth above are awarded in lieu of

retroactivity. To reiterate, the salary schedule for all affected by this proceeding should be adjusted as follows: effective the first full pay period in March, 2001 the present salary schedule should be increased 3.0%, effective the first full pay period of May, 2001 the salary schedule should be increased 3.5%. effective the first full pay period of May, 2002 the salary schedule should be increased 4.0%.

Signed and dated this 5th day of March, 2001 at Solon, OH.



Harry Graham
Conciliator