

IN THE MATTER OF FACT-FINDING
BETWEEN

2010 JUN 16 P 4:45

BRIMFIELD TOWNSHIP)	CASE NO. 09-MED-10-1207
BOARD OF TRUSTEES)	
)	
AND)	<u>FINDINGS</u>
)	AND
)	<u>RECOMMENDATIONS</u>
TEAMSTERS LOCAL UNION NO. 24)	

JAMES M. MANCINI, FACT-FINDER

APPEARANCES:

FOR THE TOWNSHIP

John N. Barkan, Jr., Esq.
Robert Keller, Fire Chief

FOR THE UNION

Susan D. Jansen, Esq.
Dave Richards, V.P. Local 24

SUBMISSION

This matter concerns fact-finding proceedings between the Brimfield Township Board of Trustees (hereinafter referred to as the Township or Employer) and Teamsters Local Union No. 24 (hereinafter referred to as the Union). The State Employment Relations Board (SERB) duly appointed the undersigned as fact-finder in this matter. The fact-finding hearing was held on May 27, 2010 in Brimfield Township.

These fact-finding proceedings were conducted pursuant to the Ohio Collective Bargaining Law as well as the rules and regulations of SERB. During the fact-finding proceeding, this fact-finder attempted mediation of the issues at impasse. The issues remaining for this fact-finder's consideration are more fully set forth in this report.

The bargaining unit consists of all part-time employees classified as Firefighter, Firefighter/EMT, Firefighter/Medic, Lieutenant/EMT and Lieutenant/Medic. There are eighteen employees in the bargaining unit at the present time.

This fact-finder in rendering the following findings of fact and recommendations of the issues at impasse has taken into consideration the criteria set forth in Ohio Revised Code Section 4117-14(G)(6)(7). Therefore, the following recommendations of the issues at impasse are hereby submitted.

1. UNION RECOGNITION

The Township proposes to amend Section 2.4 of this provision to provide that when the current Part Time Lieutenant is no longer employed in the Fire Department, the position of Part Time Lieutenant is to be removed from the bargaining unit. The Union proposes to maintain current language.

The Township contends that the overall development of the Fire Department will by attrition remove the Fire Lieutenant from the bargaining unit. Until such time, the Employer's proposal provides that the current Part Time Lieutenant will continue to be covered by the terms and conditions of the Collective Bargaining Agreement.

The Union submits that change in contract language is unnecessary. The Union argues that it would serve to foreclose a promotional opportunity for current bargaining unit employees.

ANALYSIS – This fact-finder would recommend a change in current Section 2.4 of the Agreement. It would be reasonable to amend the provision to provide that the position of Part Time Lieutenant is to be removed from the bargaining unit if the current Part Time Lieutenant retires, is terminated or takes a full-time position with the Brimfield Township Fire Department. However, that part of the Employer's proposal pertaining to a Part Time Lieutenant taking a leave of absence from their duties should not be included in the language change. It would also be appropriate to provide that during the time that a Part Time Lieutenant maintains his position on the seniority list with the Fire

Department, he shall continue to be covered by the terms and conditions of the Labor Agreement.

RECOMMENDATION

It is the recommendation of this fact-finder that Section 2.4 under the Union Recognition Article is to be amended as more fully set forth below:

ARTICLE 2 UNION RECOGNITION

Section 2.1. The Township recognizes Local 24 as the sole and exclusive representative for those employees of the Township in the bargaining unit. Whenever used in this Agreement, the term “Bargaining Unit” shall be deemed to include those part-time employees employed in the following positions:

- A. Lieutenant
- B. Firefighter/Medic
- C. Firefighter/EMT
- D. Firefighter

Section 2.2. All positions and classifications not specifically established herein as being included in the aforementioned bargaining unit shall be excluded from said bargaining unit, including the position of Fire Chief, Assistant Fire Chief, Captain, and all other employees within the Brimfield Township Fire Department.

Section 2.3. If a new position is created within the Department, the Township shall determine whether the new position will be included, or excluded from the bargaining unit. If Local 24 disputes the Township’s determination of bargaining unit status, the parties shall meet in an attempt to resolve their disagreement. If the parties agree on the determination, the position(s) shall be implemented as agreed by the Township and Local 24. If the parties do not agree, the parties shall jointly submit a request for determination to the State Employment Relations Board.

Section 2.4. Section 2.1 above will be amended to remove the position of Part Time Lieutenant when one of the following situations takes place:

A current Part Time Lieutenant retires; is terminated; or takes a full-time position with the Brimfield Township Fire Department.

During the time that a Part Time Lieutenant maintains his position on the seniority list with the Brimfield Township Fire Department, he shall continue to be covered by the terms and conditions of this labor agreement.

2. HOURS OF WORK / OVERTIME

The Employer proposes in Section 15.1 to increase the amount of hours that each part-time firefighter must work each month. The current contract language provides that each part-time firefighter shall be required to work three (3) eight (8) hour shifts each month. The Employer proposes to increase this requirement from three (3) eight (8) hour shifts per month to seven (7) eight (8) hour shifts each month. The Union proposes to maintain current language. As discussed by the Fire Chief, bargaining unit employees only have to schedule and work three shifts per month. The available shifts are filled by seniority rotation. Because seniority is used, the newest members of the unit are not given the opportunity to work and thereby their acclimation into a cohesive firefighting unit is hindered. As a result, the Employer is now proposing to increase the number of shifts which the part-time firefighter must work each month which in turn would serve to address the concerns raised by the Fire Chief.

The Union objects to the proposal because many of the bargaining unit employees are full-time firefighters in other jurisdictions. The proposal would mean that these employees would place their other full-time employment in jeopardy in order to accommodate their part-time employment with the Township. The Employer's proposal would increase each part-time employee's mandatory commitment from twenty-four hours per month to fifty-six hours per month. If such language were adopted, it would cause many bargaining unit employees to resign in order to protect their full-time employment in another jurisdiction.

ANALYSIS – This fact-finder would recommend that there be modification to the current Section 15.1 of the Contract. In light of the arguments presented by each of the parties, this fact-finder finds that it would be reasonable to provide that employees be required to sign-up for four (4) eight (8) hour shifts each month. This change would address the department’s concern regarding giving sufficient opportunity to newest members of the bargaining unit. At the same time, one additional eight hour shift per month would not interfere with part-time firefighters’ full-time employment in other jurisdictions

RECOMMENDATION

This fact-finder recommends that Section 15.1 be amended as set forth below:

ARTICLE 15 HOURS OF WORK/OVERTIME

Section 15.1. The standard work schedule for all bargaining unit members shall be a fourteen (14) day, eighty (80) hour work period. Employees shall select their shifts, no later than the 20th of each month for the succeeding month’s schedule. Shift selection shall be by shift seniority, then by departmental seniority. Each part-time firefighter shall be required to work **four (4) eight (8) hour shifts** each month.

Employees will sign-up for the required **four (4) eight (8) hour shifts** each month, by the following method:

1. The senior employee, based on shift seniority, will use his/her shift seniority to **four (4) shifts** to work for the month.
2. The next senior employee, based on shift seniority, will be next to select his/her **four (4) shifts** to work for the month.
3. This rotation will continue until all shift employees will have used their shift seniority to select their initial **four (4) work shifts** for the month.

4. Next, the selection process will continue, with the senior employee, based on shift seniority, having the option to select any of the remaining open shifts to work for the month.
5. The selection process will continue, with the next senior employee, based on shift seniority, having the option to select any of the remaining open shifts to work for the month.
6. This selection process will continue, until all employees on the shift, will have completed their complete shift selections for the month.
7. Any shifts left unfulfilled by the assigned shift members, will be available to the remaining employees, who will use their departmental seniority to select an open shift.

Section 15.2. Shift assignment and Department seniority shall prevail when signing the duty book, except that the last open position of each shift will be offered in seniority order first to those employees attending Medic School. Employees shall be given the opportunity to sign-up for three (3) eight-hour shifts per month in shift seniority order. The remaining open shifts shall then be offered in seniority order, and then by departmental seniority. Once signed, the employee has a binding commitment to fulfill said contracted hours and must personally work all hours signed for, unless the employee make shift trade assignments or has an excused absence

Section 15.3. When an employee works in excess of eighty (80) hours in a fourteen (14) day work period, the employee shall be paid time and one-half (1-½) for all hours worked in excess of eighty (80) hours. Overtime shall be one and one-half times the employee's hourly rate of pay, as defined in this Agreement.

Section 15.3. When an overtime situation occurs for bargaining unit members, the shift supervisor will offer the overtime to qualified bargaining unit members in line of seniority with the most senior qualified employee being offered the overtime first. Overtime selection shall be by shift seniority, then by departmental seniority. This will continue until the overtime coverage is filled.

3. WAGES

The Union proposes that effective January 1, 2010 all bargaining unit employees are to receive an equity increase with an annual wage increase each year of the Contract thereafter. The Employer proposes that there be a 2.25% increase effective January 1, 2010, a 2.5% wage increase on January 1, 2011, and a 2.75% increase on January 1, 2012.

The Employer maintains that because of a downturn in the economy, its revenues have decreased while expenses have continued to grow. The Employer acknowledges that the Fire Department is funded by levy funds and with the recent passage of the levy the department now has funds available to assist the department in its operations. However, the funds generated by the levy are not unlimited. The Employer notes that other bargaining units have worked with the Township so that it can be fiscally sound and maintain a level of continued employment for those currently employed. For this bargaining unit, the Township is seeking to achieve those same goals. As a result, the Township has presented a fair and fiscally sound three year wage proposal. The Employer opposes any equity increase in the first year of the Contract.

The Union contends that the bargaining unit employees are paid significantly less than their counterparts in other comparably sized townships in northeast Ohio. As a result, the Union has proposed an equity adjustment in order to maintain a comparable

pay rate for bargaining unit members with other neighboring jurisdictions. The Union cites the fact that the Township's full-time firefighters are already paid significantly more per hour than their part-time colleagues. The Union maintains that the Township would be able to afford its proposed wage increases.

ANALYSIS – This fact-finder has carefully reviewed all of the evidence presented by the parties regarding the wage issue. As a result, it would be appropriate to recommend that there be an additional first year wage adjustment for the bargaining unit based on comparables which indicate that the part-time firefighters here are paid significantly less than their counterparts in other similarly sized jurisdictions in the region.

However, this fact-finder has taken into consideration the Townships legitimate concerns about fiscal responsibility. As the Township noted, even though the department is funded from a levy, the available funds are not unlimited. Therefore, this fact-finder would recommend three percent wages increases in each of the final two years of the Contract.

RECOMMENDATION

This fact-finder hereby recommends the following Wages for the bargaining unit:

**ARTICLE 30
WAGES**

Section 30.1. Effective January 1, 2010, all members of the bargaining unit, as defined within this Agreement, shall be paid for all hours worked, according to the following hourly wage schedule:

	<u>1-1-10</u>	<u>1-1-11</u>	<u>1-1-12</u>
Firefighter/EMT (start)	\$ 9.92	\$10.12	\$10.33
Firefighter/EMT (6 mos)	\$10.56	\$10.78	\$11.00
Firefighter/EMT (after 1 yr)	\$11.52	\$11.75	\$11.99
Firefighter/EMT FF II	+\$.50	+\$.50	+\$.50
Firefighter/EMT-A	\$12.17	\$12.41	\$12.66
Firefighter/EMT-A FF II	+\$.50	+\$.50	+\$.50
Firefighter/Medic	\$13.45	\$13.72	\$13.99
Firefighter/Medic/FF II	+\$.50	+\$.50	+\$.50
Lieutenant/EMT	\$13.12	\$13.38	\$13.65
Lieutenant/EMT FF II	+\$.50	+\$.50	+\$.50
Lieutenant/Medic	\$14.41	\$14.70	\$14.99
Lieutenant/Medic/FF II	+\$.50	+\$.50	+\$.50

Section 30.2 Employees who have and maintain the following additional certifications shall receive an additional hourly rate increase that corresponds with the certification. If the employee fails to maintain said certification, additional rates of pay shall be removed from the employee's hourly rate of pay.

Fire Instructor	\$.25/hour
EMS Instructor	\$.25/hour

Section 30.3. Whenever a work shift consists of all part-time bargaining unit employees, and no full-time employee is working and there is no Lieutenant working, the Fire Chief shall designate a part-time bargaining unit employee as the "Shift Supervisor". Said "Shift Supervisor", under this section, shall receive the hourly rate of pay of a Lieutenant/Medic or Lieutenant/EMT, whichever is applicable to the "Shift Supervisor's" certification level, for all hours worked on this shift as the "Shift Supervisor".

JAMES M. MANCINI

ATTORNEY AT LAW - ARBITRATOR

**JEFFERSON CENTRE - SUITE 306
5001 MAYFIELD ROAD
LYNDHURST, OHIO 44124**

216 382-9150 Fax 216 382-9152 ManciniJM@aol.com

STATE EMPLOYMENT
RELATIONS BOARD

2010 JUN 16 P 4:45

June 14, 2010

J. Russell Keith
Assistant Executive Director
State Employment Relations Board
65 East State Street, 12th Floor
Columbus, Ohio 43215-4213

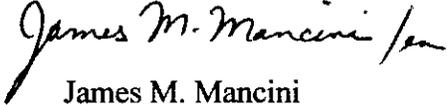
RE: Case No. 09-MED-10-1207
Brimfield Township Board of Trustees
-and-
Teamsters Local Union No. 24

Dear Mr. Keith:

Enclosed herewith is a copy of my fact-finder's Report in the above referred to matter.

Thank you.

Very truly yours,


James M. Mancini

JMM:em
Enclosure