



STATE OF OHIO

STATE EMPLOYMENT RELATIONS BOARD

In the Matter of Fact-Finding Between:)	
)	
Ohio Patrolmen's Benevolent Association.)	12-MED-10-1135
)	
And)	
)	
City of Warren)	Conciliator: John T. Meredith

**FINDINGS, OPINION AND AWARD
ISSUED APRIL 9, 2013**

INTRODUCTION

The parties to this Conciliation proceeding are the Ohio Patrolmen's Benevolent Association and the the City of Warren. The bargaining unit consists of all regular full-time Communications Coordinators and Communications Supervisors employed by the City, but excluding part-time, temporary, seasonal and managerial personnel. There currently are twelve employees in the unit.

The OPBA and the City are parties to a collective bargaining agreement (the "Agreement") which ran from January 1, 2010 thorough December 31, 2012. They engaged in negotiations for a successor Agreement, but were unable to agree on all terms. Open issues were submitted to Fact Finder James Mancini on January 15, 2013, and Mr. Mancini mediated a settlement agreement which he incorporated in his Award. However, the OPBA bargaining unit rejected the Award, and the matter was submitted to conciliation.

SERB issued a conciliation order, dated March 5, 2013, designating the



undersigned John T. Meredith as Conciliator. Each party timely submitted its Position Statement with Final Offers on each open issue.

A hearing was held on March 28, 2013 to take evidence on the issues submitted. The hearing was conducted in accordance with the Ohio Collective Bargaining Laws and applicable SERB Rules and Regulations. Witnesses testified under oath, and the parties and their advocates also presented arguments and numerous documentary exhibits. The parties agreed to accept the written exhibits and Conciliator's notes as the record in event of an appeal, as provided in SERB Rule 4117-9-07(F).

Appearing on behalf of the Union were: Daniel Leffler, Attorney, and Communications Officers Lynda Briach and Sandy Frazeskos, who are the Director and Assistant Director of the local union. Appearing for the City were: David Daugherty, Personnel Supervisor, Brian Massucci, Director of Human Resources, and David Griffing, City Auditor.

During the course of the hearing, the parties reached agreement on one issue – Article 31, Health Insurance. Specifically, the Union agreed to the two-tier insurance plan as proposed by the City in its Final Offer in exchange for the City's agreement to withdraw its proposal to impose a 10% employee premium contribution for medical, health, prescription and dental insurance in event wages are increased. The parties further agreed to delete out-of-date reopener language in Article 31, Section 4. (See Section D, page 5 of this Report, infra). The nine remaining open issues were submitted to the Conciliator for his resolution, as follows: Article 17, Section 2 – Seniority; Article 20, Section 2 – Hours of Work; Article 22, Overtime; Article 24, Section 1 – Pay Rates; Article 24, Section 2 – Pay Rates/Wage Scales; Article 24, Section 3 – Pay Rates – CIC Pay; Article 27, Longevity; Article 28 - Holidays; Article 36 – Uniform Allowance.



The Conciliator has now resolved each issue submitted by selecting the final offer of one of the parties. In making his decision and issuing his Award, the Conciliator has given consideration to the following criteria prescribed by the Ohio Collective Bargaining Law, R.C. 4117.14(G)(7), and listed in SERB Rule 4117-09-05:

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

“Other factors” noted in the sixth criteria include the common practice among conciliators of giving very significant weight to well-reasoned recommendations of the Fact-Finding Report issued in the case, absent change in circumstances or material new evidence. (See, for example: City of Lakewood and IAFF, SERB Case No. 00-MED-04-0952 (Dennis Byrne); City of Warren and OPBA, SERB Case No. 05-MED-10-1267 (Harry Graham); City of Medina and OPBA, SERB Case No. 05-MED-08-0785 (Alan Miles Rubin). “Other factors” also may include desirability of equitable treatment among the various groups of the public employer's employees. Priorities and the good faith recommendations of the parties' negotiations teams also are considered.



FINDINGS OF FACT

A. Financial and Demographic Profile

The City of Warren has experienced economic decline for several decades. Once buoyed by a booming steel industry, its population peaked at 63,474 in 1970. Now, most major industrial employers are gone, and population had declined to 41,557 in 2010. The national recession, which commenced in 2008, inflicted further damage on the City's economy. RG Steel closed, causing a loss of 1200 jobs, \$300,000/year in income tax revenue, and \$1.5 million/year in water department revenue. Unemployment remains at 9%, well above the state average. City General Fund revenues have dropped significantly since their 2008 peak. Although there was some economic recovery in 2011 and 2012, projected 2013 revenues - \$25,517,673 – are still approximately \$5 million below the 2008 level.

In order to avoid annual deficits, the City has reduced expenditures commensurate with its reduced revenues. Its unencumbered carryover General Fund balances, however, are modest – about 5%, a bare minimum needed to cover first quarter cash flow demands. For 2013, the City projects neither a deficit nor a surplus, but it does expect to live “paycheck to paycheck,” and it lacks funds for pay increases generally applicable to all employees.

B. Warren's Workforce; Internal Wage Comparisons

The City currently has 411 full-time employees, 336 of whom are represented by unions in six bargaining units: Police Blue (OPBA), Police Gold (OPBA), Fire (IAFF), Local 74 (AFSCME), Local 2501 (AFSCME) and Communications Coordinators (OPBA). Except for the Communications Coordinators, all units are covered by agreements which terminate on December 31, 2013, and these agreements all have wage



freezes in effect through that date. Non-union City employees likewise have not been, and will not be, awarded a wage increase this year.

In recent years, it appears that the City's practice has been to negotiate the same or substantially the same percentage wage increases for all employee groups. (City Exh. 3, comparing wage increases by unit, 2007-2013). The only exception occurred in 2009. In that year, Communications Coordinators and OPBA Blue received an increase because their contracts had been negotiated before the recession struck in late 2008. Other groups did not receive 2009 wage increases. Wage freezes were in effect for all units in 2010, 2011, and 2012.

C. Comparability – Other Public Employers

The Union presented an exhibit showing that Communication Coordinator wages in Warren are below the wages paid to employees who perform similar work in most northeast Ohio police jurisdictions. The City pointed out that most of these jurisdictions are more prosperous and have a greater ability to pay than Warren. It further introduced comparability data showing that Warren Communication Coordinator pay is near the top for that job classification in Trumbull County. However, the Union noted that Warren Communication Coordinators perform more job functions than most of their counterparts in neighboring jurisdictions in the County, and thus logically should have wages above the County median.

RESOLUTION OF DISPUTED ISSUES

1. Article 17, Section 2 – Seniority

The City proposes modifying language to increase its flexibility to use part-time dispatchers to cover for absences. The Union proposes to retain current contract



language, which permits use of part-time employees subject to the terms of a Memorandum of Understanding negotiated in 2010. The Fact Finder recommended that current language be retained without change, and the City's evidence at the hearing did not establish serious problems with the current system or a compelling need to change at this time.

AWARD: The position of the Union is awarded. No change in current contract language.

2. Article 20, Section 2 – Hours of Work

Communications Coordinators currently work 8-hour shifts, including a 30-minute lunch period. Pursuant to a 1994 grievance settlement, the City has paid ½ hour overtime to employees required to work through lunch. When the City unilaterally discontinued this practice, the Union filed a grievance, which is pending in arbitration. The City now proposes to modify current language to make it clear that overtime will not be paid for lunch hour work. The Union proposes to retain current contract language, and the Fact Finder recommended the Union position. A hearing has been held in the arbitration case, and a decision is expected shortly. Under these circumstances, there is no good reason to modify the contract language.

AWARD: The position of the Union is awarded. No change in current contract language.

3. Article 22 – Overtime

The City proposes modifying current language to prospectively eliminate accumulation of compensatory time off. It argues that, over time, this will reduce City expenses, which is a priority in view of the City's financial condition. The Union points out that comp time accumulation was a benefit negotiated as a quid pro quo for past wage



concessions, and notes that other City bargaining units still accumulate comp time. The Fact Finder recommended the Union position. Under these circumstances, it would not be appropriate to eliminate comp time without some negotiated quid pro quo, at least not while the City continues to permit other employees to accumulate comp time.

AWARD: The position of the Union is awarded. No change in current contract language.

4. Article 24, Section 1 – Pay Rates

Both parties agree that 2014 and 2015 wages should be subject to reopeners so that they can be negotiated at the same time that wages are negotiated for other City bargaining units. However, the Union proposes a 1.5% increase in 2013, noting that employees have already had their wages frozen for three years. The City proposes a wage freeze for 2013.

As set forth at page 4 above, the City's economic problems are well documented. It does not appear that the City would have the ability to pay for a 1.5% increase if the increase were applied to all City employees. Moreover, other City employees already have agreed to a 2013 wage freeze, and both internal equity considerations and the City's wage history dictate treating the Communication Coordinator unit the same as the other units.

AWARD: The position of the City is awarded. For the language of Article 24, Section 1, see Attachment 1 to this Award.

5. Article 24, Section 2 – Wage Scales

The City proposes to establish a two-tier wage system for new employees. Its proposal is consistent with pay systems in the City's other bargaining units. The Union opposes, arguing that, for Communications Coordinators, the resulting starting rate would be too low and not competitive. The Fact Finder recommended the City position.



Largely because of the interest in maintaining consistency among the various City bargaining units, I agree.

AWARD: The City position is awarded. For language of Article 24, Section 2, see Attachment 1 to this Award.

6. Article 24, Section 3 – Coordinator in Charge Pay

Coordinator in Charge (CIC) pay is paid to the Communications Coordinator in charge of a shift in the absence of a supervisor. Since there is only one supervisor, CIC pay typically is received by one Coordinator on the afternoon shift and one on the midnight shift. The current rate is 50 cents per hour. The Union proposes to increase the rate to \$1.00 per hour, and the City counters with an increase to 60 cents per hour. The Fact Finder recommended 60 cents per hour, and the City has conformed its position at this stage to the Fact Finder's recommendation. The Fact Finder's recommendation is reasonable and is adopted in this report.

AWARD: The City position of the City is awarded. For language of Article 24, Section 3, see Attachment 1 to this Award.

7. Article 27 – Longevity

Beginning with their sixth year of service, employees currently receive \$6.00 per month longevity pay for each completed year of City service. The Union proposes to increase this by 50 cents to \$6.50 for each month of service. The City opposes any increase. Other bargaining units received increased longevity pay in the last round of negotiations, and the Fact Finder recommended the requested 50 cent increase.

AWARD: The Union position is awarded. The monthly longevity credit will be increased by 50 cents to \$6.50. The second sentence of Article 27 (A) shall be amended to state: "After five (5) full years of service - \$6.50 pr month for each full year of service."



8. Article 28 – Holidays

The Union proposes one additional holiday – the day after Thanksgiving. This would bring total holidays to 12, the same as OPBA Blue and both AFSCME bargaining units have. The City opposes this as an extra cost item, and notes that FOP Gold and IAFF units only have eleven holidays. The Fact Finder recommended the additional holiday as proposed by the Union. I agree, largely to maintain parity with a majority of other City employees.

AWARD: The Union position is awarded. “The day after Thanksgiving” will be added to the list of holidays in Article 28, Section 1.

9. Article 32 – Uniform Allowance

The Union proposes increasing both the uniform allowance and the uniform maintenance allowance by \$100 per year. The City proposes keeping the allowance at the current level, and the Fact Finder recommended the City position. Other than a general reference to inflation, the Union presented no compelling justification for its proposal. Since evidence does not show a compelling need to increase the allowance, it should remain the same.

AWARD: The City position is awarded. No change in current uniform and uniform maintenance allowances.

INCORPORATION OF AGREEMENTS

The agreements reached by the parties prior to conclusion of this Conciliation proceeding are incorporated by reference and made part of this Award.



This Award is issued this 9th day of April, 2013.

s/John T. Meredith
John T. Meredith, Conciliator

Shaker Heights, Ohio

CERTIFICATE OF SERVICE

This is to certify that the foregoing Report was electronically filed with the State Employment Relations Board and electronically served upon the parties by e-mailing it to their representatives, listed below, this 9th day of April, 2013:

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Representative of the Union

Representative of the Employer

s/John T. Meredith
John T. Meredith, Conciliator



ATTACHMENT 1 – ARTICLE 24, SECTIONS 1 – 3

Section 1: The following hourly pay rate will be in effect as so indicated:

<u>Classification</u>	<u>Prevail. Rate/Hr. 01/01/103</u>	<u>Prevail.* Rate/Hr. 01/01/144</u>	<u>Prevail.* Rate/Hr. 01/01/125</u>
Communication Coordinator Supervisor	20.14		
Communication Coordinator (TAC)	19.47		
Communication Coordinator (Assistant TAC)	19.12		
Communication Coordinator	18.72		

The supervisor position when vacant, shall be given to the most qualified, senior Communication Coordinator who requests the position within five (5) days of the vacancy. The supervisor may elect to vacate their position during the bidding of schedules to become a Communication Coordinator.

The Communication Coordinator Leads Terminal Agency Coordinator (TAC) shall be given to the most qualified senior Communication Coordinator who requests the position within five (5) days of the vacancy. If qualifications are relatively equal, the TAC position will be awarded to the senior Communication Coordinator. If no requests are made, the City shall mandate the assignment to any Communication Coordinator. The scheduling of the TAC shall be flexible but mainly day turn. The TAC shall not be scheduled on the regular Communication Coordinator’s shift.

An Assistant TAC shall be given to the most qualified senior Communication Coordinator who requests the position within five (5) days of the vacancy. If qualifications are relatively equal, the Assistant TAC position will be awarded to the senior Communication Coordinator. If no requests are made, the City shall mandate the assignment to any Communication Coordinator. The Assistant TAC shall bid and be scheduled on the regular Communication Coordinator’s shift. The Assistant TAC shall assist the TAC in all daily TAC duties.

*** Effective for 1/1/2014 and 1/1/2015, the City and the Union shall meet to reopen the Pay Rate contained in this article. The Pay Rate reopener shall be subject to the dispute resolution procedure of R.C. 4117.**

Section 2: Bargaining Unit Employees appointed into the bargaining unit prior to January 1, 2013 shall be paid in consideration of the following provisions:

<u>1st Year</u>	<u>2nd Year</u>	<u>3rd Year</u>	<u>4th Year</u>
70% of prevailing rate	80% of prevailing rate	90% of prevailing rate	Prevailing rate



Any employee appointed into the bargaining unit after January 1, 2013, shall be paid as follows:

1st Year	2nd Year	3rd Year	4th Year	5th Year
Full-Time	Full-Time	Full-Time	Full-Time	Full-Time
<u>Appointment</u>	<u>Appointment</u>	<u>Appointment</u>	<u>Appointment</u>	<u>Appointment</u>
60% of	67.5% of	75% of	82.5% of	90% of
Prevailing	Prevailing	Prevailing	Prevailing	Prevailing
Rate	Rate	Rate	Rate	Rate

Any employee shall receive the next higher percentage on their full-time appointment anniversary date each year until they reach the prevailing rate regardless of their classification.

The Director of Public Service and Safety shall have the right under these circumstances to appoint an employee at a rate that is higher than sixty percent (60%) but not to exceed seventy-five percent (75%) of the prevailing rate. This provision shall only apply when the job applicant has minimum of five (5) years experience as a Communication Coordinator/911 Dispatcher.

Section 3: COMMUNICATOR IN CHARGE “ADD-ON”: Each eight hour turn (except those turns worked by the Communication Coordinator Supervisor) shall have a Communicator in charge of day to day operations and decisions needed in the Communication Center for that shift. If additional decisions are required, the (C.I.C.) will contact the Turn Commander. This function will be assigned the senior communication coordinator working the turn and will be paid **sixty cents (60¢)** per hour in addition to the regular rate of pay.
