

STATE OF OHIO

STATE EMPLOYMENT
RELATIONS BOARD

STATE EMPLOYMENT RELATIONS BOARD 2005 SEP -9 P 12: 17

In the matter of	*	04-MED-09-0926
	*	04-MED-09-0927
Fact-finding between:	*	
	*	
City of Defiance	*	Fact-finder
	*	Martin R. Fitts
and	*	
	*	
IUPA Local #166	*	
Defiance Police Officers Association	*	September 7, 2005
	*	
	*	

REPORT AND RECOMMENDATIONS OF THE FACT-FINDER

APPEARANCES

For the City of Defiance (the Employer):

Tom Grabarczyk, Labor Relations Management, Inc.
 John Seele, Finance Director
 Ann Scribner, Executive Secretary
 Norm Walker, Chief of Police

For IUPA Local #166 (the Union):

William A. Dunn, Business Agent
 Tim Schortgen, President, Local #166
 Dave Richards, Secretary, Local #166
 Lee Martinez, Vice President, Local #166
 John G. Williams III, Trustee, Local #166

PRELIMINARY COMMENTS

This Fact-finding procedure involves two bargaining units. The first bargaining unit consists of all Police Officers employed by the City of Defiance, with approximately 21 employees in the bargaining unit. The second bargaining unit consists of all Lieutenants and Sergeants employed by the City of Defiance, with approximately 6 employees in the bargaining unit. The State Employment Relations Board (SERB) appointed the undersigned as Fact-finder in this dispute on April 5, 2005. The fact-finding hearing was held on August 23, 2005 at the offices of the City of Defiance in Defiance, Ohio. Both parties attended the hearing, presented written positions, and elaborated upon their respective positions. At issue was a second anniversary wage and benefit re-opener. Specifically at issue were: Longevity; and Wages. Thus two issues were submitted for Fact-finding.

In rendering the recommendations in this Fact-finding Report, the Fact-finder has given full consideration to all testimony and exhibits presented by the parties. In compliance with Ohio Revised Code, Section 4117.14 (G) (7) and Ohio Administrative Code Rule 4117-9-05 (J), the Fact-Finder considered the following criteria in making the findings and recommendations contained in this Report:

1. Past collectively bargained agreements, if any, between the parties;
2. Comparison of 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, and 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; and
6. Such other factors, not confined to those listed above, which are normally or traditionally taken into consideration in the determination of issues submitted to mutually agreed-upon dispute settlement procedures in the public service or in private employment.

All references by the Fact-finder in this report to the Employer's proposal and the Union's proposal are references to their respective final proposals as presented in writing to the Fact-finder at the August 23, 2005 hearing.

ISSUES AND RECOMMENDATIONS

Issue: Article 42 – Longevity Pay Plan

Positions of the Parties

The Union proposed that Sections 42.2 and 42.3 be amended to reinstate a longevity plan for all employees.

The Employer proposed the retention of current language in both sections, which provide for longevity only for those employees hired prior to June 1, 1985.

Discussion

The current language was adopted in 1985, when longevity was eliminated for all employees hired after June 1st of that year. As a result, only two officers in the department receive longevity, and the longevity payments have been frozen at a fixed cash amount since 1985.

The Union argued that with only two senior employees receiving longevity, it creates a division within the ranks. The Fact-finder believes, however, that the Union surely must have contemplated this during those 1985 negotiations, and clearly did not find it to be a barrier to agreeing to the current contract language. In light of that, to now claim that this should now be considered a reason for the reinstatement of longevity for all employees in the bargaining unit is not persuasive.

The Union argued that in 1985 the City felt that longevity was being phased out by many public employers, and thus it bargained the elimination of it in this agreement. The Union, however, offered comparables showing that longevity is in the collective bargaining agreements for a number of cities in Northwest Ohio, and is also found in the Defiance County Sheriff's Office agreement. The Employer argued that the Union comparables include many cities that are suburbs of Toledo, and therefore not really comparable to Defiance.

The Employer offered comparables that showed that the employees in this bargaining unit reach the maximum pay rate faster than police departments in nearby cities, and that the maximum pay rate in Defiance is comparable to the average maximum pay rates, even before the Employer's proposed wage increase for 2005 is considered. The Employer also noted that no other employees in the City of Defiance receive longevity pay.

In the current agreement officers are paid in a step program that brings officers to the top step in five years time. The Union argued that this provides no reward for officers with long time service. Union efforts to negotiate the reinstatement of longevity in previous a negotiations have not succeeded, in part due to the City's lack of financial ability. However, the City's financial picture has now improved due to the passage of a tax increase. The Union argued that it is willing to take a lower wage increase in order to achieve the reinstatement of longevity.

The Employer argued that when the previous longevity plan was eliminated in 1985, a substantial increase in the wage rates was part of the agreement. It also noted that while it took employees 25 years to reach the maximum wage under the longevity plan, it now takes only five years under the five-year step program for employees to reach the maximum. It argued that this provides a greater benefit to the employees than the old longevity plan did.

The Employer also argued that there are reasons other than a lack of longevity that result in employees leaving the department. While some retire, others leave for positions in other departments closer to where they live. The Employer also maintained that it has no problem getting applicants for open positions.

The Fact-finder finds the Employer's overall arguments persuasive. The most compelling comparables are the other City of Defiance bargaining units and non-bargaining employees, none of which receive longevity. The employees in this bargaining unit are simply not at a disadvantage relative to the other employees of the City. In addition, the closest comparable city with longevity offered by the Union is Napoleon, which has had its longevity amounts frozen since the 1990's.

As these proceedings are only a wage and benefit re-opener for 2005, the Fact-finder believes that the Union's proposal is far too great a change in the total compensation plan for negotiations of such limited scope. The parties are simply too restricted in these proceedings to consider other things that may be traded off for such a significant change in the contract. With the current agreement set to expire in December of this year, the parties will be coming to the bargaining table soon to commence overall negotiations. At that time the Union may be able to offer a more attractive trade-off to the Employer in exchange for this proposal. Regardless, there is simply no persuasive evidence that the recommendation of the Union's proposal is warranted at this time.

Findings and Recommendation

The Fact-finder does not find a compelling reason to recommend the Union's proposal for major change in this agreement at this time, especially in light of the limited ability of the parties to consider other issues in concert with this proposal.

Therefore, the Fact-finder recommends the Employer's proposal for the retention of current contract language for Sections 42.2 and 42.3.

Issue: Article 43 - Wages

Positions of the Parties

The Employer proposed a 4% increase in base wages, effective retroactively to January 1, 2005.

The Union proposed a 3% increase in base wages, effective retroactively to January 1, 2005.

Discussion

The Union noted that it was proposing a lower wage increase than that offered by the Employer in return for its proposal for the reinstatement of longevity.

The Employer and the Union offered considerable background into the financial status of the City of Defiance over the last several years. Paramount in this discussion was the fact that the City recently passed a tax increase that has significantly helped the City's fiscal situation, and makes a reasonable wage increase doable for the first time in several years.

The Employer noted that the City's firefighters recently agreed to a 4% wage increase. A 4% wage increase was also granted to all non-bargaining unit employees of the City. The Employer's offer of 4% is thus consistent with what other City employees have received for 2005, making a most compelling argument that the Employer's proposal is fair and reasonable. Certainly all of the City's employees have shared in the pain of the lack of resources in the last several years, and a 4% wage increase for 2005 is a good first step in rewarding this bargaining unit for its past sacrifices.

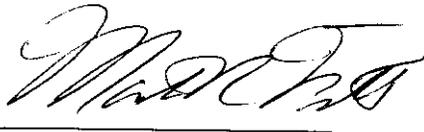
In consideration of the above recommendation for the retention of current language relative to longevity, it is only reasonable that the Employer's wage proposal should be recommended by this Fact-finder.

Findings and Recommendation

The Fact-finder is persuaded that the Employer's proposal is fair in view of the City's improved financial condition.

Therefore, the Fact-finder recommends the Employer's proposal for a 4% wage increase retroactive to January 1, 2005.

The above represents in total my recommendations in this matter.

A handwritten signature in cursive script, appearing to read 'M. R. Fitts', written in black ink.

Martin R. Fitts
Fact-finder
September 7, 2005