STATE EMPLOYMENT
RELATIONS BOARD
2007 FEB 20 A 10: 00

FACT-FINDING REPORT
STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD
February 14, 2007

In the Matter of	)	
	)	
	)	
	)	
The City of Martins Ferry	)	
	)	
	)	
And	)	**06-MED-09-1107**
	)	**06-MED-09-1108**
	)	**06-MED-09-1109**
	)	
Fraternal Order of Police,	)	
Ohio Labor Council	)	

APPEARANCES

For the City
Leslie A. Douglas,
Mayor

For the FOP/OLC
Rick Grochowski,
Staff Representative

Fact-Finder, Marc A. Winters

BACKGROUND

This Fact-Finding involves the City of Martins Ferry, (hereafter referred to as the "Employer") and three (3) bargaining units of the Fraternal Order of Police, Ohio Labor Council, (hereafter referred to as the "Union"). The first Union bargaining unit is comprised of approximately ten (10) full-time Police Officers. The second bargaining unit contains one (1) full-time Lieutenant. And, the third unit is comprised of three (3) full-time Sergeants. These Bargaining Units are consistent with and in accordance to SERB rules. A Master Agreement contains the terms for all three (3) units.

In a letter, dated December 19, 2006, the State Employment Relations Board duly appointed Marc A. Winters as Fact-Finder in this matter under the Ohio Administrative Code Rule 4117.

The parties to this fact-finding have had an ongoing bargaining relationship. The most recent collective bargaining agreement between the parties, a three (3) year agreement expired on January 15, 2007. The parties have met on several occasions to negotiate a successor agreement. Unable to reach an Agreement, impasse was declared and the parties proceeded to Fact-Finding.

The Fact-Finding Hearing was conducted on Thursday, February 8, 2007, in the City's Offices, Martins Ferry, Ohio. The Fact-Finding Hearing began around 10:30 A. M., and was adjourned at approximately 12:15 P. M. At the beginning of the Fact-Finding Hearing mediation was requested and an attempt was made to mediate the issues at impasse. A failed attempt was made, by all, at mediation, which occurred for about the first hour. The Fact-Finding Hearing resumed about 11:30 and lasted roughly forty-five (45) minutes.

Although the mediation, at face value, was unsuccessful, it gave the Fact-Finder a thorough understanding of each parties respective position on the issues at hand. Because of that understanding, the parties, were able to be brief and were able to get straight to the point, with their respective arguments, on the remaining issues.

The Fact-Finder would like to convey his appreciation not only for the courtesy and cooperation given to the Fact-Finder by both parties, but to each other as well.

The Hearing was conducted in accordance with the Ohio Public Employee Bargaining Statue set forth in rule 4117. Rule 4117-9-05 sets forth the criteria the Fact-Finder is to consider in making recommendations. The criteria are:

1. Past collectively bargained agreements, if any.

2. 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, given 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 issue proposed and the effect of the adjustments on the normal standards of public service.

4. The lawful authority of the public employer.

5. Any stipulations of the parties.

6. Such other factors, not confined to those listed above which are normally or traditionally taken into consideration in the determining of issues submitted to mutually agreed-upon dispute settlement procedures in the public service or private employment.

The parties have requested that this Fact-Finder retain jurisdiction, for a period of ninety (90) days, over this Fact-Finding Report should the parties have any problems with the implementation of any such issues. This Fact-Finder agrees to retain such jurisdiction.

By virtue of this reference, all previous tentatively agreed items will also be made part of this report.

The following seven (7) issues are the issues that were considered during the Fact-Finding Hearing on February 8, 2007.

ITEM NO. 1, ARTICLE 10, WAGES
ITEM NO. 2, ARTICLE 12, SECTION 12.1, COURT OR CALL-OUT TIME
ITEM NO. 3, ARTICLE 16, HOLIDAYS
ITEM NO. 4, ARTICLE 18, SICK LEAVE
ITEM NO. 5, ARTICLE 21, INSURANCE
ITEM NO. 6, ARTICLE 22, UNIFORM ALLOWANCE
ITEM NO. 7, ARTICLE 28, OUT OF CLASSIFICATION

ITEM NO. 1, ARTICLE 10, WAGES

UNION POSITION:

The Union seeks wage increases of 4% for 2007, 3% for 2008, and 3% for 2009. Citing that they are lagging behind like communities, the Union argues that out of the four comparables used, the Martins Ferry department is second from the bottom.

The Union seeks a percentage raise, as they have in the past, to keep them in step with the other departments.

EMPLOYER POSITION:

The Employer has offered a flat rate of $0.44 cents per hour for each year of the Agreement. The Employer wishes to give a flat rate increase as opposed to the percentage increase so that all employees are treated equal and the gap between top and bottom employees doesn't spread any further.

FACT-FINDER'S RECOMMENDATION:

Noting from the testimony given and the evidence presented that the amount of a proposed wage increase, sought by both parties, is relatively close in cost. The Union at 4%, 3% & 3%, the Employer at 44 cents each year which is approximately 3.25% each year. The bigger issue is that the City wants to depart from previous percentage raises for the police officers to a flat rate increase. The Union, however, rejects such a change.

The argument from the Employer was that they wanted all employees treated equal by not having the gap between the senior employees grow any further from that of the junior employees. With that said, the City did not provide any data to show that the gap has grown out of proportion within this unit or compared to any other City unit or any like communities. The Employer mentioned Bellaire and Bridgeport as external comprables but once again had no documented information or any other type of first hand knowledge to use for comparison purposes.

The Union on the other hand provided evidence that used St. Clairsville, East Liverpool, Toronto and Steubenville as comprables for wage comparisons. As mentioned above, Martins Ferry fell second form the bottom out of these comprables. Even throwing out the comprable of St. Clairsville do to its financial status being a lot stronger than Martins Ferry, still has this department lagging behind enough to warrant percentage wage increases once again.

Other than St. Clairsville, the other comparables used are from counties that are relatively close to Martins Ferry. St. Clairsville was the only comparable within the same county that had documented figures to use by the Union.

Based on the evidence presented and taking into account the limited information presented concerning the City's budget, which was not an issue for the cost amount of the wage increases proposed, this Fact-Finder makes the following recommendation:

Effective January 16, 2007, a 4% wage increase.

Effective January 16, 2008, a 3% wage increase.

Effective January 16, 2009, a 3% wage increase.

ITEM NO. 2, ARTICLE 12, SECTION 12.1, COURT OR CALL-OUT TIME

EMPLOYER POSITION:

The Employer propose to reduce the guaranteed amount of court or call out time from a minimum of four (4) hours to a minimum of two (2) hours.

The Employer argues that there are times when the Officers do not work/travel the entire time to be paid a minimum of four (4) hours. This is a cost reduction proposal for the City.

UNION POSITION:

The Union rejecting the Employer's proposal argues that this is mature language that is time tested. The Union further argues, through the testimony of the Officer in charge of scheduling, that there are no problems with Officers not putting in their time, which is documented. Testimony and evidence presented also showed that the amount of overtime worked by this unit has been considerably lower in recent times.

FACT-FINDER'S RECOMMENDATION:

Based on the testimony given and the evidence presented, including the lack of any overtime documentation or given instances, by the Employer, which would show that the Employer has a problem with this language by the way of employees abusing the court or call out time, this Fact-Finder recommends for this proposal that the status quo be appropriate.

ITEM NO. 3, ARTICLE 16, HOLIDAYS

UNION POSITION:

The Union is seeking the same language concerning holidays as found in the other City Union's Collective Bargaining Agreement.

Citing internal inequities with the other larger city bargaining unit, this unit feels that all City employees should be compensated the same for designated holidays and working holidays.

EMPLOYER POSITION:

The Employer argues that the Police Unit should negotiate their own contract without using the larger AFSCME unit's contract as a comparable measure and rejects their proposal as too costly.

FACT-FINDER'S RECOMMENDATION:

It normally consistent for an Employer to want all their bargaining units similar with regards to premium pays and benefit items in their respective Agreements. It's good for morale and it's easier for the finance department to manage, administer and for future budgeting purposes.

Here, the real issue is how the two different units are paid for holidays observed and when working a holiday. The Employer offers no figures to show how costly this item would be for them or whether they would have problems paying such a benefit for the considerably smaller unit.

As will be discussed later in this report are other areas where this unit has internal inequities with the larger City bargaining unit.

Absent of a compelling argument as to why the two units should be treated different with regards to holiday pay, this Fact-Finder must agree with the Union.

Therefore, this Fact-Finder recommends the Union's proposal in its entirety.

ITEM NO. 4, ARTICLE 18, SICK LEAVE

UNION POSITION:

The Union is seeking to change the accrual rate for which sick leave will be earned/granted from a rate of a maximum of fifteen (15) days per year, to a rate of 4.6 hours for each eighty (80) hours of pay.

Again, this Union is seeking to be treated like the larger bargaining unit by adopting the same language by addressing another internal inequity.

EMPLOYER POSITION:

The Employer, being consistent, argues that the Police Unit should negotiate their own contract without using the larger AFSCME unit's contract as a comparable measure and rejects their proposal as too costly.

FACT-FINDER'S RECOMMENDATION:

As above with the holiday proposal. Absent of a compelling argument as to why the two units should be treated different with regards to sick leave accrual, this Fact-Finder must agree with the Union.

Therefore, it is this Fact-Finder's recommendation that the sick time accrual rate be changed to 4.6 hours for each eighty (80) hours of pay.

ITEM NO. 5, ARTICLE 21 INSURANCE

EMPLOYER POSITION:

The Employer has proposed that the employees will contribute twelve percent (12%) per month towards the costs of premiums for health, dental and vision for both single and family plans. The employee percentage rate will remain at twelve percent (12%) for the duration of the terms of the current contract for both single and family plans and the City shall enroll in an IRS Section 125 Plan. The City will not to be responsible for Co-pay reimbursements. Cap. Minimum $100.00. Maximum $125.00

The Employer argues the need for the City's employees to share more of the burden with respect to health care costs. The City further argues that it is the City's intent to have all employees contribute the same amount, the 12% capped at $1125.00.

UNION POSITION:

The Union rejects the Employer's proposal stating that presently this unit's members are paying $75.00 per month for family and $50.00 per month for single coverage. The Employer proposal would raise family coverage by $50.00 and single coverage by $75.00. The Employer is not taking in account the single plan is less costly.

In addition, the external comparables used, all pay less and the larger City AFSME unit pays less than what the Police Union is currently paying.

FACT-FINDER'S RECOMMENDATION:

First, this Fact-Finder recognizes the benefits to the Employer by trying to have all employees on the same health care plan pay the same share of the premium cost. It is much easier to administer, it helps employee morale, it makes preparing a budget easier and it helps to control cost.

Although, the Employer is not crying an inability to pay with respect to health care cost, the need to reduce such cost is overly apparent. Rising health care cost can adversely and directly contribute to financial problems for any City. It is imperative for all Employers to get some sort of relief in cost sharing and/or plan changes. Such changes would enable the City to significantly reduce cost and allow the City to properly fund its health care plan for years to come.

A Fact-Finder has to weigh, on one hand, an Employer's need to control rising health care cost in fear of not making budget. On the other hand, the employees always have an interest in improving or at least maintaining their current plan by trying to minimize their burden with respect to any monthly premiums.

The City in this Hearing presented no information as to the cost paid associated with past premiums or any information as to the rise of future premium costs and the potential savings by their proposal.

Interesting enough is the fact that premium cost are suppose to be lower this year (2007).

With that said, it would be preposterous for this Fact-Finder to suggest that this bargaining unit not help more in defraying the rising cost of health insurance premiums if the larger City Union and the non-bargaining unit employees were paying the 12%, $125.00 cap.

However, that is not the case. For the past three years, this small Police bargaining unit's employees has contributed more, per person, towards health care premiums than the larger City Union employees.

Once the larger unit and the non unit employees are paying a higher premium share, then this Fact-Finder would agree that this bargaining unit should pay that same share.

It's interesting how this Employer would keep both bargaining units the same as far as premium sharing, however, take the position that they should not be similar in regards to other benefit items.

After analyzing the limited budget information provided by the City and after considering the testimony and evidence presented, it is this Fact-Finder's recommendation that in regards to insurance, the status quo should apply.

ITEM NO. 6, ARTICLE 22, UNIFORM ALLOWANCE

UNION POSITION:

The Union is requesting an increase in uniform allowance to $900 per year in addition to a $150 boot allowance.

The Union argues that this unit is slightly under compensated for their uniform allowance compared to like Police units.

EMPLOYER POSITION:

The Employer has offered an increase to $800 per year with an accountable plan that uniforms be purchase at authorized dealers otherwise the City will reimburse for purchases elsewhere with the presentation of an original receipt.

FACT-FINDER'S RECOMMENDATION:

It is customary to increase the uniform allowance when uniform cost have risen and Police Officers contracts have lagged a little behind other comprables. It appears that both parties acknowledge that fact for this Hearing.

Although the Police unit has shown that they lag a little behind, they have not proven that they are substandard in comparisons to other like units.

It is therefore this Fact-Finder's recommendation that the entire uniform allowance be;

$800.00 effective January 16, 2007.

$850.00 effective January 16, 2008.

$900.00 effective January 16, 2009.

However, the City's accountability plan will be permitted.

ITEM NO. 7, ARTICLE 28, OUT OF CLASSIFICATION

EMPLOYER POSITION:

The Employer proposes to eliminate this article as being too costly and further argues that such language is not working as it should be.

UNION POSITION:

The Union rejects the Employer's proposal arguing that it is mature language which does not create a problem or a unreasonable cost to the City.

FACT-FINDER'S RECOMMENDATION:

It appears by the testimony that the City does not have a problem with this language. Such occurrences happen on a Saturday day or could occur when on officer is on vacation.

At any rate the City did not provide any financial documentation to show that this was a cost the City could not afford. Nor did they enter into evidence any occasions where this language did not work as it was intended to work or show any abuses by this bargaining unit.

Fact-Finder's recommendation is status quo.

Marc A. Winters, Fact-Finder

MARC A. WINTERS

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February 14, 2007

Leslie A. Douglas, Mayor
City of Martins Ferry
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Martins Ferry, Ohio 43935

Rick Growchowski
Staff Representative
FOP/OLC
807 Falls Avenue
Cuyahoga Falls, Ohio 44221

2007 FEB 20 A 10: 00
STATE EMPLOYMENT RELATIONS BOARD

Re: Fact-Finding Report - SERB Case No(s). 06-MED-09-1107, 06-MED-09-1108
06-MED-09-1109, FOP/OLC and the City of Martins Ferry

Advocates:

Enclosed is a copy of my decision relative to the above-referenced Fact-Finding Report. Also enclosed is my statement for service rendered. It has been a pleasure to assist you in this matter, and I will look forward to the opportunity to be of service in the future.

Sincerely,

Marc A. Winters
Fact-Finder

cc: Edward E. Turner, Administrator
Bureau of Mediation