



STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

EMPLOYMENT
RELATIONS BOARD
2009 MAY 28 A 11:43

In the matter of: :
 :
Lancaster Police Supervisor : **Case No. 08-MED-10-1065**
Association/City of Lancaster Police :
Department :

FACT-FINDING REPORT AND RECOMMENDATION

The undersigned, Steven L. Ball, appointed as State Employee Relations Board Fact-Finder, makes the following report:

I. HEARING

The Fact-finding was heard at the Lancaster City Hall on May 13, 2009, at 10:00 a.m.

The following were present:

Lancaster Police Supervisor Association – Wes Elson
Greg Seesholtz

The City of Lancaster – Marc Fishel
Mike Courtney
Randall Ulcom
David S. Smith

II. CRITERIA

Consideration was given to the criteria listed in §4117.14 O.R.C. and Rule 4117.9-05(K) of the State Employee Relations Board, as follows:

1. Past collectively bargained agreements, if any, between the parties;
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, the ability of the public employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standard of public service;

4. The lawful authority of the public employer;
5. Any stipulations of the parties; and
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 in private employment.

III. ISSUES AND RECOMMENDATIONS

After negotiations, the parties reached agreement on all matters, except for the following three issues, which remained after the City Council rejected a tentative agreement.

Finding of Fact No. 1 - Wages

The City proposes a wage freeze for 2009, a 2% increase in 2010, and a 3% increase in 2011. The union proposed accepting whatever wages the patrolmen may receive in their new agreement, plus an increased percentage rank differential. The city and patrolmen were scheduled for fact finding May 22. The parties have agreed that the fact-finder may recommend wage increases to be effective retroactively to the expiration of the last agreement.

Historically, the supervisors have received wages ultimately determined by the patrolmen's wages, plus a percentage differential for each of the three supervisory ranks. The union wishes to continue such a practice, and is willing to accept the threshold negotiated or awarded in the patrolmen's agreement. The city disagrees on the percentage differential proposed by the union, which will be discussed below. The fact-finder heard much testimony as to the financial condition of the city and the relative equities of an increase. The underlying wages proposed by the city may indeed be implemented via the patrolmen's agreement should that fact-finder agree with the union's position, dependent, of course, on the outcome of those negotiations/proceedings. The patrolmen's bargaining unit is much larger than that of the supervisors. It makes little sense to this fact-finder to engage in a lengthy evaluation of the city's

proposal, when the most impact to the city (or to the union) will occur in the resolution of that agreement. The fact-finder believes that the patrolmen's "horse" should come before the supervisor's "cart," and not the "cart" before the "horse" as proposed by the city (with apologies to both units for the analogy). Accordingly, the wage findings will be limited to issue of the percentage rank differentials as proposed by the union and city with the actual dollar amounts deferred for resolution in the patrolmen's agreement.

Currently, the sergeants are paid 13% greater than patrolmen, lieutenants 13% greater than sergeants, and captains 13% greater than lieutenants. The union proposes to increase that rank differential 1% to a total 14% differential for each rank. Sergeants and lieutenants have had 13% differentials since at least 1999. The captains bargained a lower (10%) differential in the 2001-2005 agreement, but gave up 40 hours personal time. They returned to 13% in the last agreement.

The city eliminated two supervisor positions in 2008. Though the city originally contemplated hiring 5 additional patrolmen with the savings, that did not occur. The union contends that the result has been additional duties to the remaining supervisors, and that a percentage increase is needed to equalize the compensation to account for that increase of work.

The union cites a number of comparable wages (Ex. 5-0) to show that the average differential for those comparables exceeds 13%. The city contends that though the union's comparables are in geographical proximity to Lancaster, they are not economically comparable. For example it refers to the City of Bexley, an affluent Columbus suburb, as having little in common with Lancaster.

The city's primary argument against as to the proposed differential increases is the city's financial condition. Police are paid solely from the city's general fund. The city produced

significant evidence to show that the city's carryover has been reduced nearly to the lowest suggested percentage. There is no rainy day fund.

The city's expenses exceeded its revenue by \$641,050 in 2008, and by \$76,022 in 2007 and \$42,959 in 2006. In 2005 revenue exceeded expenses by \$627,098. The city's income tax revenues in April were \$49,879 lower than April, 2008, and March, 2009 revenues were \$21,422 less than a year ago. January and February, 2009, however, were significantly higher than 2008. The city foresees a dramatic trend downward in revenues. The city also points out that it received 1.245 million extra in 2009 that will not repeat in 2009, and that layoffs are a possibility if the trend continues. The union contends that the city has a problem getting a handle on the budget, citing the 2007 budget being off from early revenue estimates, and that projections are not hard figures.

The city believes its compensation package is generous, and that it pays 6% of the 10% employee's share of pension contributions, and that the bargaining unit is not in a "catch up" mode. The union contends that such pension contributions are common throughout the state.

It appears to the Fact-Finder that the city has acted prudently to trim its expenditures in anticipation of a protracted decrease in revenues. It has consolidated functions in areas where that is possible (non-safety), but remains fearful of continued decreased revenues which could force layoffs to safety forces. However, the union's proposed 1% increases in the rank differential appear reasonable, in the context of the comparables offered by both sides, and especially given the decrease in the number of supervisors and resulting increased duties to the remaining supervisors. Moreover, the proposed increases will not substantially affect the city's budget. However, in defense to the legitimate fears of the city as to 2009 revenues, the fact-finder recommends that the increases be postponed to commence in 2010.

Recommendation

The fact-finder recommends the following language to replace current §59.2 “Supervisor Pay” except for the last sentence of the section which shall remain unmodified:

“The hourly, bi-weekly, and overall wages for sergeants shall be 13% great than Patrol wages for 2009, and 14% greater than Patrol wages in both 2010 and 2011.

The hourly, biweekly, and annual wages of lieutenants shall be 13% greater than sergeants for 2009, and 14% greater than sergeants wages in both 2010 and 2011.

The hourly, biweekly and annual wages of captains shall be 13% greater than lieutenants for 2009, and 14% greater than lieutenants in both 2010 and 2011.

The above wages will be implemented retroactive to January 1, 2009 upon implementation of the patrolmen’s agreement.”

Finding of Fact No. 2 – Shift Differential

The union proposes to increase the shift differential from 45 cents per hour to 75 cents per hour for second shift and 45 cents to 85 cents per hour for third shift. The city wishes the differentials to remain as in the past agreement. There have been no increases in the shift differential since 1999.

The comparables proposed by the union include five Franklin County municipalities, wherein differentials ranged from \$.90 to \$1.00 per hour. Those comparables also include Delaware, \$.65 to \$.75, Marysville, \$.30 to \$.50, and Newark, \$.69, and Pickerington, \$.80.

The city’s comparables are more diverse geographically, but appear to this fact-finder to be more closely comparable as to size and economic context. Those differentials range from a low of no differential, to a high of 75 cents (Delaware), (Circleville 20 cents, London 25-35 cents, Marietta, 45 cents, Marysville 30-50 cents, Newark 72 cents, Springfield 40 cents, Lima, Xenia and Zanesville “0”). The fact-finder concludes that though the differential has not been increased since 1999, the union has not shown a compelling reason for the large increases

proposed. Moreover, the current differential is certainly within a reasonable standard as per the comparables proposed by both parties. Finally, such increases are not justified given the current economic climate and fiscal condition of the city.

Recommendation

The fact-finder recommends that Article 61, Shift Differential, remain as stated in the last agreement.

Health Insurance

The union proposes that the employee premiums shall be increased to 8% of the monthly premium, not to exceed \$114 family, and \$42 single coverage in the first year of the agreement. The second year, premiums would increase to 12% - \$180 family and \$67 single. The third year, premiums would increase to 14% - \$220 family and \$82 single. The employer's position is the same as the union's proposal for years 2 and 3, but provides for employee contributions of 10% for the first year of the new agreement. The union argues that any increase in premiums should be implemented upon approval of a new agreement, and the city asks that any increases be retroactive to January 1, 2009.

The positions are very close. In fact, the testimony at hearing revealed that the differences in the two positions would amount to \$3800 for the entire bargaining unit over the twelve month period from January 1, 2009 to December 31, 2009. The fact-finder believes that the 10% premium is reasonable when compared with average statewide contributions, other comparable jurisdictions, and other City of Lancaster bargaining units. However, the impact of retroactive contributions would be more harsh and inequitable upon the employees, given the fact that the city has already budgeted the expenditures to date, and they are but a small amount as a percentage of the city's budget.

Recommendation

The city's proposal should be implemented, except that increases for the employee's contribution shall be effective upon implementation of the new agreement. Section 46.2 of the agreement should read as follows:

Section 46.2 Employee Premium Share

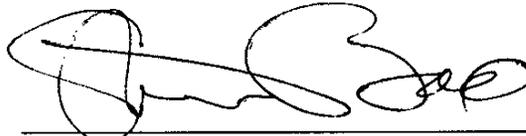
These deductions will be made pursuant to the City's 125 plan. Effective upon implementation of this agreement, employees will pay 10% of the monthly premium not to exceed \$53 for single coverage and \$143 for family coverage. Effective January 1, 2010, employees will pay 12% of the monthly premium not to exceed \$67 for single coverage and \$180 for family coverage. Effective January 1, 2011, employee shall pay 14% of the monthly premium not to exceed \$82 for single coverage and \$220 for family coverage.



Steven L. Ball, Fact-Finder
May 27, 2009

CERTIFICATE OF MAILING

I hereby certify that a copy of the Fact-Finding Report was sent via e-mail and overnight mail to: Wes Elson, FOP/OLC, 2289 Adamsville Road, Zanesville, Ohio 43701 and Marc A. Fishel, Downes, Hurst & Fishel, 400 South Fifth Street, Suite 200, Columbus OH 43215; and the original Fact-Finding Report was sent via first class U.S. mail, postage prepaid, to Edward Turner, Administrator, Bureau of Mediation, SERB, 65 East State Street, 12th Floor, Columbus, Ohio 43215, on this 27th day of May, 2009.



Steven L. Ball, Fact-Finder

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May 27, 2009

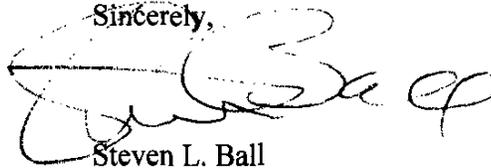
Edward Turner, Administrator
Bureau of Mediation
SERB
65 East State Street, 12th Floor
Columbus OH 43215

Re: **Lancaster Police Supervisor Association/City of Lancaster Police
Department
Case No. 08-MED-10-1065**

Dear Mr. Turner:

Enclosed is the Fact-Finding Report relating to the above-captioned matter.

Sincerely,



Steven L. Ball

SLB/kb

Enclosure