

2008 SEP 11 P 12: 51

STATE OF OHIO STATE EMPLOYMENT RELATIONS BOARD

**RE: OHIO PATROLMEN'S BENEVOLENT ASSOCIATION
(Employee Organization)
and
SYLVANIA TOWNSHIP BOARD OF TRUSTEES
(Employer)
CASE NOS.: 07-MED-08-0774
07-MED-08-0775
07-MED-08-0776**

**CONCILIATION RESOLUTION OF THOMAS R. SKULINA,
CONCILIATOR**

HEARING

This Hearing was conducted on August 21, 2008 in the Sylvania Township Hall. There were three (3) bargaining units. These involve a Command Unit (Lieutenants and Sergeants), Patrolmen Unit, and a Civilian Unit consisting of Dispatchers, Clerks, Secretaries and a Property Room Manager.

The employees were represented by Justin D. Burnard, Esquire of the firm Allotta, Farley & Widman, Co., L.P.A.

The employer's advocate was Gary C. Johnson, Esquire of the firm Johnson, Miller & Schmitz, LLP.

DISCUSSION

This is an Ohio Township. As such, rather than an income tax, it is funded by levies. For 2008 the Township Trustees decided not to collect all the funds levied and reduced the rate by \$1.5 mills. This would have brought \$690,000.00 to the employer.

The employer is fortunate to be in a stable financial position so the ability to pay for any of the economic enhancements in the agreement is not at issue.

The three bargaining units have ten members in the Command Unit, thirty-seven in the Patrol Officer's Unit and seventeen members in the Dispatcher, Record Clerks, Property Room Manager, Administrative Secretaries and Secretaries Unit.

The fact-finders report was sent to the Conciliator. Both parties timely submitted position statements. The union presented three witnesses and documentary evidence. The employer presented documentary evidence and the Police Chief testified and presented an eighteen page study regarding the issue of minimum staffing and shift starting times.

Comparable comparisons were made by the parties.

Since conciliators must adopt one side or the other side's proposal, I shall indicate which side prevails for each issue. The language of the prevailing side shall be used in the CBA.

ISSUE 1 - COMP TIME

Accrual for Dispatchers and others in the Civilian Bargaining Unit.

This unit, unlike other unranked employees of the Township, is not permitted to elect to accrue comp time in lieu of payment for holidays.

The unit is not very large.

The union argues that this unit should be treated the same as other employees on this issue. The employer disagrees. The fact-finder also disagreed.

The evidence showed that because of the small number of employees, the use of this benefit could seriously affect operations.

FINDING 1 – COMP TIME (FOR TOWNSHIP POSITION)

There shall be no change in Article 2.0 Holidays (Civilian Agreement).

There shall be no ability to elect to receive comp time in lieu of payment for any holiday listed in 20.1 of the Collective Bargaining Agreement ("CBA") for Dispatchers and other civilian employees.

ISSUE 2 - WAGES

The Civilian Unit seeks a percentage increase of 5% for 2008, 2009 and 2010. It also seeks an equity increase of \$1.00 for 2008 and \$.50 for 2009 and 2010.

The union argued that this unit is on a lower pay scale and shall be seriously affected by the increase in health insurance cost.

The employer points to the \$1,500.00 payment upon execution of the CBA and to the comparable wage rate throughout the state that showed wage increase in the 3% range and not 5%.

I do not find any cogent reason for paying this unit a greater increase than the Police Units. The percentage sought is definitely outside the comparable raises throughout the state.

FINDING 2 – WAGES (FOR TOWNSHIP POSITION)

The wage rate increase shall be the same for the Civilian Unit as the increase for the two Police Units, i.e., 3.5% for 2008, 3% for 2009 and 3% for 2010. There shall be a signing bonus of \$1,500.00 upon signing the contract that terminates on December 31, 2010.

ISSUE 3 – MEDICAL INSURANCE – RETORACTIVITY

The fact-finder and the City opt for payments to begin April 1, 2008.

The union seeks the date October 1, 2008.

The cost of medical insurance has been a burden throughout the state.

In this instance, in the overview of the various findings in this matter, I shall recommend the union's position.

**FINDING 3 – MEDICAL INSURANCE – RETRACTIVITY
(FOR UNION POSITION)**

Payments for health insurance shall begin on October 1, 2008.

ISSUE 4 – GRIEVANCES & DISCIPLINE

The union seeks to keep the current contract language which “has been around 16 years”.

The Township, presently through its Trustees, designates their Township Administrator to hear cases.

Though the Township argued that the Trustees could hear grievances, they have not done so since 1994 and use the more efficient method of a designee hearing officer.

Though the fact-finder recommended changes, including a panel for arbitrators, I concur with the union on this issue. Aside from an occasional delay when the FMCS presented arbitrators aren't desired by the parties, the present approach has been working and does not need to be changed.

FINDING 4 - GRIEVANCES & DISCIPLINE (FOR UNION POSITION)

The grievance procedure set out in the January 1, 2003 to September 30, 2007 CBA's shall be retained in this CBA for each unit.

ISSUE 5 - LAYOFF

The Township proposed that layoffs be effected within the “affected” job title.

Hence, if a dispatcher is laid off, the Township could hire someone in a different classification such as a police officer.

This appears as the norm in layoff situations in nearby jurisdictions.

The fact-finder found the Township position should be utilized.

I agree, that the Township in a layoff situation for one job classification, should be able to hire persons in a different job classification.

FINDING 5 - LAYOFF (FOR TOWNSHIP POSITION)

The Township proposal for layoff shall be adopted.

The phrase “within the effected job classification” shall be part of the CBA's.

ISSUE 6 – HOURS OF WORK AND OVERTIME

The union sought current CBA language. The employer sought more discretion to adjust shift.

The union argued that the present language gives enough flexibility to the Township. It also wants continuity with traditional shifts.

FINDING 6 – HOURS OF WORK AND OVERTIME (FOR UNION POSITION)

Present language of the CBA's shall be retained.

ISSUE 7 – MISCELLANEOUS

The present CBA calls for a Sergeant to work each shift.

The Township argues that at times as many as six officers were on a shift, but it had to call in a Sergeant on overtime. Approximately \$100,000.00 was spent in overtime through January – April, 2008.

The Township seeks a provision that when a Sergeant is not available, the senior patrol officer becomes the "Officer in Charge". The officer shall be paid at the rate of the Sergeant for all hours worked.

The Union presented testimony that the need for a Sergeant was a safety issue. The city can afford the overtime.

The Township argued that this provision is really an attempt to get a lot of overtime pay.

The Police Chief testified and produced a study (Exhibit 9).

He stated that no police contract in the area has minimum staffing for any patrol positions.

He outlined the many shifts where there were, four, five or six officers but no Sergeant. The costs in overtime were very large.

The fact-finder agreed with the city and recommended that in a shift where a Sergeant was not on duty, the senior patrol officer became the officer in charge at a Sergeant's rate.

There is no question that the present CBA presents a scenario where overtime is excessive.

I agree with the fact-finder and the Township on this issue.

FINDING 7 – MISCELLANEOUS (FOR THE TOWNSHIP'S PROPOSAL)

To appoint a senior patrol officer as "officer in charge" where a Sergeant is not available. The rate of pay shall be that of a Sergeant.


THOMAS R. SKULINA

DATE: September 9, 2008