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**STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD**

**CITY OF UPPER SANDUSKY
EMPLOYER**

and

**FRATERNAL ORDER OF POLICE, OHIO LABOR COUNCIL, INC.
EMPLOYEE ORGANIZATION**

In the Matter of:

97-MED-10-1112,1113,1114

CONCILIATOR'S AWARD

CONCILIATOR:

Philip H. Sheridan, Jr.
Attorney at Law
580 South High Street, Ste. 200
Columbus, Ohio 43215
(614) 221-2001

FOR THE UNION:

Robert E. Malone, Staff Representative
Ohio Labor Council
222 East Town Street
Columbus, Ohio 43215

FOR THE CITY:

Marie-Joelle Khouzam, Esq.
Carlile Patchen & Murphy LLP
366 E. Broad Street
Columbus, Ohio 43215

Award:

June 29, 1998

CONCILIATION AWARD

STATEMENT OF CASE: The parties, the City of Upper Sandusky, represented by Marie-Joelle Khouzam, Esq., and the bargaining units, including all regular full-time policemen of the rank of sergeant and above, all regular full-time policemen below the rank of sergeant, and all regular full-time firefighters, represented by Robert E. Malone, Staff Representative, Fraternal Order of Police, Ohio Labor Council, Inc., have entered into negotiations for a collective bargaining agreement between the parties. The parties have previously negotiated contracts between them.

The parties met and bargained in good faith, but were unable to reach an agreement on all of the issues for determination. The parties proceeded to fact finding and the parties contested eight issues in the fact finding. The parties have provided me with a copy of the Fact Finder's Report.

Pursuant to R.C. § 4117.14(D)(1), the State Employment Relations Board has appointed Philip H. Sheridan, Jr., 580 South High Street, Suite 200, Columbus, Ohio 43215, as the conciliator.

The parties agreed to a conciliation hearing on May 28, 1998, at 10:00 a.m., at the Upper Sandusky City administration building. The hearing commenced at 12:30 p.m.

In addition to Ms. Khouzam, Mark J. Ellis, City Attorney, appeared on behalf of the city. In addition to Mr. Malone, Kay E. Cremeans, Esq., General Counsel, F.O.P.-O.L.C., Captain Keith Turney (firemen), Lieutenant Eric Parks (police), and Officer Dan Ross (police), appeared on behalf of the bargaining units. The parties and the conciliator discussed the remaining issues and the parties reached agreement on the Grievance Procedure, Article VI, by adopting the current contract language for that issue; reached agreement on the calculation of overtime by deciding that overtime shall be paid to those police officers who work more than 84 hours in a two week period, and the

overtime shall be calculated at 150% of the stated hourly rate of pay; and agreed to the language of Section 3 of Article VII, as presented by the bargaining unit, with the addition of the following: "Usage of such compensatory time will be subject to the approval of the chief, based upon operational needs."; and agreed that the duration of the contract shall begin January 1, 1998, and shall continue until December 31, 2000. All wage related determinations shall be retroactive to January 1, 1998, except the agreement on overtime calculation, which will be effective on the date of this decision. The parties then submitted the remaining matters upon statements, documents, and arguments presented to the conciliator.

According to the provisions of R.C. § 4117, the parties provided me with a copy of the issues which have been resolved, the unresolved issues, and each party's final offer on the unresolved issues.

In issuing this conciliation award, I have given consideration to the provisions of R.C. § 4117, and in particular, the criteria contained within R.C. § 4117.14(G)(7)(a-f).

THE POSITION OF THE PARTIES AND AWARD

Wages:

THE BARGAINING UNITS'S POSITION:

The bargaining units propose the following:

Section 1 Patrolman-2184 hours per year. Effective January 1, 1998 the annual base rate of pay for patrolman shall be as follows:

<u>STEP</u>	<u>ANNUAL</u>	<u>HOURLY</u>
Step 1-Probationary	\$20,750.00	\$9.50
Step 2-1st Anniversary	\$21,600.00	\$9.89
Step 3-2nd Anniversary	\$22,800.00	\$10.44
Step 4-3rd Anniversary	\$24,500.00	\$11.22
Step 5-5th Anniversary	\$25,500.00	\$11.66
Step 6-7th Anniversary	\$26,500.00	\$12.13

Effective January 1, 1999, Four percent (4%) increase for the yearly rates of pay for each step listed above for 1998.

Effective January 1, 2000, Four percent (4%) increase for the yearly rates of pay for each step listed above for 1999.

Section 2-Police Lieutenants-2184 hours per year. Police Lieutenants shall be paid one hundred and eight percent (108%) of the patrolmen's yearly rate of pay, based on the years of service each year of the agreement.

Section 3-Firefighters/Fire Captains-2906 hours per year. Effective January 1, 1998, the annual base rate for Firefighters/Fire Captains shall be as follows.

STEP	ANNUAL	HOURLY
Probationary	\$20,700.00	\$7.12
1st Anniversary	\$22,825.00	\$7.85
3rd Anniversary	\$24,194.00	\$8.33
5th Anniversary	\$25,645.00	\$8.82
7th Anniversary	\$27,183.00	\$9.35
10th Anniversary	\$27,998.00	\$9.63

Effective January 1, 1999, firefighters/fire Captains shall receive a four percent (4%) increase for the yearly rates of pay for each step listed above in 1998.

Effective January 1, 2000, firefighters/fire Captains shall receive a four percent (4%) increase for the yearly rates of pay for each step in 1999.

Section 4-Pension Fund. The City shall continue to pick up nine percent (9%) of the Employee's contribution toward the State Pension Fund. The City will make the contribution directly to the pension fund on the Employee's behalf in accordance with the applicable tax laws or rules applicable to the fund. Employees within three (3) years of eligibility for retirement shall have the right to "opt out" of the City paying 9% of the employee's share of the pension contribution. If any employee "opts out" of the City's payment of the employee's share of the retirement contribution, then that employee's regular hourly rate of pay shall increase by 8.5%.

The bargaining units argue that the current 3 steps, probation, 1st anniversary, and 3rd anniversary, are insufficient to appropriately reward length of service. This is reflected in the fact that only 4 police officers have 3 or more years service with the city. The employees are under-compensated for the valuable services they perform, and the comparables provided by the union

clearly show that their last best offer should be adopted. The employee last best offers are close to those recommended by the fact finder. The city has the ability to pay, and the city's growth, increased taxes, high employment and increased population all support the substantial raises which these bargaining units deserve.

THE CITY'S POSITION:

Wages-Appendix A

Bargaining unit employees shall be paid according to the following regular hourly rates of pay, annualized in parentheses for illustration/comparison only:

Section 1: Patrolmen (based on 2184 hours/year)

A.	Probationary	1/1/98 \$9.40/hr \$20,530	1/1/99 \$9.70/hr \$21,185	1/1/00 \$10.00/hr \$21,840
B.	1st Anniversary	\$9.90/hr \$21,622	\$10.20/hr \$22,277	\$10.50/hr \$22,932
C.	3rd Anniversary	\$11.20/hr \$24,461	\$11.55/hr \$25,225	\$11.90/hr \$25,990
D.	6th Anniversary	\$11.55/hr \$25,225	\$11.90/hr \$25,990	\$12.25/hr \$26,779
E.	8th Anniversary	\$11.90/hr \$25,990	\$12.25/hr \$26,779	\$12.62/hr \$27,562

Section 2: Police Lieutenants (based on 2184 hrs./yr.) 105% of Patrolmen's rate of pay, based on years of service.

Section 3: Firefighters/Fire Captains (based on 2906 hrs./yr.)

A.	Probationary	\$7.05/hr \$20,487	\$7.30/hr \$21,214	\$7.50/hr \$21,795
B.	1st Anniversary	\$7.45/hr. \$21,650	\$7.65/hr \$22,301	\$7.90/hr \$22,957

C.	3rd Anniversary	\$8.40/hr \$24,400	\$8.65/hr \$25,137	\$8.90/hr \$25,891
D.	6th Anniversary	\$8.67/hr \$25,200	\$8.93/hr \$25,956	\$9.20/hr \$26,735
E.	8th Anniversary	\$9.37/hr \$27,290	\$9.67/hr \$28,109	\$9.96/hr \$28,952

Section 4.: Overtime

Section 5.: Effective _____, 1998, the City will pick up 10% of the employee contribution toward the state pension fund. The City will make the contributions directly to the pension fund on the employees' behalf in accordance with any applicable tax laws and any laws or rules applicable to the fund.

Employees within three (3) years of eligibility for retirement shall have the right to "opt out" of the City paying 10% of the employee's share of the pension contribution. If an employee "opts out" of the City's payment of the employee's share of the retirement contribution, then that employee's regular hourly rate of pay shall increase by 9.5%.

The city argues that its last best offer should be awarded because the city is making significant progress in moving forward on steps and pay. The city has added dental and optical benefits in this contract. Other areas of improvement include bereavement leave, replacing personal property damaged in the line of duty, an educational bonus and tuition reimbursement, and longevity pay. The city has changed its position to add two steps to the pay scale. The city's offer is about 3% per year. The city wants the steps broader to reward duration of service. The city points out the increases in costs, debt service, and cost of doing business should be taken into consideration. The City must be a prudent money manager, and the substantial first year raises, and three percent increases in each of the years of the contract support the city's position.

AWARD

I have considered the presentations of the parties and the fact finder's recommendation concerning wages. The proposals of the parties are each somewhat different than that of the fact finder, as would be expected. I award the last best offer of the bargaining units on wages. I was impressed by the comparables submitted, and persuaded especially by the need for a gap between patrol officers and lieutenants, which was also supported by the fact finder. I also thought 4% raises were appropriate under the circumstances which exist in Upper Sandusky.

Sick leave-Article XV:

THE BARGAINING UNITS'S POSITION:

The bargaining units have proposed an increase of cash payments upon retirement or death of one half of the accumulated sick leave up to 960 hours. The fact finder recommended this increase, and the bargaining units believe this change is merited.

THE CITY'S POSITION:

The city argues that its position of maintaining the 30% limit in payout, and allowing an increase of the number of accumulated hours to 600 is appropriate here. The fact finder gave no reason for the change, and the previous contract language, with the increase to 600 accumulated hours is the city's last best offer.

AWARD

The comparable data presented does not lead to any particular position on this issue. There are no specific problems to be addressed. I award the city position and maintain the smaller increase.

Residency: New Article

THE BARGAINING UNITS'S POSITION:

The bargaining units ask that the current residency requirements be loosened to a 15 mile radius from the current 3 mile radius. The reason for the change is economic hardship, as real estate within Upper Sandusky is beyond the means of the members. There is no real emergency issue, and responsiveness would not be affected.

THE CITY'S POSITION:

The city takes the position that it has already expanded the requirement by action of the City Council, which allowed the 3 mile limit, after having a city limit policy in the past. The city argues this decision is not the proper subject for conciliation as the city is a "home rule" city and it has spoken directly on this issue. In addition, all of the bargaining unit members are currently in compliance with the existing policy. The fact finder did not recommend any change.

AWARD

I do not recommend the adoption of the new article on residence and thus award the city's position. Since the members are in compliance I see no reason to support a change imposed by me.

Assignments: New Article:

THE BARGAINING UNITS'S POSITION:

The police bargaining units propose an article which would allow them to annually bid on shift, day of the week, and position, controlled by seniority. The bargaining units want the option of changing, as they are currently locked into their 12 hour shifts. Seniority is an appropriate method to determine such issues, as it rewards faithful service.

THE CITY'S POSITION:

The city argues that this issue is one of management rights on which the city has not chosen to bargain. The Chief should control schedule, unfettered by seniority considerations.

AWARD

I select the city's position on this issue, and continue the status quo. There was no real issue or problem for determination, and the fact finder found no reason to adopt a change.

CONCLUSION

All of the tentative agreements are hereby ratified, and the agreements of the parties as stated in the introduction are adopted. The parties provided me with the information necessary to make an award and I thank them for their consideration and presentation. The presentations were professional and complete, and I have tried to make clear my awards and the reasons for them.

Respectfully submitted,


PHILIP H. SHERIDAN, JR.

June 29, 1998