

DONALD W. COHEN, ARBITRATOR

In the matter of the
Arbitration between

City of Markham, Police Department

Employer

S-MA-12 – 175(Interest Arbitration)

And

Teamsters Local Union No.700

Union

Appearances:

Employer: Gregory Mitchell, attorney

Union: Michael Jacobs, attorney

BACKGROUND

The undersigned was selected to act as arbitrator in the above matter on February 23, 2012. An initial hearing was conducted on September 28, 2012 and at the request of the parties was continued to a later date. Subsequently the parties agreed upon September 30, 2013 and a final hearing was conducted on that date.

The contract to be determined by this arbitrator relates to the period from May 1, 2012 through April 30, 2015. A contract for the period from May 1, 2009 through April 30, 2012 was not reduced to writing, however the parties agree that the terms of the last published contract for 2005 to 2009 as modified by an opinion issued by arbitrator Edwin Benn, Case No. S – MA – 09 – 270, on April 5, 2011 and Supplemental Opinion issued on April 7, 2011, contains all elements relevant to this proceeding.

Certain issues currently presented have been the subject of litigation in prior arbitrations and other forms and may impact upon determinations made in this proceeding.

The contract in this case covers a bargaining unit of police patrolmen and police sergeants.

POSITION OF THE PARTIES

It should be noted that there was some shifting of positions by the parties during the course of the hearings and for that matter in the briefing received subsequent thereto. I will set forth my interpretation of the relevant positions based upon the information furnished to me.

THE ISSUES

WAGES

The Union is seeking an across-the-board annual increase of 3.9% in each year of the collective bargaining agreement.

The Village proposed a 2% increase for sergeants in 2012 and a 4% increase for patrolmen in 2012, followed by 1.9% across-the-board increases the following two years.

LONGEVITY

The Village proposed to revise the language contained in the current collective bargaining agreement to provide for a one-time payout at the commencement of each period of time and no allowance for compounding of any longevity payments.

The Union wants to continue the language presently in the collective bargaining agreement which has been adjudicated to mean compounding of all longevity payments.

SERVICE REQUIREMENTS

The Union has proposed a revision to Section 19.4 to require that an Officer spend at least five years in the position of patrolman before being permitted to bid for the position of sergeant.

The Village wishes to retain the present language in the collective bargaining agreement

ARTICLE XIV UNIFORMS

The Union has proposed new language to provide for a uniform allowance to be paid to each officer on May 1 of each year, in an amount of \$700

The Village position is that present language in the contract adequately provides for reimbursement to employees and that the \$700 figure suggested by the Union is not supported by anything other than opinion evidence.

FIELD TRAINING OFFICER'S PAY

The Village has proposed changes with regard to its right to establish training and certification requirements.

The Union argues that this language should remain as it appears in the contract and that the employer is seeking something which should be the subject of negotiation.

OIC COMPENSATION

The Union proposes that the existing language be revised to provide that a patrol officer working in the capacity of OIC would receive an additional one half hour pay at his/her hourly straight time wage.

The Village argues that the Union is seeking to create a new provision without any negotiation or discussion and that the proposal is not workable. It wishes to retain the present language.

NOTIFICATION OF BENEFIT TIME BALANCE

The Union suggests a new Section 11.4 which would require periodic notification of benefit time balances.

The Village indicates that the matter was resolved between the parties during a pending arbitration and that the Union proposal contradicts provisions of Articles XI and X11 of the collective bargaining agreement.

HEALTH AND WELFARE

The Union seeks to substitute an existing Plan maintained by Teamsters Local 727 for the insurance coverage presently maintained by the Village.

The Village contends that the Union cannot dictate the plan provider and in addition removal of this bargaining unit from its present comprehensive insurance coverage would undermine its bargaining ability for rates and other conditions.

DECISION

The statutory factors to be considered are set forth in Section 14(h) of

the IPLRA as follows:

(h) Where there is no agreement between the parties,... The arbitration panel shall based its findings, opinions and order upon the following factors, as applicable:

- (1) The lawful authority of the employer.*
- (2) Stipulations of the parties.*
- (3) The interests and welfare of the public and the financial ability of the unit of government to be those costs.*
- (4) Comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally:*
 - (A) In public employment in comparable communities.*
 - (B) In private employment in comparable communities.*
- (5) The average consumer prices for goods and services, commonly known as the cost of living.*
- (6) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment and all other benefits received.*
- (7) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.*
- (8) Such other factors not confined the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding arbitration or otherwise between the parties, in the public service or in private employment*

WAGES

There are a number of factors which must be considered as set forth above. Items 3 through 6 are relevant to these proceedings and had been considered reaching a final determination as follows:

(3) The Village has not directly raised an inability to pay other than to attempt to link wages to the issues raised with regard to the compounding of longevity pay. This has been considered along with other arguments made by the parties relative to the admonitions of items 4 through 6.

(4) I have analyzed the comparable wage conditions of police employees in comparable communities as compared with those of the Village and have determined that the Village Police Department falls close to the middle of the communities cited.

(5) In viewing the principle Consumer Price Indexes I find the most applicable to be the CPI –W. This index reflects growth most closely aligned with that relied upon by the Village rather than the Union.

(6) The factor to be considered here relates to the fact that the bargaining unit members receive longevity increases four times in the course of 20 years of employment and this contributes to their overall wage status.

My final determination is that the wage increase proposed by the Village shall be the established one, effective retroactively to May 1, 2012.

LONGEVITY

A long line of arbitrators have found that the longevity increases provided in the collective bargaining agreement are to be compounded. I note that in the International Association of

Firefighters collective bargaining agreement with the Village there is set forth, in no uncertain language, requirements that longevity increases be incorporated into the appropriate wage rates. This, together with the long history of litigation on this matter, clearly indicates a determination that the longevity provisions in the collective bargaining agreement will remain as is, the interpretations placed upon them by the prior arbitrators.

SERVICE REQUIREMENTS

As stated, the Union has proposed a revision to Section 19.5 of the collective bargaining agreement to require that an Officer spend at least five years in the position of patrolman before being permitted to bid for the position of sergeant.

The Village has argued that the sole reason for the Union position is that it wishes to exclude the right of a non-bargaining unit highly placed police officer to bid for the position of sergeant. It also argues that present language as function well over the years it has been in the contract.

Without considering the intent of the Union language as a possible negative, I still find that the present language is the proper condition for this collective bargaining agreement.

ARTICLE XIV UNIFORMS

The union has proposed new language for this Article, contending that Officers spend at least \$700 a year and that there is a delay in reimbursement to the Officers.

The Village argues that the Officers are reimbursed for their expenditures and that the Union has only introduced anecdotal evidence regarding the costs.

I agree with the Village position and find nothing in the record support the Union's request which I deny.

FIELD TRAINING OFFICER'S PAY

There was insufficient evidence in the record support the Village's proposal to establish training and certification requirements and the Union argument that the present contract language should remain, subject to negotiations, as persuasive. Accordingly the Village proposal is denied.

OIC COMPENSATION

The Union request is to add the following clause the Wages Article under the heading OIC Compensation.

When a patrol officer acts as OIC for any portion of the shift where no Sergeant is currently working, that patrol officer working in the capacity of OIC shall be compensated an additional one half (1/2) hour at his/her hourly rate time wage.

The Union proposal is based upon responsibility delegated to a patrol officer working out of class and this did not occur on a frequent basis.

The Village position is that the union is attempting to create a new provision without any negotiation or discussion and the proposal is not workable.

I do not find the Village position persuasive and determined that the above clause shall be included in the wages section of the collective bargaining agreement.

NOTIFICATION BENEFIT TIME BALANCE

The Union has proposed a new Section 11.4 Notification of Benefit Time Balance to read:

For officers and *sic* with more than one year of service with the Markham Police Department, all benefit time (including vacation and personal days) shall be credited to the employee for the coming year each May first. For officers with less than one (1) year of service with the Markham Police Department, benefit time will be prorated from the times until the completion of one (1) year. All accumulated benefit time will be itemized on each paycheck stub given to the employees.

The Union argues that there has been no meeting of the minds on the amount of benefit entitlement for each employee and that its proposal will result that problem.

The Village argues that it has been in the process of straightening out benefit claims and there are complicated issues as to what employees are entitled.

I find the Village position to be one of procedure which would not impact upon the Union request. However I would delay implementation of this provision until May 1, 2014 so that any outstanding issues regarding entitlement may be addressed.

HEALTH AND WELFARE

The Union seeks to have the Village move its present Plan which covers a large portion of the Village employees to an existing Plan which is maintained by Teamsters Local 727. Union states that the benefits are far greater under its proposed plan will benefit all of the bargaining unit employees.

The Village argues that its present Plan provides extensive coverage for most of the Village employees and to transfer the bargaining unit

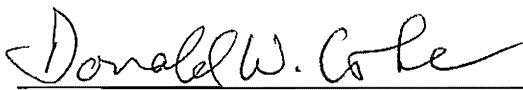
employees to another Plan seriously undermine the existing one. It also points out that the exclusive right of determining the Health and Welfare Plan lies with the Village.

I find the Union to be seeking a material change in the Plan coverage which is not warranted . Accordingly the Union request is denied.

WAGE SCHEDULE

I hereby retain jurisdiction for 60 days of the date of this award for the purpose of the following:

1. I direct the parties to jointly prepare a wage schedule based upon the foregoing findings. If they are unable to reach agreement, the respective positions of the parties shall be submitted to me for selection of one as the appropriate wage schedule.
2. Parties may request an interpretation of any of the findings set forth herein which are considered unclear, however no request may be made in regard to the substance of such determination.



Donald W. Cohen, Arbitrator

Dated: January 10, 2014