

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARDFRATERNAL ORDER OF POLICE,
LODGE 15

Union

and

THE CITY OF NORTH ROYALTON

Employer

CASE NO.: 2009-MED-09-1000
2009-MED-09-1001FACT-FINDER:
STANLEY WIENER

SEPTEMBER 15, 2010

A fact-finding hearing was held on August 13, 2010, at the North Royalton City Hall, 13834 Ridge Road, North Royalton, Ohio.

Representing the FRATERNAL ORDER OF POLICE, LODGE 15 ("Union"), was Robert M. Phillips, Esq. Also appearing and testifying on behalf of Union were: Patrolman, Scott Cerito; Sergeant Keith Tarase; and, Mary Schultz, CPA, CFE of Sargent and Associates.

Representing THE CITY OF NORTH ROYALTON ("City") was William F. Schmitz, Esq. Also appearing and testifying on behalf of the City were: Mayor, Robert Stefanik; Karen Fegan; Finance Director, Donna Vozar; and, Patrick Jones.

I. BACKGROUND

North Royalton is a city of approximately 30,000 residents. The Union represents 27 patrol officers and seven sergeants. Both units have negotiated jointly with the City. The current three-year contracts expired December 31, 2009.

Negotiations for new contracts commenced in November 2009. Very little progress was made and mediation was attempted on July 22, 2010.

Although mediation was unsuccessful, it did lay the foundation for a more reasonable discussion of the issues at the fact-finding hearing.

II. POSITIONS, FINDINGS, AND RECOMMENDATIONS

For all of the issues discussed below, I have taken into consideration the factors set forth in Ohio Revised Code, Section 4117.14(G)(7)(a) through (7)(f), together with the testimony of all participants and exhibits.

III. ISSUES AT IMPASSE

A. NON-ECONOMIC:

1. Length of contract
2. Duty hours – Sergeants

The City has requested a two-year contract, or three years with a wage reopener in the third year.

City Position:

The current economic times would seem to dictate a shorter contract. This is not uncommon today.

Findings:

The history of the present negotiations would seem to call for a contract longer than two years. It is approximately 10 months since the negotiations commenced. Based upon this record the Union and the City would be in perpetual negotiations which would not be beneficial for either party.

Recommendation:

I recommend a three-year contract, commencing January 1, 2010.

2. Duty Hours for Sergeants – Section 11.04:

The Union requests that the second full paragraph of Section 11.04 be deleted and replaced with the following:

“Scheduling for sergeants shall be by seniority. Shifts will not rotate. Scheduling will be bid in yearly blocks divided into four (4) separate quarters in which members will select a preferred quarterly shift by seniority for a total of four quarterly picks.”

Union and City Position:

After a brief discussion, both parties agreed that they would resolve this Union request outside of the hearing. It was agreed that this issue be withdrawn from the Fact-Finder.

B. ECONOMIC:

Following are the Union economic requests:

- (1) That the Professional Wage Supplement in the sergeants' contracts be increased to \$3,100.00 from \$2,400.00, and that the Professional Wage Supplement in the Patrolmen contract be increased to \$2,500.00 from \$1,900.00;
- (2) Increase the number of personal days by two;
- (3) Increase the premium pay holidays by two;
- (4) Salary Schedule:
0% increase in 2010;
3.75% increase in 2011;
3.75% increase in 2012

All of the above requests were rejected by the City.

Following are the City economic proposals:

- (1) No salary increase for each contract year in the proposed two-year contract; with a wage re-opener in the final year of a three year contract;
- (2) Employee contribution for health insurance would be \$65.25 for a single plan and \$178.92 for a family plan.

Because the City has raised the issue that it is unable to afford any increased economic benefits, I will present the City and Union positions on this issue. Each party will then give their positions on the specific economic proposals.

Affordability is a difficult problem. Fortunately, both sides furnished excellent testimony. I especially wish to thank Karen Fegan, the Finance Director, of the City and Mary Schultz, C.P.A., C.F. E. of Sergeant & Associates who was retained by the Union.

After the general discussion of affordability, we will respond to the individual economic requests at impasse.

DISCUSSION OF AFFORDABILITY

City Position:

The City, in its present economic condition, can ill afford to comply with any of the Union requests. The 2010 budget includes a 0% increase for all city employees.

Since 2008, expenditures have outpaced revenues. The City has been balancing its budget on reserves. It used its carry-over balance to cover a three million dollar deficit in 2009.

The estimated unencumbered general fund cash balance for 2010, through June 2010, is approximately \$350,000.00. The unencumbered cash balance for 2009 was \$953,377.00. It is projected that by the end of 2010, the unencumbered general fund cash balance, as a percentage of the general fund expenditures will be 5.0%.

This is far less than a balance equal to expenditures for three months. A carry-over should not be less than 10% of the general fund total.

The basic cause for the declining carry-over balance is the state of the economy.

The total tax revenues for 2009 were \$843,000.00, less than 2008 (a 8.9% loss).

The City's property tax collections went from \$908,000.00 in 2008 to \$876,000 in 2009. The projection for 2010 shows a further decline.

Income tax receipts decreased from \$12,527,000.00 in 2008 to \$11,572,000.00 in 2009.

There were only 24 new home starts in 2009.

Investment income in 2007 was \$1,000,000.00, compared to \$129,000.00 in 2009.

In 2010, the budget was decreased by \$227,500.00. Further cuts may be needed before the end of 2010.

So far this year, the Mayor, all members of Council, the department heads, salaries and contract employees accepted 10% reductions in pay from August to the end of 2010. All non-union employees are to take ten furlough days for 2010.

AFSCME (representing the service department) has agreed to no wage increases for 2010 and 2011, and to take ten furlough days.

In short, the City cannot afford any economic benefits for any of the bargaining units.

Union Position:

The City financial reports from 2007 through June 2010 have been examined by the Union.

Property and income tax revenues make up 80% of the total general fund.

In 2007, the residents of North Royalton voted to increase the income tax. The pre-increase levels averaged \$8,000.00. The post-increased levels have averaged \$12,619.00.

The City promised that if the income tax increase was passed, it would replace five vacant police officer positions. This promise has not been kept. Also, two more officers will be leaving in January 2011.

The reduced personnel has exacted a toll on the unit.

The City has seen an average increase of 28% in service calls since 2005.

The economic conditions are not the entire fault regarding the City's refusal to pay or budget for any economic increases.

The City has revised its priorities. It has set up Future Capital Improvement Funds that receive transfers from the General Fund revenues.

Through June 30, the Police Wage budget in the General Fund has been expended by 48.3% of the budget, instead of 50%. The police wages will be \$94,000.00 under budget for the year 2010.

A 1% wage increase to the police wage equals approximately \$40,290.00.

The proficiency pay increase requested would cost \$20,400.00. The 3.75% wage increase in 2011 would cost \$151,000.00.

The 2010 savings in Police Budget wages and the anticipated December 31, 2010 carryover balance in the Police Levy Fund would be able to cover the cost of the requests for the proficiency pay increase in 2010 and 2011, and the 3.75% wage increase in 2011.

For 2010 and 2011, the increase would not affect any other City department budget or reduce the General Fund year-end carryover balance.

In other words, instead of using funds for increased employee benefits, the Funds are being held for future unknown expenditures.

For example, the City set up a Transfer Out account and budget of \$1,300,000.00 in the "Future Capital Improvement Fund," then transferred that amount to the Recreation Capital Improvement Fund. In the Capital Improvement Fund, a Building Construction account was added with a budget of \$2,100,000.00.

Council has restructured and reduced some department budgets. Several departments have seen their budgets increase while the police budget has decreased. This reveals a shift of priorities.

City Council has the ability to further allocate the income taxes.

The City is top heavy in funds available for capital improvements. A small portion of these funds could be used to preserve the City's public safety forces.

Findings:

There is little question that the current economic events have had an adverse effect on the City for the year 2010 and will probably continue at least through 2011.

The City, in the past, has been fairly generous to its employees. In 2010, it has attempted to alleviate the situation, not by layoffs, but by wage reductions for the executives and legislative members, and by furloughs.

However, as discussed below, I find that the City has the ability to meet some of the Union requests.

1. PROFESSIONAL WAGE SUPPLEMENTS

Union Request:

Improve the Professional wage supplement for sergeants from \$2,400.00 to \$3,100.00.

Improve the professional wage supplements for patrolmen from \$1,900.00 to \$2,500.00.

Union Position:

This request is in lieu of the forbearance on the part of the Union in not pushing for a wage increase for 2010. The professional pay is for continued firearms proficiency and continual education.

City Position:

A review of comparable cities show that many are foregoing this fringe benefit. This request is actually nothing more than a one percent (1%) wage increase for future years' base wages. The proposal will compound with subsequent yearly increases.

This proposal is but an increase for nothing more than performing the duties that the base wages include.

Findings:

From 2007 through 2009, the sergeants' professional pay has increased \$250.00 per year. The professional pay for patrolmen also increased \$250.00 per year.

The total request, if broken down over two years, is reasonable. The cost was estimated at \$20,400.00, if given in full the first year. This amount is quite a bit less than a 1% wage increase.

Recommendation:

I recommend that the sergeants' professional pay be increased to \$2,750.00 for 2010, and to \$3,100.00 for 2011.

The professional pay for patrolmen be increased to \$2,200.00 for 2010, and to \$2,500.00 for 2011.

2. and 3. PERSONAL DAYS AND HOLIDAYS

2. The Union proposes to increase the number of personal days by one in 2010 and one in 2011, for a total of five personal days.

3. Add two holidays for which, if required to work, the employee shall receive one and a half times the regular pay rate.

Union Position

Because of no wage increases in 2010, the Union proposes to improve its holiday entitlement. The present personal days will be increased to five, from the

present three. To use a personal holiday requires prior approval up the chain of command. This, obviates concern for overtime.

Currently, if the employee is required to work on July 4, Thanksgiving Day, or Christmas Day, the employee will receive an additional one-half time the regular hour rate of pay.

The proposal would add Memorial Day and Labor Day. Because of the delay in negotiations, neither of these holidays can be effective until 2011.

Granting the proposals would ease the lack of improved compensation in the first year of the contract and provide a competitive holiday package with comparable cities such as Independence, Middleburg Heights, Brecksville, Strongsville, Berea and Broadview Heights. North Royalton is very close to the bottom when compared to the above-mentioned comparable jurisdictions.

City Position:

No increase is appropriate for additional personal days or premium pay holidays.

The Union already enjoys 10 holidays, three personal days and birthday, for a total of 14 days. This is the same amount of time that the fire, correction, and service bargaining units in North Royalton receive. If the Union proposal is granted, it would disrupt the internal comparisons.

Increasing the personal days to five would increase the total holidays to 16. The total days already exceed the surrounding communities' average of 13.5 total days.

The Union is compensated on par with every other bargaining unit in the City. If the Union receives an increase, the other units will demand parity. The City cannot absorb the additional costs at this time.

Findings:

I find the Union's requests for additional personal days and premium pay holidays are reasonable, especially if spread out over a three-year contract. With respect to total compensation, the City is near the bottom when compared to the comparable cities as set forth in the Union position.

With respect to premium pay holidays, I find that the City is behind comparable jurisdictions such as: Brecksville; Broadview Heights; Book Park; Brunswick; Medina; North Olmsted; and, Strongsville.

Recommendations:

It is recommended that the Union receive one (1) additional personal day for 2010 and one (1) additional personal day for 2011.

It is also recommended that commencing in 2011, Memorial Day be added as the fourth premium pay holiday, and that in 2012, Labor Day be added as a premium pay holiday, thereby making a total of five premium pay holidays.

4. SALARY SCHEDULE

The Union proposes a zero (0) wage increase for 2010, a 3.75% wage increase for 2011, and a 3.75% increase for 2012.

The City proposes no wage increases in 2010 and 2011. If there is a three-year contract, it would be agreeable to a wage reopener in the third year.

Union Position:

The City compensation is substantially below that of comparable cities such as: Strongsville; Middleburg Heights; Brecksville; Independence; and, Berea. Even granting the Union request, the City would still be near the bottom of the above

comparable cities.

The City can afford to pay its police force a more competitive compensation over the next three years. The police levy fund generates between \$1.3 and \$1.5 million per year.

City Position:

Compensation compares with the surrounding cities even with a 0% raise. Units in North Olmsted and Parma have accepted reductions in fringe benefits and have accepted furlough days. AFSME has accepted 0% increase for 2010 and 2011, and has agreed to furlough days. The City is balancing its budget on its reserves.

Findings:

I find that the Union request for a 3.75% increase in wages in 2011 and 2012 is not realistic in these uncertain economic times.

I understand that the increased wages, if granted, would still leave the City below many of the comparable jurisdictions; however, the serious economic situation of the City cannot be overlooked.

Recommendations:

No increase in wages for 2010 or 2011. A 2.5% wage increase commencing January 1, 2012.

5. HEALTH INSURANCE

The City proposes that each employee contribute \$65.25 toward the monthly premium for a single plan and \$178.92 toward the monthly premium for a family plan.

City Position:

The increasing cost of health insurance has put the City in an unenviable position. Most of the Union employees have enjoyed health insurance without any contribution. In this day and age, this is unusual, and must come to an end. The City can no longer afford to absorb 100% of the premium costs. It is common knowledge that the health insurance costs will continue to increase.

Union Position:

No change in the current health insurance provision.

Findings:

Article XXIV, paragraph 24.03 of the Sergeant and Patrolmen contracts read as follows:

“24.03 Prior to January 1, 2008 employees will be notified of an election of two (2) plans as set forth in Appendix A. Effective January 1, 2008, employees selecting the first dollar, no deductible plan with five (\$5.00) dollars generic and ten (\$10.00) dollars name brand prescription co-pays, shall be required to contribute fifty (\$50.00) dollars per month for a single plan or one hundred (\$100.00) dollars per month for a family plan. Employee premium contributions to those who select the no deductible plan shall be by payroll deduction. Employees who select the United Health Care or similar alternate plan with deductibles, increased co-pays and prescription co-pays of ten (\$10.00) dollars generic and twenty (\$20.00) dollars name brand as set forth in Appendix A shall have no premium contribution.”

The City is in the unusual position of absorbing almost the entire cost of health insurance. The vast majority of Union members have selected the United Health Care alternate plan (now “AETNA”) with the deductibles and co-pays and, therefore, have no premium contributions.

Requiring the proposed contributions from the employees who are presently making no contribution would create the unusual situation where the Aetna plan members (with deductibles, co-pays, etc.) would be paying more than the employees selecting the first dollar, no deductible plan.

It is not clear, however, whether the City is also requesting whether the increases requested in its proposal are to be added to the premiums called for under the first dollar, no deductible plan.

In any event, I find that no employees of any other unions recognized by the City are required, at this time, to make payments for the Aetna plan.

Recommendations:

I recommend that, until a pattern is established for all City employees to make like contributions for health insurance, there be no change in the current health insurance provisions.

Respectfully submitted,



STANLEY WIENER
Fact-Finder

CERTIFICATE OF SERVICE

True copies of the foregoing report were sent this 15th day of September, 2010, by Federal Express, to the following:

Robert M. Phillips, Esq.
820 West Superior Avenue, 9th Floor
Cleveland, OH 44113

William F. Schmitz, Esq.
635 W. Lakeside Avenue, Suite 600
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STANLEY B. WIENER

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2010 SEP 17 P 2:14

September 15, 2010

Phone: 216/241-3880

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Administrator, Bureau of Mediation
State Employment Relations Board
65 East State Street - 12th Floor
Columbus, OH 43215-4213

Re: CASE NOS. 2009 MED-09-1000
2009 MED-09-1001
F.O.P. Lodge 15 - City of North Royalton

Dear Sir:

Enclosed, please find a copy of the Fact-Finding Report for the above matter.

Thank you.

Respectfully,



STANLEY B. WIENER

SBW/tk
Enclosure