

STATE EMPLOYMENT
RELATIONS BOARD

STATE OF OHIO

2003 MAY 19 A 11: 21

STATE EMPLOYMENT RELATIONS BOARD

In The Matter of Fact Finding)
)
 between)
)
 AMERICAN FEDERATION OF)
 STATE, COUNTY, MUNICIPAL)
 EMPLOYEES, OHIO COUNCIL)
 8, LOCAL 101, DAYTON PUBLIC)
 SERVICE UNION, AFL-CIO,)
)
 Employee Organization,)
)
 and)
)
 CITY OF OAKWOOD, OHIO,)
)
 Employer.)

SERB Case No. 02 MED-09-077²X

FACT FINDING REPORT

Mitchell B. Goldberg,
Appointed Fact Finder

Date: May 16, 2003

APPEARANCES:

For the Union:

William Sams, Staff Representative
 Dale Waltz
 Jerry Smith
 Kirby Donovan

For the Employer:

Jeffrey A. Mullins, Esq., Attorney.
 Kevin Weaver, Public Works Director
 Michael Wenclewicz, Assistant Public Works Director
 Jay Weiskircher, Deputy City Manager

I. INTRODUCTION

The undersigned, Mitchell B. Goldberg, was appointed as the Fact Finder for the subject case pursuant to the regulations of the Ohio State Employment Relations Board on November 29, 2002. The parties mutually agreed to extend the fact-finding period to May 30, 2003. A hearing was scheduled for and held on May 2, 2003 at Dayton, Ohio. The parties agreed that the Fact Finding Report is to be issued on May 16, 2003.

Each of the parties appeared with representatives and witnesses at the hearing. The principal representative for the Union was William Sams and the principal representative for the City was Jeffrey A. Mullins, Esq.

Prior to the hearing, each of the parties submitted Pre-Hearing Statements pursuant to Section 4117-9-05 of the Rules of the State Employment Relations Board. Included in the Statements was a general description of the employees in the Bargaining Unit. The Unit consists of approximately 27 employees who work in the following classifications: General Service Worker, Truck Driver I, Water Plant Technician - Repairman, Maintenance Worker, Motor Equipment Mechanic I, Refuse Collection Driver II, Motor Equipment Operator and Motor Equipment Mechanic II.

Consideration in this Report was given to all of the criteria listed in Rule 4117-9-05 (J) of SERB. The parties negotiated and resolved all issues between them except for the following unresolved issues. All temporary agreements reached between the parties are hereby incorporated into this Fact Finding Report.

III. UNRESOLVED ISSUES

ISSUE 1. ARTICLE 24 - HOLIDAYS.

The City proposes to eliminate Good Friday as a paid holiday and either (1) add a floating personal day or (2) add Veteran's Day as a paid holiday. The City also proposes to eliminate the day after Thanksgiving and add a personal day.

The City believes that it is appropriate to remove Good Friday as a paid holiday because of its religious connotation. It has already implemented this change with its non-bargaining unit employees.

More importantly, it is now necessary to remove the day after Thanksgiving as a holiday because of economic considerations. Because of an increased workload, the City was required

to return to a four day trash collection schedule for its citizens. Trash is collected with Cushman scooters. In the Thanksgiving week, the fourth day is the Friday after the holiday. The City needs a full compliment of workers to perform the trash collection duties.

The Union wants to preserve the status quo for these holidays. Good Friday is desired because it is usually the first warm weather holiday of the year. The Thanksgiving weekend is the only four day holiday weekend of the year. The City was able to provide this holiday in the past when it used four day and five day trash collection schedules. There is no reason why this cannot be done now.

RECOMMENDATION:

I recommend that the day after Thanksgiving be removed as a holiday to accommodate the City's needs and that the personal days be increased from two to three. Good Friday should remain as a holiday. Article 24 should be amended as follows:

Section 1. The following are recognized as holidays under this Agreement: New Year's Day, Martin Luther King, Jr. Day, President's Day, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving, Christmas, ½ day before Christmas and ½ day before New Years.

Employees shall be entitled to three (3) personal leave days annually. ...

....

ISSUE 2. ARTICLE 25 - VACATIONS

The Union proposes to add one day to each step of the vacation scale, effective immediately in order to gain parity with the other bargaining units within the City.

The City chooses to look at outside comparables and states that the Union's vacation days are similar to those provided in other jurisdictions. Oakwood compares favorably with Huber Heights, Kettering, West Carrolton, Fairborn, Miamisburg, Beavercreek and Washington Township. Centerville is somewhat better, but it is non- union. The employees in this unit have up to 23 vacation days per year, two personal days and a considerable amount of sick leave time. Sick leave usage far exceeds the usage taken by the administrative and management staff. The City is willing to make some adjustment, but not until the third year of the contract.

RECOMMENDATION:

Effective January 1, 2004, the following accrued vacation scale will be implemented:

<u>Continuous Service</u>	<u>Vacation Days</u>
1 -5 years	12 working days
5 -10 years	14 working days
10 - 15 years	18 working days
15 - 20 years	20 working days
20 -25 years	22 working days
25+ years	24 working days

Section 2 shall be changed as follows:

Vacation time is not cumulative and is lost if not taken during the subsequent year in which it was earned. However, employees who have completed five (5) full work years may accumulate up to three (3) vacation days to be used within 12 months from the employee's anniversary date of hire. Employees who have completed eleven (11) full work years may accumulate up to five (5) vacation days. Any such days so accumulated are to be used within 12 months from the employee's anniversary date of hire pursuant to his schedule being approved by the Public Works Director.

Section 3 shall be changed as follows:

An employee may not use vacation during the first six (6) months following his appointment unless authorized by the City Manager upon recommendation by the Public Works Director.

Section 6 shall be removed and replaced with the following language:

Vacations are to be scheduled at a time specified by the Public Works Director. Vacation requests shall be honored on the basis of seniority with the City, subject to the following limitations and exceptions:

- A. Each employee entitled to a vacation must

schedule at least one work week of vacation on consecutive days. The balance, for scheduled vacation only, must be taken in units of not less than four (4) hours.

- B. In the event that three (3) or more employees request vacation during the same day or period, and it is the Public Works Director's determination that all such requests for vacation cannot be granted because of staffing needs, those employees with the most seniority will be given preference.
- C. Vacation requests submitted after the official vacation picking period specified by the Public Works Director shall be honored solely on the basis of order of application, and no seniority rights shall exist. To the extent there are simultaneous requests, seniority shall prevail.
- D. Vacations are scheduled and approved subject to the work load requirements of the City.
- E. Vacation requests made outside of the annual picking period shall be answered within seven (7) work days from receipt of the request.

Section 8 shall be amended to provide that the words "Service Director" shall be replaced with the words "Public Works Director." The remaining language in Article 25 shall remain unchanged.

ISSUE 3. ARTICLE 19. WAGES

The Union is proposing a three year contract with across the board annual wage increases of 5%, 4% and 4%. The Union believes that its proposal is justified because this unit received the lowest pay increases in the city over the last three years. The FOP units received increases from 3.6% per year up to 4% and management and office personnel received increases from 3.6% to 3.75% while this unit only received increases of 3.5%. The Union recognizes that its wages are above average compared to the surrounding jurisdictions, but more income is necessary for its members in order to cope with the expected high increases in health insurance premiums. There is no issue concerning the City's ability to pay the requested increases.

The City relies upon evidence of comparables in nearby jurisdictions which shows that the unit is paid higher wages than six of the eight comparable jurisdictions. While the City does not assert an inability to pay, it must exercise fiscal responsibility. The argument that increased wages are necessary to deal with expected increases in insurance premiums is without merit. All employees within the City and in other jurisdictions are faced with the same prospects of higher medical insurance costs and all of these employees will suffer the same economic consequences. The existing wages already take into account the fact that most employees contribute to medical insurance premiums. None of the comparable jurisdictions are receiving increases of the type proposed by the Union and the internal increases with the exception of the safety forces have averaged only 3.64% over the last six years.

RECOMMENDATION:

After consideration of all of the testimonial and documentary evidence presented, I recommend that the unit receive the following across the board increases in wages over a three year contract: Year one, 3.6%; year two, 3.5%; and year three, 3.5%.

ISSUE 4. ARTICLE 23. INSURANCE

The existing language provides that the bargaining unit members will be required to contribute toward the monthly health, hospital and vision insurance at the same rate as the City's management and office employees. This language does not presently apply to the FOP.

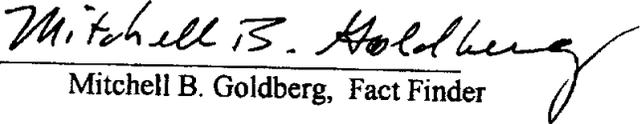
The Union proposes to eliminate this language and replace it with a fixed contribution for its members of 5% for years 2004 and 2005 with caps of \$40.00 in 2004 and \$45.00 in 2005, provided that the FOP is also required to contribute as the result of its contract negotiations. The Union believes that the City will not be successful in obtaining contributions from the FOP which will result in different treatment for different bargaining units and employees. The members and non-represented employees should not be required to subsidize the insurance benefits for the FOP members. A cap is needed in the event the FOP is required to contribute toward premiums to provide some security to the members and to protect them against runaway costs and a deterioration of their income. It must be acknowledged that Moraine, New Carlisle and Washington Township still pay full premiums with no contribution from employees. Dayton and Montgomery County provide caps for security.

The City is resigned to the decision that, due to the annual double digit rise in insurance costs, all of its employees will have to contribute to premiums beginning with the new benefit year starting in November. The City is pressing hard to bring the FOP into compliance with the current system which places all of its employees in the same circumstances. The Union's proposal would be a substantial departure from the system which is substantially in place and is not justified given the present state of the health insurance cost problem.

RECOMMENDATION:

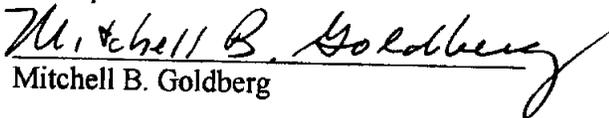
The City's goal of treating all of its employees the same should be continued. The insurance contracts will be purchased on behalf of the group of all employees. The group premium likewise should be shared equally among all the employees. The Union's proposal for specialized treatment is rejected and the contract language in Article 23 should remain unchanged.

Date: May 16, 2003


Mitchell B. Goldberg, Fact Finder

CERTIFICATE OF SERVICE

This Report was mailed to William Sams, 15 Gates St., Dayton, Ohio 45402 and Jeffrey A. Mullins, Esq., Cooldge, Wall, Womsley & Lombard, 33 West First St., Suite 600, Dayton, Ohio 45402 this 16th day of May, 2003.


Mitchell B. Goldberg

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