

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

JUNE 6, 2008

BEDFORD FIREFIGHTERS
IAFF LOCAL 1536

CASE # 07-MED-09-1014

and

FACT FINDING REPORT

CITY OF BEDFORD

APPEARANCES

For the Union

James Astorino, President, Northern Ohio Firefighters
Chris Neading, President, Local 1536
Greg Miller, Negotiating Committee Member
Dave Moore, Negotiating Committee Member
Pat Guhde, Negotiating Committee Member
Dennis Love, Negotiating Committee Member

For the City

Ken Schuman, Attorney
Bob Reid, City Manager
Frank Gambosi, Finance Director
Christopher Sparks, Intern

ROBERT M. LUSTIG
Fact Finder
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Introduction

This fact finding involves the full-time firefighters (“Firefighters”) of the Bedford Fire Department represented by the International Association of Firefighters (“IAFF”) and the City of Bedford (the “City”). The Agreement between the IAFF and the City expired December 31, 2007.

The undersigned was duly appointed Fact Finder. A mediation session was held April 25, 2008 but agreement was not reached. The fact finding hearing was set, by agreement of the parties, for May 29, 2008. The hearing commenced at 9:00 AM and was closed at 2:30 PM.

Both sides presented such evidence as they desired. All documents were received without objection from the other party. This includes the position statements, Union binders on each issue and City Exhibits A through P. The Fact Finder thanks both parties for their professionalism and courtesy.

In reaching the recommendations made in this report, the Fact Finder considered the criteria set forth in Rule 4117-9-05 which are:

- 1) Past collectively bargained agreements, if any.
- 2) Comparison 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.
- 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 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 determination of issues submitted to mutually agreed upon dispute settlement procedures in the public service or private employment.

Facts

The parties entered in an agreement covering the period 1/1/05 through 12/31/07 which has expired. Joint Exhibit 1. The parties agree wages will be retroactive to January 1, 2008.

As to economic issues, the City does not assert an inability to pay as a basis for any of the economic issues but does assert that its positions are based on sound, conservative financial management of the City's finances. It was stipulated that we are dealing with a three year contract for the period 2008, 2009 and 2010.

The City has 157 full-time employees. This excludes the 13 individuals who are employed by the City but who work in the Bedford Municipal Court. The firefighters, including the Chief and Assistant Chief, number 29, Police 35, AFSCME 59 and non-union 37. The City has entered into an agreement with AFSCME that includes annual raises for 2008-10.

With that as background, we turn to the issues that were presented at the fact finding hearing, bearing in mind that the burden of proof is on the party advocating a change.

Issue No. 1 **Wages**

Union Position:

- a) Base Pay: 3.5% increase for each year
- b) Additional Pay: \$2,500

c) Preferred Pick: 48 additional hours, exercisable on 24 hour notice which may be used in one to 24 hour increments.

As to Base Pay, the Union supports its position by reference to Firefighters pay in the communities that border Bedford, by pointing to the SERB report showing average wage increases for 2007, 2008 and 2009 are about 3.3% and that inflation, as measured by the Consumer Price Index, for the past three years has averaged in excess of 3%.

The Union is especially focused on the additional duties imposed by the City's having entered into a contract to provide fire and EMS services (along with Maple Heights) to the Village of Walton Hills. The City receives about \$280,000 per year for providing its share of these services. Those services, for the period February thru May 28 totaled 97 calls, 7 being fire calls, the balance, EMS. This is additional work for which the Firefighters should receive additional compensation, either in the form of additional pay or in the Preferred Picks.

Further, the police have preferred picks. To maintain parity with the police, Firefighters should receive this benefit.

Finally, though it is stipulated that ability to pay is not an issue, Barbara Varanese testified, as an expert, to the City's finances and that it could handle the increases in pay sought by Union.

City Position:

a) 2% annual increases in Base Pay.

b) Requests for Additional Pay and Preferred Picks are rejected.

While the City does not assert an inability to pay, it does assert that its wage offer is reasonable and fair in light of wages in surrounding jurisdictions, the SERB reports and the City's overall financial condition.

The City points out that its general fund balance, while substantial at \$9,200,000 at 12/31/07, is \$800,000 less than the previous year end, that the City is anticipating a further reduction of another \$800,000 this year, that the City's largest business that contributed two-thirds of the City's income tax revenues has advised the City that its profits will be much lower in 2008, that revenues from the county will be reduced due to the rise in foreclosures and reductions in real estate values and even the revenue from estate taxes is down.

While conceding the City is receiving payments from Walton Hills, the City believes the fact it is getting paid is no reason why the Firefighters pay should be increased. Up to 1994, Bedford Firefighters covered Walton Hills. When Walton Hills canceled that arrangement, the City did not cut the Firefighters' pay nor did it lay anyone off. The added work caused by covering Walton Hills has amounted to less than one call per day. The Firefighters should not receive either additional pay or preferred picks because of providing coverage to Walton Hills.

While the police do have preferred picks, they work an entirely different schedule. Preferred picks would give the Firefighters a considerable advantage over the police.

Discussion

Both sides cite "comparables" that are really not comparable. Bedford Firefighters have a 48 hour work week. Maple has 49, Warrensville 49.7, Bedford Heights 49.8, Garfield 50 and Solon 51.7. Warrensville has a \$650 Hazmat pay that should be added to their base pay.

However, it is clear there are inflationary pressures. Rises in the prices of food and gas are obvious. The CPI - all Urban Consumers (1982=100) stood at 190.03 in December, 2004. It was 210.03 in December, 2007. That is a 10.5% increase or 3.5% per year.

The City does anticipate somewhat reduced revenues in 2008. However, as stated in the

City's Economic Outlook, the reduction in personal property taxes should be offset by the CAT Tax. The City's claim that, "Raising the ceiling on the amount of income (sic) subject to estate tax has reduced Bedford's income from estate taxes by approximately \$125,000" is not supported by the facts. The last increase in the portion of an estate that is exempt from Ohio estate taxes was for persons dying after January 1, 2002 when the exemption equivalent was increased to the first \$338,000 in value of an estate. See Ohio Revised Code §5731.02.

Whatever these losses in revenue may be, it appears there are additional revenues such as the Walton Hills payments, though these too are problematic due to litigation in Walton Hills.

While there is a good case to be made for an increase in base pay, the claim that there should be additional compensation because of coverage extended to Walton Hills is not supported.

Finding

Increase base pay 3.25% in each contract year.

Contract Language

Adjust Article IV and Appendix 1 appropriately.

Issue No. 2
Overtime

Union Position: Calculate overtime on the basis of a work year of 2,080 hours.

Police work a 40 hour week. Maple Heights Firefighters with whom Bedford shares the Walton Hills coverage are paid overtime for time worked over 40 hours per week.

City Position:

Police work 8 hour shifts. Completely different scheduling. While Maple Heights Firefighters work 40 hours straight time, the balance at overtime, they also receive about \$3,000 a

year less than the Bedford Firefighters.

Discussion

On the comparables, it is clear Firefighters work 48-52 hour weeks and that is what their pay is based upon.

Finding

The Union proposal for overtime on hours in excess of 2,080 is denied.

Issue No. 3
Longevity

The City withdrew this issue.

Issue No. 4
EMT and Paramedic Pay

Union Position: Institute the following percentage payments:

For EMT-A - 3% of base pay

For EMT-B - 1% of base pay

For EMT-P (Paramedics) - 5% of base pay

Eliminate overtime for EMS training. Give comp time for one-third the training hours.

There are 21 paramedics, 4 EMT-As and 1 EMT-B. All Firefighters are paid \$900 per year if they have a paramedic certification. In addition, they are paid \$1,650 per year in overtime to attend the continuing education classes that are required by the state to maintain their paramedic certification.

The Union offers comparables showing pay for paramedic qualification ranges from \$300 to \$2,950 and from 3% to 6% while pay for Med (presumably EMT-A) ranges from \$900 to \$3,597.

City Position:

The City adds the \$900 for having the paramedic certification and the \$1,650 now paid for continuing education to show a cost of \$2,550 per paramedic. A 5% of base pay would result in \$3,000 for paramedics, a \$450 increase. Similar calculations apply to the EMT-A and B and all result in a pay raise. It is unfair to pay a premium to have a certification and pay overtime to take the classes required to maintain the certification so one can receive the premium.

Discussion

It is in any City's interest to have Firefighters trained to provide emergency assistance. In fact, most of the calls to which Firefighters respond are EMS runs to nursing homes and assisted living facilities where life saving measures are often at a premium. The classes required by the state to maintain the Firefighters' qualifications and skills are taken outside of regular duty hours and should be compensated at overtime rates.

Finding

Both parties proposals on this issue are denied.

Issue No. 5
Clothing Allowance

Union Position: Provide a cash payment to cover maintenance and replacement of clothing of \$1,200 for 2008, \$1,250 for 2009 and \$1,300 for 2010.

The City, under Article XXI of CBA, provides uniforms, turn out gear and equipment to all Firefighters. Under the present provision, the City also provides an allowance of \$675 for clothing and \$250 for clothing maintenance for a total of \$925 per year. This has been provided in the form of vouchers which Firefighters used at a uniform supplier.

It is proposed to convert the voucher system to cash payments. The current system is nontaxable to the Firefighters. The amounts requested reflect the impact of income and sales taxes necessary to maintain the purchasing power of the current allowance.

City Position:

The City concedes it wishes to discontinue the current voucher system. A media report revealed some Firefighters abused the system by ordering one item but allowed the vendor to bill the City for an item covered by this program. The City further questions why it should bear the tax cost as it is the fraud of the Firefighters that caused the problem.

Finally, the City asserts the police receive \$925 for clothing replacement and maintenance.

Discussion

The parties acknowledge that the problem of using the voucher to acquire items that simply are not what was to be covered by the voucher is one of the longstanding and involved many fire and police departments. There is no evidence that all the Firefighters or even a majority of them abused the system. \$925 is the number the parties agreed to in the past. To provide the same purchasing power, this must be increased to cover federal, state and city income taxes and sales taxes.

At hearing, the parties agreed applying income taxes would raise the allowance to \$1,091. An additional 7.75% for sales tax is an additional \$84 for a total of \$1,175.

The \$925 the police are receiving is under their old contract. Their contract for 2008-10 is yet to be negotiated.

Finding

The annual allowance for clothing replacement and maintenance should be \$1,175.

Contract Language

The first two sentences of the second paragraph of Article XXI are deleted. The following language replaces those sentences:

Each shift member shall receive the sum of \$1,175 per year for clothing and for clothing maintenance. One-half shall be paid with the first pay in January and one-half with the first pay in July.

Issue No. 6
Health Insurance

City Position: Implement a new plan with 80/20 co-insurance, \$100 single/\$200 family deductible and \$500 single/\$1,000 family maximum out-of-pocket, and co-pays for prescriptions.

The City's current health care plan is funded entirely by the City. There are no deductibles and no co-pays. The City self insures the first \$75,000 of each claim. It carries insurance that kicks in when a claim exceeds that amount. This plan applies to all city employees at a current cost of about \$12,000 per employee per year. Health care costs are rising. The City has recently experienced three recent major claims that totaled over \$730,000.

100% coverage is a thing of the past. The City's health insurance consultant, Mr. Naso, testified that the purpose of the new plan is to shift some part of the health care costs to those that utilize the service.

Comparables, as indicated by SERB's analysis, show employees, in cities under 25,000 population, contribute about 10% of the cost of health care. The City's plan would result in the employees paying less than 7% of the cost. The maximum out-of-pocket cost to an employee would

be a \$200 deductible and \$1,000 co-insurance for a total of \$1,200.

The City is offering an HMO plan that would limit choice to the University Hospital System that would provide the same level of benefits as the current plan.

The City wants its health plan to be retroactive to January 1, 2008.

Union Position: The Union urges adoption of a 90/10 co-insurance plan with \$300 single/\$600 family deductibles and lesser co-pays for prescriptions.

First, the Union points out that, for those who utilize the health plan and incur the maximum deductibles and co-pays, this would amount to a 2% reduction in their base pay. This is simply not called for by the City's cost experience as the City's actual expenditures for health care have increased minimally over the past three years.

Further, the City has entered into a new CBA with AFSCME, which represents 59 of the City's 170 employee (48% of the City's unionized employees) which provides 80/20 co-insurance with no deductible and \$400 single/\$800 family maximum out-of-pocket. Prescription co-pays are 10/20/30. Non-network services require greater contributions.

Under the AFSCME contract, the current Bedford plan remains in effect for 2008. The new plan commences January 1, 2009. If any other bargaining unit achieves better health coverage, AFSCME also gets the better deal but has no downside risk if another unit gets a deal that is not as favorable.

Discussion

It is a sad commentary on the way health care is provided in the United States that every contract negotiation finds itself in this morass which has little, if anything, to do with improving health care and everything to do with who pays for it.

The reality is that employees in the private sector have had to bear some part of the cost of health care for years. In the public sector, cost sharing has become the norm. The only real issue is how much.

Here, it is clear the AFSCME contract has set a pattern, both due to the large number of employees and the “me too” aspects of that contract.

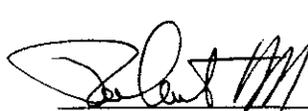
Finding

Implement the AFSCME health care plan effective January 1, 2009. The current plan to remain for 2008.

Offer the University Hospital HMO plan.

Contract Language

Alter the first paragraph of Article XXIII to change Exhibit A to the AFSCME plan effective January 1, 2009.


Robert M. Lustig
Fact Finder
Cleveland, Ohio
June 6, 2008

CERTIFICATE OF SERVICE

A copy of the foregoing document was sent, by agreement of the parties, by email and by regular U.S. Mail, postage prepaid, June 6, 2008 to:

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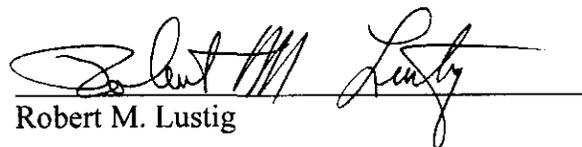
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