

FACT FINDERS REPORT

STATE EMPLOYMENT
RELATIONS BOARD

2002 JUN -2 A 10: 27

IN THE MATTER OF:

International Association of Fire Fighters (IAFF) Local 3900

And

The City of Crestline

Case Number: 01-MED-12-1144

Before Fact Finder
N. Eugene Brundige

PRESENTED TO:

Dale A. Zimmer, Administrator
Bureau of Mediation
State Employment Relations Board
65 East State Street, 12th. Floor
Columbus, Ohio 43215-4213

And

Patrick Hire, Senior Consultant,
Clemens, Nelson and Associates
For City of Crestline, Employer
417 North West Street
Lima, Ohio 45801

And

Roy Hollenbacher 1st. District Vice President
Ohio Association of Professional Firefighters
For IAFF Local 3900
150 St. Andrews Blvd.
Lima, Ohio 45804

N. Eugene Brundige was selected by the parties to serve as Fact Finder in the above referenced cases and duly appointed by the State Employment Relations Board in compliance with Ohio Revised Code Section 4117.14 ©(3) on February 20, 2002.

The parties informed the Fact Finder that time extensions would be filed. The Fact-Finder was supplied with copies of the extensions filed. The Fact-Finder maintained regular contact with the parties throughout the process. A hearing date of June 26, 2002 was subsequently established and utilized. The parties timely filed the required pre-hearing briefs.

Pursuant to statute, the Fact-Finder explored the possibility of mediation of all or some of the remaining issues. The parties reported that they had worked with a SERB mediator and did not feel further mediation would be helpful.

In their pre-hearing filings one or more of the parties identified the issues, that each party believed were unresolved. At the hearing the lists were reviewed and it was determined that the unresolved issues included:

- 1. OUTSIDE EMPLOYMENT**
- 2. WORKING OUT OF CLASS or OFFICER IN CHARGE**
- 3. HEALTH INSURANCE**
- 4. EMS PAY**
- 5. EMS TRAINING**

6. LONGEVITY**7. DURATION****8. WAGES**

The history of this bargaining unit was reviewed for the Fact-Finder. At the time of the passage of the Collective Bargaining Act, Crestline had the status of being a city. In the 1990 census the population count dropped below 5,000 and city status was lost. No bargaining took place.

The 2000 census placed the community over 5,000 and the employees selected the Crestline Professional Fire Fighters, IAFF Local 3900, as their exclusive representative. The State Employment Relations Board certified the election results on October 24, 2001. The six firefighters are in the bargaining unit and the Chief and Assistant Chief are excluded.

The exclusive representative filed a notice to negotiate December 18, 2001. The parties met eight times for negotiations between January 29, 2002 and May 7, 2002. They met three additional times with a SERB mediator.

In that this is a newly certified unit, the Collective Bargaining Agreement is a first time contract.

At hearing the parties provided the fact finder with comparable data and arguments, all of which were considered in reaching the recommendations recorded herein.

Issue No. 1: OUTSIDE EMPLOYMENT**Employer Position:**

The employer proposes language be included requiring approval for fire-fighters to work in outside employment. The contract language would incorporate the current policy of the Crestline Fire Department.

The major concern is that firefighters would work for competing private ambulance companies. If the firefighter is on a run, that person would not be available to be called out by Crestline. They indicate that other cities have negotiated similar language with IAFF

Union Position:

The union argues there is no need for such language. The list of comparables provided by the union show that no other departments on that list have such provisions.

They point out that the IAFF Constitution does not permit members to work for competing organizations.

Finally, the union notes that the low pay level makes it necessary for the firefighters to hold outside employment.

Discussion and Recommendation:

While management's concern is a valid one, there is no evidence that this is a large problem. In the example provided by management wherein a current firefighter reported his interest in working for another EMS service, the policy currently in place seemed to work.

This fact finder sees no reason to include this language in the agreement. The current policy can remain in effect.

In conclusion, the fact finder recommends the proposed language on *outside employment* not be included.

Issue No. 2: WORKING OUT OF CLASS OR OFFICER IN CHARGE:

Union Position:

The union requests that a bargaining unit member assigned the responsibilities of a rank above their current rank, be compensated with \$1 per hour additional pay for the time they are assigned.

The comparables provided by the union show that Bucyrus, Galion and Shelby have a provision providing additional compensation.

The union argues that the \$1 per hour is only \$24 per day and again point out the low pay of firefighters in Crestline.

Employer Position:

The employer states that they currently have a policy in place in the Police department that compensates the Officer in Charge at the rate of 25 cents per hour. They are willing to extend the same benefit to firefighters.

The employer is also concerned with "whipsawing" between the three newly created bargaining units.

Discussion and Recommendation:

The parties have already agreed that the inclusion of this benefit is a good idea. Only the amount is in question.

While it is true the compensation is low and therefore percentage increases yield small dollar amounts, it is also true that the city must be aware of the effect of changes on other employees.

This is also a first contract and employees cannot expect to make up all lost ground in the first effort.

Comparables are not very helpful in this example in that many departments do not have a provision in their contract regarding *Officer in Charge* pay.

The reasonable approach, appears to this fact finder, to be a gradual increase in the amount currently offered to Police.

It is my recommendation that the premium be 30 cents in the first year of the agreement, 40 cents in the second year and 50 cents in the third.

The language to effectuate this recommendation would read as follows:

ARTICLE **OFFICER IN CHARGE**

Section .1. Any employee covered by this Agreement who is assigned by the Employer to accept the responsibility and carry out the duties of a supervisor for four (4) hours or more shall receive Officer In Charge (OIC) pay, as defined herein, for all hours assigned as OIC.

Section 2. An employee assigned as OIC by the Employer, as defined above, shall be paid thirty cents (\$0.30) per hour for the first year of this agreement, forty cents (\$0.40) per hour for the second year, and fifty cents (\$0.50) for the third year, in addition to the employee's applicable base hourly rate.

Issue No. 3: HEALTH INSURANCE:

Employer's Position:

Like all employers, the city Administration of Crestline is concerned about the escalating cost of health care. While the national average for health care cost increases is 7.1%, Crestline has experienced a 20% increase two years ago and a 12% increase last year.

The employer has provided health insurance without a premium contribution by employees and plans to continue this practice in the future.

The employer prefers health care language that allows them flexibility to alter the plan benefits or payment schedule.

The City is self-insured and purchases stop gap coverage.

The employer notes that there are only six members in this bargaining unit and it is not possible for them to offer different health care to this small group than is offered to the other city employees.

Union Position:

The union is willing to accept the same insurance as other city employees but wants to lock the current coverage into the Collective Bargaining Agreement.

Discussion and Recommendation:

Health Insurance costs are a major issue for employers and employee organizations everywhere. The city provides a significant benefit when it

provides health insurance without a premium contribution by employees. In order to continue such a benefit it may be necessary for the city to restructure the plan.

A city with only 44 employees faces a challenge to find someone who will sell them a policy.

On the other hand, no union, regardless of the size of the unit, is willing to give the employer carte blanche to restructure costs and/or benefits at its will.

Recognizing that the city must provide health insurance for all of its employees and that there are other bargaining units to consider, the fact finder recommends a middle ground.

ARTICLE

HEALTH INSURANCE

01. The City agrees to provide to bargaining unit members, the same insurance currently provided by the City of Crestline Health Insurance Plan as is provided to other City of Crestline employees. The insurance will be provided without premium cost to the employee for either single or family coverage.

02. Should it become necessary to significantly alter the benefit plan(s) due to cost increases, inavailability of a similar insurance product, or other good reason, the City will meet with the union and bargain the impact of the proposed change prior to the change being implemented.

03. The choice of insurance carriers shall be the prerogative of the employer.

While not incorporated in this report as an item to be accepted or rejected, the fact finder suggests the parties create a Joint Health Care Cost Containment Committee comprised of representatives of all bargaining units and the City Administration to jointly seek ways to reduce health insurance costs and to provide the best insurance coverage possible.

Issue No. 5: EMS PAY INCENTIVE**Union Position:**

The Union believes bargaining unit employees who are certified with an EMT-Intermediate card should receive extra compensation equal to \$1,500 per year in salary. Likewise, they believe those persons certified as an EMT-Paramedic should receive extra compensation in the amount of \$3,000 per year.

The union offers comparables from Bucyrus which pays \$360 per year for the EMT-I, and no additional compensation for the EMT-P certification.

Two departments the same size as Crestline offer the following premiums: Napoleon does not offer a premium for the EMT-I, but pays \$1,352 per year for the EMT-P certification. Delphos pay \$0.30 per hour for the EMT-I, and \$0.60 per hour for the EMT-P certification.

Employer's Position:

The employer agrees that some additional compensation is appropriate for persons achieving the levels of EMT-certification. They propose the EMT-I receive a \$0.10 per hour premium and the EMT-P receive an \$0.18 per hour premium.

Not surprisingly, the employer offers a different set of comparables including Galion, Bucyrus, Shelby, Willard, Urichsville and Toronto. Only two departments (Galion and Bucyrus) offer premiums. Galion offers \$0.19 for the EMT-I, and \$0.39 for the EMT-P. Bucyrus offers \$0.13 for each.

The average for this group of comparables is EMT-I \$0.16 per hour and EMT-P is \$0.26.

Discussion and Recommendation:

There is a need for some premium pay for those who achieve these certifications. The union stated that their proposal might be a little high based upon the comparables. This fact finder agrees.

I recommend those achieving an EMT-I receive a \$0.15 per hour premium and those achieving an EMT-P receive at \$0.25 per hour premium.

The language that should be used to effectuate this recommendation is as follows:

ARTICLE
EMS INCENTIVE

Section .1. Upon successfully obtaining and maintaining EMT-I certification, firefighters shall receive fifteen (\$0.15 cents per hour in addition to their regular hourly rate.

Section .2. Employees who are assigned by the Chief to attend Paramedic School, in accordance with Article _____ *Paramedic Requirements and Fire Training*, contained herein, and successfully obtain and maintain Paramedic certification shall receive twenty-five (\$0.25) cents per hour in addition to their regular hourly rate.

Section .3. Should an employee fail to obtain or maintain EMT-I or Paramedic certification, such employee shall not be eligible for the applicable pay pursuant to this Article. The awarding of incentive pay pursuant to this Article shall be subject to the provisions of Article _____ *Reimbursement of Training and Uniform Expenses* and Article _____ *Paramedic Requirements and Fire Training*. Employees shall not be eligible to receive the pay outlined in Sections 1 and 2, above, simultaneously.

Issue No.5: PARAMEDIC REQUIREMENTS AND FIRE TRAINING**Employer's Position:**

The employer notes that they currently pay for all training relating to fire fighting and EMS certification. They note that they are willing to pay a premium incentive to those who obtain and maintain certification.

In return the employer believes they are entitled to language which makes maintenance of the certification a condition of employment.

The employer argues that if a firefighter cannot work EMS in the City of Crestline then they cannot perform the essential job functions of a firefighter.

Union's Position:

The union views this proposal as punitive in nature. They argue that if the concern of the employer is to protect their investment of training costs, then this is adequately addressed in the tentatively agreed to article titled Reimbursement of Training and Uniform Expenses.

They point out that the proposed incentive pay article addresses what happens if a person no longer maintains his/her certification.

Discussion and Recommendation:

The employer does have a legitimate business concern to be able to assure that they maintain the desired number of firefighters with the appropriate certifications.

If the employer desires to have all fire fighters obtain a Paramedic certification, then there would be no need for an incentive program.

Instead the department could build the requirement into the minimum qualifications for the position and the additional compensation into the base salary. At hearing this did not appear to be the goal of the Department.

The fact finder recommends the following language as a way for the employer to be protected without the punitive proposal offered by the city.

ARTICLE

Section .1. All employees of the City of Crestline covered by this Agreement who currently hold a State of Ohio Paramedic certification shall be expected to maintain such certification for the life of this Agreement. If an employee desires not to seek renewal of her/her certification, that employee shall request permission of the Chief in order to assure the Department maintains the proper number of certified persons. Permission will not be unreasonable denied.

Section .2. Any person hired in the Fire Department shall be required to pass the State Basic Fire Training Course within one (1) year. The Chief shall determine the number of employees requiring EMT-I certification and EMT-P certification. After seeking volunteers, the Chief may assign firefighters to be trained and to gain the appropriate certification. Employees will be given a reasonable amount of time in which to gain the appropriate certification.

Cost of EMT-I certification and Paramedic School shall be borne by the City subject to the repayment requirements contained in Article ____, *Reimbursement of Training and Uniform Expenses* herein. The costs shall include textbooks, transportation, approved incidental expenses, and tuition which includes the cost of the exam for Paramedic certification. Any employee who fails to obtain State of Ohio Paramedic

certification after taking three (3) exams shall be responsible for all costs incurred for any subsequent exams or refresher courses required, including transportation and any incidental expenses. Prior approval of all training shall be obtained from the Fire Chief and the City retains the right to choose the location of the training, the time and schedule, and the means of transportation used.

Issue No. 6: LONGEVITY

Union's Position:

The Union proposes incorporating the current Crestline policy regarding Longevity into the collective bargaining agreement. The comparables offered show Crestline to be at the high end of Crawford County departments but in the same ball park with Delphos and somewhat below Napoleon.

Employer's Position

The employer admits its proposal is concessionary in nature. They are trying to make a point that the union has sought additional compensation in all areas and has compared themselves to jurisdictions the employer does not believe are comparable.

They urge the fact finder to use longevity to "balance" the financial package.

The comparables selected by the employer show the current Crestline policy is well above , Urichsville and Toronto, roughly comparable to Shelby, below Bucyrus and exactly the same as Galion.

Discussion and Recommendation:

This fact finder has never found comparables regarding longevity pay to be very helpful unless they are presented in the context of the total economic package.

The employer's argument that the economic package must be "balanced" is one that this fact finder has difficulty with. Certainly the union is seeking additional economic benefits for its members and the employer will either grant them or not.

Hopefully the impasse resolution process will yield a fair result. Thus the employer cannot expect that the improvement granted will be reclaimed by such a draconian reduction as proposed in this article.

While this fact finder recognizes the economic challenges associated with the change to city status, no one can argue that the firefighters of Crestline are overpaid. It is, therefore, unrealistic to think that one of the generous benefits previously provided by the City can be more than cut in half.

I recommend *status quo*. The language to effectuate this recommendation should read:

**ARTICLE
LONGEVITY**

Section .1. Full-time employees employed by the Employer in the classification of firefighter shall be paid the following amounts. Such payment is an incentive for employees who have given years of faithful and continuous service to the City of Crestline.

Section .2. All Full-time employees employed by the Employer in the classification of firefighter, upon completion of five (5) continuous years of service shall receive the amount of \$300.

Section .3. For each additional year completed, a firefighter shall receive \$75.00 per year up to a maximum of twenty four (24) years of service.

Section .4. The annual computation date for purposes of determining longevity pay in accordance with this Article shall be December 1st. of each year. Longevity pay shall be paid the first (1st.) full pay period in December of each year.

Issue No. 8: DURATION

Employer's Position:

The Employer argues that the union has unnecessarily slowed down the negotiations process and should not be "rewarded" for these alleged "stall tactics."

Union's Position:

The Union denies that that there has been any stalling in negotiations and asks the fact-finder to make any salary adjustment retroactive to January 1, 2002.

Discussion and Recommendation:

Six months is not an unusual or unreasonable time period for the negotiation of a first contract. Salary should be retroactive to January 1, 2002 with the remainder of the contract taking effect upon ratification.

The issue of retroactivity will be taken care of, in part, in the "Wages" article.

The language that will effectuate the duration section should read as follows:

ARTICLE
DURATION

Section .1. This Agreement shall be effective as of the first full pay period following signing of the Agreement, and shall remain in full force and effect through midnight, December 31, 2004, except that salary adjustments shall be retroactive to the beginning of the first pay period in January 2002.

Section .2. If either party desires to modify or amend this Agreement, it shall give written notice to such intent no earlier than ninety (90) calendar days prior to the expiration of this Agreement and no later than sixty (60) calendar days prior to the expiration date of this Agreement.

Such notice shall be by timely written notice with receipt acknowledged. Negotiations shall commence within two (2) weeks of receipt of notice.

Section .3. The parties acknowledge that during the negotiations which resulted in this Agreement the full understandings and agreement reached by the parties after the exercise of that right and opportunity are set forth in this Agreement. This Agreement constitutes the entire agreement between the parties, and all other agreements written, oral, or otherwise are hereby cancelled.

Issue No. 7: WAGES

Union Position:

The Union believes that firefighters are significantly underpaid. The union proposes a two tiered pay increase. They propose a 3.5% step and

then add a second step varying from 6-10% based upon years of service. For all but one of the firefighters, this would result in an additional 10% the first year. The logic of this approach is that a one time increase of this magnitude would get the Crestline firefighters in the "ballpark."

The union then proposes an additional 4% thereafter.

The comparables offered by the union place Crestline at the bottom by every measurement.

The union presented information regarding a recent tax issue which, they believe, was in part intended to upgrade safety force salaries.

The union presented information regarding turnover of fire fighters. It was noted that only one retirement has occurred in twenty-five years.

Employer's Position:

The employer notes that the Crestline Fire-fighters schedule provides for a two-tiered system versus the three-tiered system which is used in most other departments. The employer urges the fact finder to note that the comparables need to be adjusted to allow for this difference.

The employer offers a different set of comparables that show Crestline closer than do the union comparables.

The employer notes the increasing costs of becoming a city and urges fiscal responsibility in recommending wage rates.

Significant data was presented regarding the projected finances for the City of Crestline. The Auditor noted that the current economic situation leads to the conclusion that income will be close to static.

The employer notes that the tax and industrial base for Crestline is very limited compared to many of the comparables utilized by the union.

The employer disputes the understanding of the union that some of the funds from the recent tax issue could be used for salary increases. They believe those funds must be used for capital expenditures.

Discussion and Recommendation:

As noted earlier, the comparables utilized by the parties have little or no common ground. While both groups clearly support the positions of the party selecting them, they do provide some guidance regarding the relative standing of Crestline firefighters.

The union comparisons look at hourly rates. The employer's comparisons look at total salary which includes the working of 164 more hours than other departments.

It is clearly a management determination to work the two- tiered system but having made that determination it is like comparing apples and oranges to ask the fact-finder to compare total annual salaries versus hourly rates.

This fact finder concludes that Crestline firefighters are underpaid by either set of comparables. The employer's list only shows Willard with a lower starting salary on an hourly basis, and it has a significantly higher top salary.

Having concluded that bargaining unit members are underpaid, the union's proposal must be closely examined. Other Crestline employees received a 3.5% increase. This amount is noted as though it was assumed it was to be given and then another amount is added to start the real bargaining.

This is an unrealistic view. In collective bargaining choices must be made. It is possible for parties to divert funds that other employees received in salaries to other economic benefits.

While this fact finder has great empathy with the firefighters regarding their economic position, it is not realistic to assume that the City could grant a 13.5% increase in the first year. Even if the funds existed the City would have to be concerned about the impact of such a bargained increase on other city employees and upon the impact on the Fire Department and the City budget in years to come.

If one were to look at this contract in a vacuum it might appear possible to grant such an increase, but in a broader picture it is not practical.

This fact finder urges the members of the bargaining unit to examine the resulting collective bargaining agreement from the perspective of whether or not they have improved their position.

This city has recognized that firefighters have lost ground as evidenced by the raises given in 2000 (3.5%) and 2001 (5.0%).

In the opinion of this fact finder this improvement needs to continue.

While the city has provided a conservative estimate for expected revenue, there has not really been an "ability to pay" argument advanced. The city, of course, wants to be fiscally responsible.

The fact finder has reviewed the SERB wage settlement report for all fire departments in cities with populations between 5,000 and 10,000. Wage increases for the year 2002 range from 3.5% to 4.0% (Toronto had a 3% plus a signing bonus).

After review of all arguments and data, it is the judgment of this fact finder that salaries for firefighters be increased by 5% in the first year, This will allow an amount above the average to continue the catch up of Crestline fire fighters that the city began in 2001. In the second year the increase should be 4% and an additional 4% in the third year.

While these percentage recommendations are on the high end of settlements, most projections show that the economy should be correcting itself by the second year of the agreement.

The language that will effectuate this recommendation is as follows:

ARTICLE
WAGES

Section .1.

The regular base hourly wage rate of all bargaining unit employees shall be increased by five percent (5%) in the first full pay period following January 1, 2002..

<u>Months of Continuous Service</u>	<u>Hourly Rate</u>
0-6	\$7.97
6-12	\$8.20
12-24	\$8.63
24-36	\$8.85
36-48	\$9.07
48+	\$9.51

Section .2.

The regular base hourly wage rate of all bargaining unit employees shall be increased by four percent (4.0%) in the first full pay period following January 1, 2003.

<u>Months of Continuous Service</u>	<u>Hourly Rate</u>
0-6	\$8.21
6-12	\$8.53
12-24	\$8.98
24-36	\$9.20
36-48	\$9.43
48+	\$9.89

Section .3.

The regular base hourly wage rate of all bargaining unit employees shall be increased by four percent (4%) in the first full pay period following January 1, 2004.¹

<u>Months of Continuous Service</u>	<u>Hourly Rate</u>
0-6	\$8.54
6-12	\$8.87
12-24	\$9.34
24-36	\$9.57
36-48	\$9.81
48+	\$10.29

¹ The salary increases have been calculated by the Fact Finder and should be carefully reviewed by the parties for accuracy. Errors should be corrected before inclusion in any resulting Collective Bargaining Agreement.

After giving due consideration to the positions and arguments of the parties and to the criteria enumerated in SERB Rule 4117-9-05(J) the Fact Finder recommends the provisions as enumerated herein.

In addition, all agreements previously reached by and between the parties and tentative agreed to, are hereby incorporated by reference into this Fact Finding Report, and should be included in the resulting Collective Bargaining Agreement.

Respectfully submitted and issued at London, Ohio this 1st. Day of August, 2002.


N. Eugene Brundige,
Fact Finder

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing **Fact Finders Report** was served by overnight mail upon Patrick Hire, Senior Consultant, Clemans, Nelson and Associates Inc., 417 North West Street, Lima, Ohio 45801, Representative for the Employer, and Roy Hollenbacher, First District Vice President, Ohio Association of Professional Fire Fighters, Representative for the Crestline Professional Fire Fighters, IAFF Local 3900, 150 South Andrews Blvd., Lima, Ohio 45804 and by regular U.S. Mail upon Dale A. Zimmer, Administrator, Bureau of Mediation, State Employment Relations Board, 65 East State Street, 12th Floor, Columbus, Ohio 43215-4213, this 1st Day of August, 2002.


N. Eugene Brundige,
Fact Finder