

BEFORE THE
STATE EMPLOYMENT RELATIONS BOARD

FACT FINDING PROCEEDINGS
CASE NO. 05-MED-05-0619

IN THE MATTER OF:

UNION TOWNSHIP, CLERMONT COUNTY,
BOARD OF TRUSTEES

AND

UNION TOWNSHIP PROFESSIONAL FIREFIGHTERS,
LOCAL 3412

APPEARANCES:

FOR THE TRUSTEES: Lawrence E. Barbieri, Esq.

FOR THE FIREFIGHTERS: Henry A. Arnett, Esq.

REPORT AND RECOMMENDATIONS OF THE FACT FINDER

James E. Murphy
Fact Finder

STATE EMPLOYMENT
RELATIONS BOARD
2005 SEP 13 A 11:06

BACKGROUND:

Union Township, Ohio is located in Clermont County and forms part of the Greater Cincinnati metropolitan area. Its population of approximately 43,000 makes it one of the larger townships in the region. Union Township Professional Firefighters, Local 3412 (herein the Union) has been since 1992 the duly recognized bargaining representative of a unit consisting of all firefighters and lieutenants employed by the Township, currently 33 and 9, respectively, in number. The most recent contract between the parties expired on July 12, 2005.

Prior to the hearing in this matter, the parties engaged in several collective bargaining sessions, were successful in reaching agreement on many items, but remained at impasse on one issue, to wit: Article 18, Wages. Accordingly, (after an unsuccessful mediation session on the morning of the hearing) this case came on for hearing in Union Township, Ohio on August 22, 2005.

Evidence and able argument in support of the parties' respective positions on the disputed issue were presented at the hearing. What follows is a summary of that evidence, the parties' positions, the Fact Finder's Recommendations and the rationale for same. In making my recommendations, I have considered and relied upon the following statutory criteria, whenever such factors were advanced by the parties: the factor of past collectively bargained contracts; comparisons of the 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; the interest of the public; the ability of the public employer to finance and administer the issues proposed; the effect of the adjustments on the normal standards of public service; the lawful authority of the public employer; the stipulations of the parties; and such other factors, not confined to those noted 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.

ARTICLE 18-WAGES:

Evidence and Positions:

Article 18 of the recently expired contract contains a detailed wage scale consisting of three classifications (FF/EMT, FF/PARA and LT), with four steps in each of the first two classifications and two steps in the third. The Township is offering 3% across the board wage increases for all bargaining unit employees, regardless of classification or step, in each year of the proposed three-year contract. It wants to retain the existing language for the remainder of the article.

The Union's wage proposal is more complex. Initially, it seeks to add two additional steps to the wage progression scale for both FF/EMTs and FF/PARAs, the base rates for which would be set at 5% above step 4 for step 5 and 6% above step 5 for step 6. Base pay for probationary Lieutenants would be 5% above the new top step (6) for FF/PARA, while that for full Lieutenants would be 10% above FF/PARA step 6. It then proposes raises of 2%/year (for each year of the proposed three year contract) for Step 1 FF/EMTs and FF/PARAs, 3%/year for Step 2s, 4%/year for Step 3s, 5%/year for Step 4s, 6%/year for Step 5s and 7%/year for Step 6s. Finally, the Union seeks to add two new sections to this article, the first establishing acting officer pay and the second providing that, if unit members are sent on special details outside the township, their positions will be filled through the use of overtime.

In support of its position, the Union first contends that the Township has the financial ability to fund the raises sought, noting that, as of May 31, 2005, the Township's Safety Services Fund had a balance of \$7,056,967 and its Fire District Fund had a balance of \$222,148.

Next, the Union contends that the sought after wage increases are justified on the basis of comparisons with firefighter wages in four other local jurisdictions, Anderson Township, the City of Blue Ash, Green Township and Miami Township. Such comparisons clearly reflect, according to the Union, that top step Union Township firefighter wages, whether considered on a yearly or hourly basis, are considerably less than those in the cited jurisdictions.

Moreover, the Union contends that such disparities are accentuated by the fact that firefighters in comparable jurisdictions generally work fewer hours for their higher pay. Thus, for example, the Union submitted a table showing that a Union Township firefighter would have to work about 3,475 hours per year in order to earn \$65,000, whereas the average hours worked to earn the same amount in the other four jurisdictions would be about 3,025, with a high of 3,050 and a low of 2,980. Several similar tables were also submitted, all reflecting in different ways the same essential point.

In response, the Township first contends that its financial situation is not as favorable as that portrayed by the Union. Initially, it points out that fire department expenses, even at current wage levels, are well in excess of current revenues (i.e. Fire and Safety Service Levys), the difference being made up from carryover funds. Moreover, it notes that, assuming 3%/year wage increases, its combined Fire Levy, Safety Service Levy and Carryover Funds will be over \$2,700,000 in the red by 2010. The additional wage increases (above 3%) sought by the Union here, it submits, would add another \$1,900,000 in expenses by the end of 2007 alone. Such figures, in turn, could adversely effect the Township's bond rating.

In further support of its position, the Township submitted comparable wage information from other local jurisdictions, while at the same time noting that precise comparisons are difficult to make given differences in hours worked per week and other variables. The

Township's list of comparables includes eight other jurisdictions, three of which (Anderson, Miami and Green Townships) are also on the Union's list. In addition, Batavia Township, Colerain Township, Delhi Township, Pierce Township and Sycamore Township, are also represented, although almost no information was submitted with respect to Pierce. Although, as the Township notes, exact comparisons are difficult because of varying hours of work and pay step systems, the submitted comparables generally reflect that Union Township Firefighter wages are competitive at the entry level but are less so in the higher grades. For example, average top step firefighter pay among the other seven jurisdictions (omitting Pierce) in 2005 is approximately \$51,300, average top step lieutenant pay for the same period is \$59,470 (omitting Pierce and Batavia, for whom no figures are given), compared with Union Township 2005 figures (assuming a 3% raise) of \$48,138 and \$51,057, respectively.

Finally, the Township points out that: (1) the Union's proposed increases exceed average statewide firefighter settlements of 3.29% as computed by SERB for the year 2004; (2) the Union's proposal of two additional steps *plus* raises for each step would result in several (10) present step 4 FF/PARAs receiving a pay increase of 12% in 2005 alone, or 38% over the life of the proposed contract; and (3) it is possible, given the extensive overtime opportunities available, for Union Township firefighters to earn yearly salaries substantially above their base numbers.

Rationale:

The issues presented are difficult ones, compounded by the fact that both parties made excellent presentations of their respective positions. I thus have the unenviable job of choosing among reasonable but conflicting claims. Hopefully, I can make some recommendations with which both sides can live.

Initially, while I understand the Township's need for long term planning, it does appear that funds are available (without recourse to the general fund) for firefighter wage increases in excess of 3%/year during the three year period covered by the proposed contract.

Are such increases justified? To some extent, I believe they are. Thus, using the comparables submitted by the Township, it is clear that top step FF/PARAs elsewhere will earn an average of \$3,162 more in 2005 than top step FF/PARAs in Union Township, assuming a 3% raise for the latter. And, as the Union points out, such disparities are increased when one considers that average earnings elsewhere are generally based on fewer scheduled hours per year. With respect to lieutenants, the difference is even greater, with 2005 average pay in comparable jurisdictions being approximately \$8,400 higher than in Union Township, again assuming a 3% raise for the latter. Similar disparities exist in 2006 for those jurisdictions with contracts extending that far. No comparables are available for 2007.

By contrast, however, Union Township wages are much more competitive at the entry level positions. Thus, the average starting salary among the Township's comparables in

2005 is \$39,227, as against \$41,195 for Step 1 FF/PARAs in Union Township, once again assuming a 3% raise for the latter.

For all of the above reasons, therefore, I believe that a graded scale of increases, weighted toward the top steps, is warranted in the new contract. Accordingly, I shall recommend increases of 2%/year for Step 1 FF/EMTs and FF/PARAs, 3%/year for Step 2s, and 4%/year for Step 3s. For Step 4s, and for both lieutenant grades, my recommendation shall be 6%/year in 2005 and 2006, and 5% in 2007. Such increases will go some way toward closing the gap between top step wage rates for firefighters in Union Township and those in comparable jurisdictions without, I trust, breaking the bank.

At the same time, I cannot recommend any increase in the number of steps as proposed by the Union. For one thing, the increases proposed would result in very substantial raises for many unit members over the life of the proposed contract, far exceeding scheduled wage increases in comparable jurisdictions, with resulting financial burden to the Township. For example, by 2006 top step FF/PARA salaries in Union Township, under the Union's proposal, would exceed those in Anderson Township, far exceed those in neighboring Miami Township, and nearly equal those in much larger Colerain Township. Although figures for Green and Delhi Townships are not available for 2006, absent very substantial increases in those jurisdictions next year, the Union's proposed increases here would raise the Union Township salary scale at the top steps well above them as well. Similar results would also occur with respect to top step lieutenants. Finally, I believe that an issue such as this one, with its many possible ramifications, is best handled through the give and take of collective bargaining rather than through imposition by an outside factfinder.

There remains for consideration the Union's proposals for acting officer pay and the filling of vacancies caused by "special details" with overtime personnel. Although some, perhaps most, comparable jurisdictions have "acting" pay(not otherwise described or defined), I do not believe that a compelling case has been made here for its insertion in the existing contract. The same situation, I find, pertains to "special details." Accordingly, I shall not recommend the incorporation of either of these two proposed provisions in the new contract.

Recommendation:

It is recommended that Article 18, Wages, of the proposed contract read as follows:

Section 18.1 Rates of pay for bargaining unit personnel for the term of this Agreement shall be as follows:

Pay Period Including July 13, 2005	Pay Period Including July 13, 2006	Pay Period Including July 13, 2007
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FF/EMT

Step 1	\$34,451.88	35,140.91	35,843.73
	\$12.50	12.75	13.01
Step 2	\$36,618.48	37,717.03	38,848.54
	\$13.29	13.69	14.10
Step 3	\$38,862.57	40,417.08	42,033.76
	\$14.10	14.67	15.25
Step 4	\$42,604.19	45,160.44	47,418.46
	\$15.45	16.38	17.20

FF/PARA

Step 1	\$41,306.88	42,643.02	44,005.88
	\$14.99	15.47	15.97
Step 2	\$43,748.53	45,575.98	47,458.26
	\$15.87	16.54	17.22
Step 3	\$46,397.58	48,773.49	51,244.43
	\$16.84	17.70	18.59
Step 4	\$49,540.22	52,512.63	54,876.89
	\$17.97	19.06	20.01

LT

Step 3 (prob)	\$51,269.77	54,345.96	56,963.26
	\$18.59	19.71	20.70
Step 4	\$52,544.36	55,697.02	58,481.87
	\$19.06	20.20	21.21

The above listed salaries reflect that Firefighter/EMT and Firefighter/Paramedic step 1 receives a 2% (two percent) pay increase each year of the contract. Step 2 receives a 3% (three percent) increase each year. Step 3 receives a 4% (four percent) increase each year. Step 4 receives a 6% (six percent) increase in 2005 and 2006 and a 5% (five percent) increase in 2007. Lieutenants step 3 and 4 receive a 6% (six percent) increase in 2005 and 2006 and a 5% (five percent) increase in 2007.

All personnel with Paramedic Certification have an addition \$500.00 Medic Certification Bonus built into the base in each year of the contract.

Section 18.2 Employees hired prior to 2005 shall be placed at the respective pay range of the new Agreement. New hire employees start at Step 1, and advance through the steps on their anniversary of date of hire.

Section 18.3 The listing of annual salaries in Section 1 is not a guarantee of earnings. It is used as the basis for determining hourly rates of pay by dividing the annual rate by the number of base hours scheduled annually.

Finally, I recommend that the parties include all tentative agreements reached during negotiations in their final Agreement.

This concludes the Fact Finders Report and Recommendations. I wish to thank all parties for their helpful and cooperative approach throughout this proceeding.

September 12, 2005

James E. Murphy