

STATE EMPLOYMENT RELATIONS BOARD
STATE OF OHIO

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FAIRFIELD PROFESSIONAL FIRE)
FIGHTERS, IAFF LOCAL 4010)
and)
THE CITY OF FAIRFIELD, OHIO)
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No. 04-MED-11-1278

FACT FINDING REPORT

Hearing; June 15, 2005
at Fairfield, Ohio

Date of Report:
July 8, 2005

APPEARANCES:

Mitchell B. Goldberg, Fact Finder

For the Union:

Stephen S. Lazarus, Esq., Attorney
Michael H. Borte
Thomas Wagner, President
Noah Gibbs, Executive Board
Jamie Ruhl, Executive Board
Richard Hall, Vice President
Chris Theders, Secretary

For the City:

John H. Clemmons, Esq., Attorney
Dennis R. Stuckey, Assistant City Manager
James A. Hanson, Finance Director
Kenneth W. McFarland, Human Resources Director
Donald C. Bennett, Fire Chief

I. Introduction and Background.

SERB appointed the undersigned as the Fact Finder for this public employment dispute on April 18, 2005. Pursuant to an agreement between the parties, the matter proceeded to hearing on June 15, 2005. Testimonial and documentary evidence was presented. The parties agreed that the Report would issue on July 8, 2005.

Pre-hearing statements were submitted in accordance with SERB rules. There are approximately 18 Firefighters/Paramedics and 3 Fire Captains in the bargaining unit. The unit was certified on July 13, 2000. The parties engaged in multiple negotiating sessions resulting in tentative agreements on all issues except (1) Wages, (2) Merit Bonuses, and (3) Certification Pay. All tentative agreements and unopened articles and sections are hereby adopted herein and otherwise incorporated into this Report as if fully rewritten herein.

The parties, through mediation conducted at the hearing, were able to resolve and agree upon the resolution of the Merit Bonuses and Certification Pay issues. They agreed to remove these existing provisions from the collective bargaining agreement. Instead of the City paying merit bonuses and certification pay, each firefighter and paramedic shall receive a \$.50 (fifty cents) increase in their base hourly rate of pay. This payment shall be applied before the across the board pay increase is implemented as provided below. The parties further agree and understand that the Chief, in his discretion, will make all necessary duty assignments to bargaining unit members, as he deems necessary and appropriate. These assignments shall include, but shall not be limited to, assignments for

which specific certifications are required, and specific job assignments performed by the bargaining unit members that qualified for merit bonus consideration under the expired collective bargaining agreement.

The parties further agreed that the pay for firefighters and paramedics should not be reduced when they are promoted to Lieutenant status, or probationary Lieutenant status. Their rates of pay shall be redlined and frozen until their Lieutenant pay rates equal or exceed their existing rates of pay.

The remaining unresolved issue between the parties is the percentage across the board wage increases applicable to their three-year agreement beginning on April 1, 2005.

II. Unresolved Issue.

Article VI – Wages.

The City has collective bargaining agreements with five bargaining units. Agreements have been reached with each unit except the firefighters. In each case, the City has agreed with the unions on three-year contracts providing for across the board increases of 3.75% each year. The wage increases are provided in conjunction with an increase from 6% to 10% in the share of the cost of health insurance paid by the employees. The firefighters have agreed to pay the increases in their share of the health insurance premiums, but have not agreed to the proposed annual pay increases of 3.75%.

The Union is proposing increases for FF/EMT and FF/Medic of 5.5% in the first year, 5.5% in the second year and 5.25% in the third year. They propose an increase of 3.75% in the second year and 3.5% in the third year for the new Lieutenants positions. They further propose increases of 11%, 9% and 9% for the Captains.

The following evidence and arguments support the Union's wage proposal. The wages of the firefighters are below those of the police officers, the City's other safety force. In order for firefighters to earn comparable salaries to those of police officers they must work between 771 and 856 more hours per year. The Union's proposal attempts to close this gap.

The Captains are extremely underpaid relative to their counterparts in similar communities. Fire captains in Fairfield have duties and responsibilities similar to the positions of Chiefs in other districts. Nevertheless, the pay received by Fairfield captains is only average relative to other district captains who work fewer hours and have fewer duties and responsibilities. Unlike other districts where captains are in charge of a single station with supervision over lieutenants and firefighters, Fairfield has three part-time captains who supervise each station. Career Fire Captains are the highest ranked officer in the absence of the Chief and Deputy Chief. They oversee all personnel and all three stations. They respond to all fire, rescue, hazardous materials calls, and serious EMS calls in their assigned staff vehicles. They are responsible for the maintenance, repair and inspection of all facilities and equipment, and for ordering all supplies, parts, and equipment.

The City is creating new lieutenant positions beginning in January 2006. The responsibilities of these positions will be department wide and encompass duties and responsibilities beyond those normally performed by station lieutenants. They will be responsible for training throughout all stations, not merely their assigned station. They will substitute for career captains in their absence, which duties are more than merely those performed by station captains in other districts. They will be required to complete project assignments from the Chief and Deputy Chief, and they will assist Captains in the maintenance and repair of equipment and facilities. Accordingly, these lieutenants should be compensated at rates higher than those lieutenants in other districts who have lesser duties and responsibilities.

The City can easily afford the wages proposed by the Union. Its financial condition is healthy, a fact not disputed by the City. The City continues to enjoy substantial economic growth and development. The HR Director has stated publicly that the City is attempting to employ high quality personnel and will obtain these employees by offering competitive salaries.

The turnover rate for firefighters is a matter of concern. Four have left for better opportunities at nearby departments. The City needs to increase the pay of the existing force in order to keep its quality workforce. Presently, Colerain and Sharonville have higher top scale wages and better benefits. The City has been focusing its resources on facilities and equipment upgrades at the expense of its personnel.

New revenue will be added to Department's budget. In May 2004 the Department started billing patients for EMS transport services if the patients have insurance coverage. This is bringing in \$80,000 per month of new money. The City stated that the new funds would be used for additional fire department staffing, but there have been no new hires.

The Union objects to the City's use of contract paramedic services as a waste of money. The contract with ISPI pays \$1.1 million in 2005 and \$1.2 million in 2006. These amounts nearly equal the entire EMS department budget. The contract employees only perform EMS services for four paramedics per day. The City must furnish all equipment and drugs together with office and dormitory space in each firehouse.

The Union further justifies its proposal with the argument that its members perform the dangerous and required public services with an undermanned staff. An independent study sought by the City confirmed that the staff levels are short, and a minimum level of twelve full and part-time personnel per shift is needed to meet acceptable service levels. The City operates below this minimum level on a routine basis. NFPA – 1710 recommends a 14 minimum staff level to respond to a single story residential fire, the most common type of fire in the area. The staff level on most days is only nine.

Finally, like other city employees, the members have been required to accept a 4% increase in the employee share of the costs of medical insurance premiums. Other medical insurance costs have also increased. The Union supported the switch to another

carrier to save money, but when the added costs are considered with the City's wage proposal, the members will suffer an actual decrease in pay.

The City believes that its offer is more than fair, given the existing financial circumstances. The Fire Levy fund is supposed to be the fund that maintains the department and pays for personnel services. At the end of 2004, the City collected \$312,848 under its new procedure for billing residents for EMS runs if they have insurance. Nevertheless, the fund's expenses outpaced its revenue, requiring a transfer of \$75,000 from the general fund. The EMS billings were for only a partial year, so revenues should increase to approximately \$80,000 per month. But, even with these additional revenues, the City must closely watch the fund to make sure that expenses are kept in line without the need for further subsidies from the general fund.

The City produced statistics showing that the ISPI contract is cost efficient. They provide 50% of the labor for EMS runs, which amounts to 76% of all department runs. ISPI, therefore, provides 38% of the labor but accounts for only 31% of the minimum manning, and 25% of the total maximum manning. The Union excludes ISPI personnel when it computes manning services. The Union, however, points out that these persons cannot respond to fire runs.

The City's comparables for firefighter/paramedics and lieutenants exclude Norwood, which the City maintains is an exception to the compensation ranges paid in the area, Using Hamilton, Colerain, Green, Middletown, West Chester, Forest Park,

Springfield Township, and Anderson, the City's proposed increases exceeds the average. The City excluded Hamilton when it compared captain rates. The Union points out that the captains in Fairfield are paid less than in Hamilton. The City argues that the captains in Hamilton have more responsibilities than the captains in Fairfield, and that they are equivalent to the Deputy Chief position in Fairfield. Hamilton captains supervise three times more personnel than captains in Fairfield. Likewise, the City excluded lieutenants in Middletown when making pay comparisons because the Middletown lieutenants have more duties and responsibilities. Nevertheless, Assistant City Manager Stuckey concluded in his report to the City Manager dated August 26, 1997 that the pay range for the fire captain position should be adjusted upward.

The City's statistics further show that starting firefighter/paramedics earn more on an annual basis than police officers, and they are comparable in pay after two years and at the top rank. Captains earned on average \$75, 560.99 in 2004 including overtime pay. Firefighters averaged \$63, 108.59 including overtime. These figures favorably compare with the salaries earned by police lieutenants, sergeants and officers. The fire captains in Fairfield are on a level with police lieutenants in terms of their duties and responsibilities. The City analyzed the costs of the Union's wage proposal and concluded that it would adversely impact its budget and result in the members being overpaid relative to their counterparts in nearby jurisdictions.

After reviewing all of the financial and economic evidence presented by the parties, I cannot find a compelling reason to recommend a pay increase above those

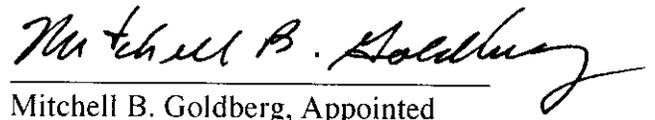
already received by the police, AFSCME employees, and the Operating Engineers. A 3.75% increase will provide wages comparable with most of the departments that the parties use as comparables. The members of the firefighter unit will not be falling behind other departments other than those that pay at the highest level. The pay levels are comparable with other wages and salaries paid to other skilled and professional employees in the City. Nothing in the evidence mandates a corrective measure that requires the employees in this unit to receive pay equal to that paid in Norwood or other jurisdictions that pay somewhat higher rates. The Union argues that low pay has caused four employees to leave and that there will be further turnover in the workforce unless the pay rates are adjusted upward, but there is no persuasive evidence in the record that supports this conclusion.

The captains pay adjustments are somewhat of a concern based upon the Stuckey report. However, the report did not factor in the new lieutenant positions and their effect upon the duties now performed by captains. The job description submitted by the Union is a combined job description for "Fire Captain/Lieutenant" with no clear distinction as to which duties are performed by each classification. At this point (in 2005), according to the City, a lieutenant will earn \$21.58 per hour, and a captain will earn \$24.18 at the top level. The Union uses an average rate for captain of \$22.82, the same rate listed for 2004. Presumably, this is before the application of the City proposed 3.75% increase for 2005 and the additional \$.50 per hour. This adjusted rate of \$24.19 is below the average captain rate of \$26.14 if Hamilton is included, and \$25.12 if only Colerain, Green Township, and Miami Township are included. Nevertheless, the adjusted rate is

comparable. There is insufficient evidence in the record to establish that the pay of captains should be further adjusted to create more of a spread with the new lieutenant rates. One must further analyze the respective duties of the positions and the actual performance of those duties before a further adjustment is mandated. The Chief, Deputy Chief, or other management personnel will undoubtedly perform this employment study over the term of this contract. They, or future fact-finders or conciliators will be in a better position to recommend or order a further adjustment for captains if it is needed.

Recommendation: I recommend that the City's wage proposal be accepted calling for across the board increases of 3.75 % in 2005, retroactive to April 1, 2005, 3.75% in 2006, and 3.75% in 2007.

Date of Report: July 8, 2005



Mitchell B. Goldberg, Appointed
Fact Finder