

IN THE MATTER

STATE EMPLOYMENT
RELATIONS BOARD

OF

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FACTFINDING

BETWEEN

THE CITY OF FRANKLIN, OHIO

AND

INTERNATIONAL BROTHERHOOD OF TEAMSTERS,
LOCAL UNION 100

Hearings: March 25, 2009
SERB Case Nos.: 08-MED-10-1110 and 08-MED-10-1111
Date of Report: April 15, 2009
Issue: Factfinding

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REPORT AND RECOMMENDATIONS

Michael Paolucci
Factfinder

Administration

By telephone call of March 2, 2009, from Brett Geary, the representative with the City, the undersigned was informed of his designation to serve as Factfinder for the Parties. On March 25, 2009, a hearing was scheduled and some mediation was engaged in prior to the formal hearing. Following mediation, the Parties submitted the issues to the undersigned. The record was closed at the end of the meeting on March 25, 2009, and is now ready for a factfinding report.

Factual Background

The City is located in Warren County, and is between the larger cities of Cincinnati to the South and Dayton to the North. The City has employees in its Services Department (Utility Persons I, II and III) and Clerical employees that are both represented by the Union in two (2) distinct bargaining units.

The City's location between Cincinnati and Dayton places it in the high-growth I-75 corridor. The City's Public Works Department, also called the Service Department, includes the Street Department, the Water Department, the Sewer Department, and the Parks and Recreation Department. There are approximately fifteen (15) bargaining unit employees in the Street Department and one (1) in the Water Department. The Clerical Bargaining Unit has three (3) employees that provide clerical supports to the City, and three (3) other bargaining unit employees in the Parks and Recreation Department.

The Parties have been in negotiations since November 2008, and there are four (4) unresolved issues. Since the issues are essentially the same for both bargaining units, they have been treated the same, and they are as follows:

1. Sick Leave. Article 15 – Clerical Unit.
Article 21 – Service Unit
2. Vacation. Article 14 – Clerical Unit.
Article 20 – Service Unit.
3. Wages Article 23 - Clerical Unit.
Article 31 - Service Unit
4. Duration.

Section 4117-9-05 of SERB's administrative rules addresses the issues that a factfinder must consider when making recommendations. That section, in pertinent part, reads as follows:

(K) The fact-finding panel, in making recommendations, shall take into consideration the following factors pursuant to division (C)(4)(e) of section 4117.14 of the Revised Code:

- (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;
- (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. (emphasis added)

The issues will be addressed giving consideration to all of the required factors.

Discussion and Recommendations

1. Sick Leave. Article 15 – Clerical Unit.
Article 21 – Service Unit.

The current Agreement provides that any full-time employee hired before November 1, 2006, upon death or retirement shall receive payment for up to 150 days of unused sick leave. If an employee terminates employment with the City for reasons other than death or retirement, the payment is one (1) day for each two (2) days of accumulated sick leave, up to 150 days. In addition, at the end of each calendar year, employees hired prior to November 1, 2006 may elect to convert some of the accumulated sick leave to cash pursuant to a set schedule. Most of these benefits have been in the Agreements since 1994.

The Employer proposes changes that would reduce or eliminate the benefit that allows for the cash out of unused sick leave at the end of each year; and upon death or retirement.

The Union proposes the *status quo* for both benefits.

Employer Position

The City argues that the benefit is being abused and it seeks to modify the sick leave conversion. Its proposal would result in limiting the cash out to those with less than 160 hours to a 1 for 1 pay out.

The City points out that there are no comparables to this benefit, and the historical reason for its existence no longer holds true. It concedes that the benefit was agreed to in a period in which the City could not afford any wage increases. The Union negotiated this benefit because the City was

not paying a wage increase, and the City agreed. The City showed that since that time it has consistently paid higher than average wage increases, and therefore the justification for the benefit has passed. It asks that the benefit be brought back into line with other comparable bargaining units, and it proposes changing the benefit.

Union Position

The Union argues that the comparables that are more persuasive are internal. Since other bargaining units receive the benefit, it asks that it not be singled out as the sole group of employees to not get this benefit. It contends that since the benefit was given in exchange for the 0% wage increase, and since that loss of wage increases will never be recovered, then it contends that the benefit should remain.

The Union relies on the fact that the police and the fire departments receive the benefit and their contracts expire in 2010 and 2009. It contends that the City should start with those bargaining units before asking for the change from this unit. It points out that in this bargaining unit only three (3) employees regularly take advantage of the benefit, and two (2) of those are retiring this summer. Since the only eligible employees are those with 1200 hours or more, and since few employees qualify, then it contends that the benefit is not as serious as claimed.

The Union argues that the City has attempted to change this benefit in the past, but has been unsuccessful. Since the Union agreed to changes just one (1) Agreement ago, it argues that this benefit should be allowed to remain unchanged for a longer period.

Recommendation

At the outset, it must be noted that the Parties agreed that there is a typo in the second paragraph of Section 15.13, and it is recommended that the change to that paragraph be made that would remove the typo.

The City has persuasive arguments on this issue save the most important – the remaining bargaining units. As recognized by most public sector collective bargaining, safety forces, and other bargaining units that have conciliation, are often considered the “leaders” for changes in benefits – both increases and decreases. If those bargaining units have a benefit whose justification has lessened over time, and that benefit also exists in non-safety bargaining units, it is accepted that the change should start with the safety force units. This is the main thrust of the Union’s position, and it is persuasive. The City’s position is reasonable – the benefit is outdated; is not justified from the comparables; and it is large compared to the benefit that is provided, i.e. sick leave. However, unless and until the safety force bargaining units concede this benefit, it would be unreasonable to ask this bargaining unit to take the lead.

Based on the foregoing, it is recommended that the benefit remain the same, but that “me too” language be included. Once either of the safety forces accepts a change, this bargaining unit should receive the same benefit. If the benefit is eliminated, this bargaining unit would automatically lose the benefit. If the benefit is changed for either of those safety forces, it would be changed the same. Therefore, the recommendation is that this bargaining unit should change to match once either of the safety force bargaining units is changed.

2. Vacation. Article 14 – Clerical Unit.
Article 20 – Service Unit.

The Employer made a new proposal at the hearing regarding changes to the vacation language.

The Union proposes changing the vacation language so that employees could carry over four (4) weeks of vacation time to the next calendar year.

Recommendation

The City's proposal made at the hearing is recommended.

3. Wages Article 23 - Clerical Unit.
Article 31 - Service Unit.

The Employer proposes wage increases of 3%, 3%, and 3% in each year of a three (3) year Agreement. The Employer proposes a change to the pension pickup so that there is a 10% cap on the amount of the pension pickup.

The Union proposes wage increases of 5%, 5%, and 5% in each year of a five (5) year Agreement. The Union proposes the *status quo* on the pension pickup. The *status quo* is that there is no language in the Agreement as it pertains to pension pickup and its percentage is set by municipal law.

Recommendation

It is recommended that the bargaining unit employees receive a 3%, 3% and 3% increase in each year of a three (3) year Agreement.

It is not clear which proposal on pension pick up would benefit which Party. The City's proposal is reasonable and it locks in the benefit at a specific rate. It is not clear what impact, if any, that the *status quo* would have on the bargaining unit. If the benefit is controlled by municipal law, which can be modified by the Council at any time, then an issue arises as to whether the *status quo* actually protects anyone. Therefore, to make the benefit more certain, the City's proposal on pension pick up is recommended.

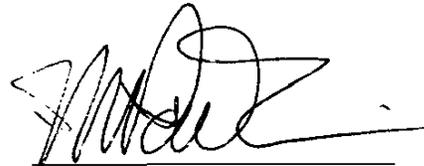
4. Duration

Recommendation

It is recommended that the Agreement be made retroactive to January 1, 2009.

All tentatively agreed to issues are incorporated herein by reference as if included in their entirety. All such tentative agreements are recommended as tentatively agreed to.

April 15, 2009
Cincinnati, Ohio



Michael Paolucci

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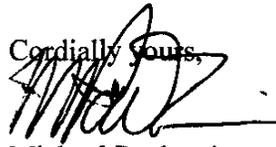
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To Each:

Enclosed please find two (2) copies each of the Factfinder's Report and Recommendations, as well as the Factfinder's Bill for the above-captioned matter. Thank for the opportunity to serve the Parties. I look forward to working with you again in the future if the occasion should so allow.

Please contact me if you need anything further.

Cordially Yours,


Michael Paolucci

Cc: SERB - "