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IN THE MATTER OF FACT FINDING

BETWEEN

CITY OF MARIETTA

AND

TEAMSTERS LOCAL NO. 637

BEFORE: Robert G. Stein

SERB CASE NO. 05-MED-10-1270

PRINCIPAL ADVOCATE(S) FOR THE UNION:

Susan Jansen, Esq.
DOLL, JANSEN & FORD
111 W. First St., Suite 1100
Dayton OH 45402-1156

and

John Sheriff
TEAMSTERS LOCAL UNION No. 637
100 Timber Run Road
Zanesville OH 43701

and

PRINCIPAL ADVOCATE(S) FOR THE CITY:

Gregory B. Scott, Esq.
Melissa M. Bondy, Esq.
SCOTT, SCRIVEN & WAHOFF, L.L.P.
50 West Broad Street, Suite 2600
Columbus OH 43215

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INTRODUCTION

The bargaining unit involved in this proceeding is comprised of approximately forty-nine (49) full time employees who perform work in a variety of service related classifications for the City of Marietta (hereinafter, "Employer", "City", or "Marietta"). Teamsters Local 637 affiliated with the International Brotherhood of Teamsters (hereinafter "Union") represents the bargaining unit. According to the July 2004 census, Marietta has a population of just fewer than 14,300 residents. The City has a total of three collective bargaining units of employees. The two other units are safety force units located in the Police Department and Fire Department.

The Union in its fact-finding presentation skillfully articulated the differences between the Enterprise funds and the General fund, pointing out the fact that a vast majority of its members' wages and benefits are funded through Enterprise funds. Although often needed to fund upgrades in infrastructure, the Enterprise funds appear to be somewhat healthier than the General fund. The facts in this case underscore the harsh reality that the City currently faces some serious economic challenges. In addition to the credible budgetary evidence presented by the City, the City submitted into the record a recently published Economic Indicators Report that demonstrates the dramatic loss of good paying manufacturing jobs in Ohio. Although the national recession was declared to be over some five (5) years ago, all regions of Ohio have not prospered since then. The Report reveals the state of Ohio is growing economically in some parts and is shrinking in others. Unfortunately, the City of Marietta and its surrounding area are shrinking in terms of

population and economic wealth, which has had a negative impact upon both the General fund and Enterprise funds. As difficult as this is to accept, the only reasonable way for the City and the Union to weather this economic storm is by working together in an open and honest fashion. When times are difficult, the importance of everyone sharing the pain is essential in fostering cooperation.

Prior to a formal submission of evidence, the fact-finder, acting as a mediator, made a concerted effort to bridge the differences between the parties concerning the issues in dispute. Settlement possibilities were assessed with the parties in an effort to find common ground upon which to construct a settlement. The fact-finder spent a considerable amount of time in mediation in an attempt to narrow the differences between the parties. To some extent this was achieved in terms of understanding. However, falling short of a tentative agreement fact-finding went forward. It must be stated that unconventional times require unconventional thinking and foster resolutions that depart from the norm. It is not business as usual. It is with this approach that the fact-finder applies the statutory criteria to the issues before him. In order to expedite the issuance of this report, the fact-finder will provide a summary of his rationale on all issues, followed by a determination on each issue.

CRITERIA

OHIO REVISED CODE

In the finding of fact, the Ohio Revised Code, Section 4117.14 (C)(4)(E) establishes the criteria to be considered for fact-finders. For the purposes of review, the criteria are as follows:

1. Past collective bargaining agreements
2. Comparisons
3. The interest and welfare of the public and the ability of the employer to finance the settlement.
4. The lawful authority of the employer
5. Any stipulations of the parties
6. Any other factors not itemized above, which are normally or traditionally used in disputes of this nature.

These criteria are limited in their utility, given the lack of statutory direction in assigning each relative weight. Nevertheless, they provide the basis upon which the following recommendations are made:

ARTICLE 10, Subsection 10 Donation of Sick Leave,

Discussion:

The Union made it clear during mediation and fact-finding that the Sick Leave Donation Program is an important issue to the membership. The City agrees in concept with this approach but for ease of administration and uniform application understandably prefers a single citywide approach to the idea of donating sick leave. The fact-finder is convinced that it is a significant issue, which exemplifies the humanity of the bargaining unit employees who are willing to come to the aid of a fellow employee in need. I understand the City's desire to streamline a process by which a program of this nature would operate. However; it is not reasonable for an inordinate delay to occur in the implementation of such a plan, particularly in light of how long it has been before the parties in negotiations. There are numerous time-tested comparable examples in local government in Ohio which the parties could utilize in developing their own plan. There is a need to move with deliberate determination to put such a program in place.

Determination

The parties shall have until August 1, 2006 to implement a Sick Leave Donation Plan. If such a plan is not in place and fully implemented on that date, the parties shall contact the fact-finder and submit to him their last versions of how the sick leave donation plan should be implemented. The fact-finder, in conjunction with the parties' advocates, shall then determine the need for further information regarding the differences between the parties and any supporting evidence and rationale that may serve to more fully inform the fact-finder. The fact-finder will then issue a binding decision on a sick leave donation plan by September 1, 2006.

ARTICLE 20 Travel and Clothing Expenses

Discussion:

The evidence demonstrates that the City implemented a mandatory requirement for bargaining unit employees to wear steel-toed work boots or shoes after the current contract was negotiated. Therefore, the current clothing allowance of \$250 per year is based upon a set of conditions that have been changed. The facts presented by the Union further illustrate that steel toed boots or shoes, depending upon the

manufacturer, can consume 40% or more of the entire clothing allowance that was previous negotiated on the basis of clothing alone. Therefore, it is only reasonable that when faced with a newly mandated safety requirement, employees should be provided with some economic relief to comply with this rule. Of course, the City should have sufficient lead-time to budget for such an aggregate increase in expenditures.

Determination

Current language, and add a new section to Article 20; following current language that reads:

Effective January 1, 2007 and every year thereafter, the City shall provide a separate allowance from which employees may spend up to \$100 to purchase steel-toed work boots or shoes. The purchase of these items shall conform to the provisions contained in this Article.

ARTICLE 27 Vacation

Discussion:

The Union effectively argued that the current vacation benefit is out of line with what has been in existence for the police bargaining unit for at least two contract periods, and for fire bargaining unit since its last contract. In other benefit areas the City asserts the principle of equity between units, yet this is an example of a benefit that in many public sector settings is often a uniform benefit across all classifications of employees. As previously stated, in order to secure the cooperation of all bargaining unit employees, internal equity regarding gain as well as sacrifice is an important principle to uphold when and where possible. The fact-finder recognizes that increased vacation time, even though called for from an internal equity perspective, is not a benefit without some associated costs. It is also recognized that costs associated with this benefit can be somewhat mitigated with advanced planning. Unlike what often occurs among safety forces, the types of employees in the bargaining unit are not always replaced, therefore saving overtime costs. However given the "status quo" agreement reached by the police unit, I find a change of this nature should not go into effect until January of 2007. Furthermore, given the earn-as-you-work accrual nature of this benefit and the seniority dates of the employees, it becomes clear that any additional amounts of vacation for those limited number of employees who would benefit from this change will not begin to have a significant impact upon the City until calendar year 2008. The estimated number of

employees in the unit who would benefit from this benefit is readily discernible from the bargaining unit seniority list.

Determination:

The current vacation schedule shall remain in place for the remainder of 2006. Effective January 1, 2007 a new schedule shall become effective (See Appendix 1).

ARTICLES 7, § 2; 15 § 1; 16 § 1,2; 26 § 4, 7; 28 § 1,2; 33, and Wages, Wage related issues and Health Care (Articles 29 and Appendix B.).

Discussion:

The City made a very effective and credible presentation on the current state of the City's finances and the impact it has had on the City's general fund. The Union's bargaining team, which is understandably frustrated by the state of the economy leading to the City's financial situation, nevertheless, appeared to understand the gravity of the situation, the City's loss of population and good paying jobs, and the importance of consistent treatment of employees in the City during an economic downturn of this nature. For example, the source of the funding for the unit comes from both the City's general fund and enterprise funds, as is commonly the case. The general fund is shrinking, while the enterprise funds are in better shape. Although a large majority of the bargaining units wages and benefits are paid out of enterprise funds, the Union recognizes it cannot agree to a wage and benefit settlement that treats any of its members in a disparate manner. The Union also realized that it is placed in an untenable position when it insists on internal equity among all bargaining units for a vacation benefit, but not for internal equity for wages and healthcare benefits for part of its own bargaining unit.

Determination:

Maintain current language for all articles of the Agreement, not specifically addressed above with a specific determination, but submitted to fact-finding, for the life of the Agreement, with the exception of Wages and Insurance. Wages and Insurance related provisions shall remain in

place as called for in current language through March 31, 2007. Thereafter, Appendix B, Wages and Health Care, Article 29, are subject to full re-opener negotiations under ORC 4117. The Agreement shall run for three (3) years from January 1, 2006 through December 31, 2008. One exception to the foregoing fifteen (15) month hold on wages and health care is the implementation of phased-in \$.30 equity adjustments in recognition of achieving IMSA traffic signal certification. This certification is similar to certification held by some water and waste-water treatment employees. A phased-in equity adjustment of \$.10 per hour shall commence (retroactive to) January 1, 2006 for bargaining unit employees who hold ISMA traffic signal certification. An additional \$.10 per hour shall be added to the hourly rate of those bargaining unit employees who hold such certification each January 1st of the Agreement up to a total a total maximum of \$.30 per hour. If an employee achieves said certification after the effective date of this report, their equity adjustment shall commence in the pay period said certification was confirmed to the City in writing and they shall receive the adjustments in accordance with the schedule outlined above.

If the City grants an across-the-board wage increase for any other bargaining or non-bargaining unit employees of the City during 2006, then the issue of an across-the-board increase for the Teamster bargaining unit shall be considered re-opened for calendar year 2006 and the parties shall promptly schedule a fact-finding hearing before Robert G. Stein.

TENTATIVE AGREEMENTS

During negotiations, mediation and fact-finding the parties reached tentative agreement on several issues. These tentative agreements are part of the determinations contained in this report.

The arbitrator respectfully submits the above recommendations to the parties this 31st day of May 2006 in Portage County, Ohio.



Robert G. Stein, Fact-finder