

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

In the matter of	*	10-MED-07-0880
	*	
Fact-finding between:	*	
	*	Fact-finder
City of Wauseon	*	Martin R. Fitts
	*	
and	*	
	*	
Ohio Patrolmen's Benevolent Association	*	December 14, 2010
	*	
	*	

REPORT AND RECOMMENDATIONS OF THE FACT-FINDER

APPEARANCES

For the City of Wauseon (the Employer):

Thomas A. McWatters
Assistant Law Director

For the Ohio Patrolmen's Benevolent Association (the Union):

Michelle T. Sullivan
Attorney for the Union

PRELIMINARY COMMENTS

The bargaining unit has approximately three (3) members and consists of all regular full-time Records Technicians and full-time Dispatchers of the City of Wauseon Police Department. The State Employment Relations Board (SERB) appointed the undersigned as Fact-finder in this dispute on October 8, 2010.

A hearing was held on December 1, 2010 at the offices of the City of Wauseon located at 230 Clinton Street, Wauseon, Ohio. The parties requested mediation, and they worked diligently to resolve the issues in dispute. A settlement on all issues at impasse was reached, and the parties requested that the settlement be memorialized in a Fact-finding Report from the undersigned.

At the start of the hearing/mediation there were six issues at impasse:

- Health Insurance
- Shift Premium
- Longevity
- Fitness Benefit
- Dental Benefit
- Lay-Off Protocol

In rendering the recommendations in this Fact-finding Report, the Fact-finder has given full consideration to all testimony and exhibits presented by the parties. In compliance with Ohio Revised Code, Section 4117.14 (G) (7) and Ohio Administrative Code Rule 4117-9-05 (J), the Fact-Finder considered the following criteria in making the findings and recommendations contained in this Report:

1. Past collectively bargained agreements, if any, between the parties;
2. Comparison of 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 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.

All references by the Fact-finder in this report to the Employer's proposal and the Union's proposal are references to their respective final proposals as presented to the Fact-finder at the December 1, 2010 hearing.

ISSUES AND RECOMMENDATIONS

Issue: Health Insurance

Positions of the Parties

The Union proposed that the provisions for insurance coverage provided for in the City's other two Police Department labor agreements be adopted in this contract.

The Employer proposed adopting most of the language from the other contracts, but proposed that the members agree to certain increases in their participation in the health care costs which have drastically increased during the last several years. Specifically, the Employer proposed that the members agree to increase the bi-weekly minimum contribution amount from \$10 to \$25, and to provide for a maximum contribution of up to 50% of any increase in premiums for the two-year duration of the agreement. The Employer also proposed that the employees agree to increase their deductible from \$500/\$1,000, which has been in the other agreements since at least 2007, to \$1,000/\$1,500.

Findings and Recommendation

The parties agreed that for this unit, with only three employees, to be the first group of City employees with additional costs for health insurance would be unfair to these employees and of very minimal cost savings for the Employer. Further, the parties recognized that this agreement will expire at the end of 2012 at the same time as the other two Police Department labor contracts. Therefore the parties will be able to negotiate any changes in health insurance at that time in concert with the other two bargaining units.

Therefore the Fact-finder recommends that this collective bargaining agreement contain the same health insurance provisions as found in the other two Police Department contracts.

Issue: Shift Premium

Positions of the Parties

The Union proposed that the agreement provide for a shift “differential” in the amount of \$.40 for each hour worked when a member starts a scheduled shift between the hours of 2:00 p.m. and 6:00 a.m. (essentially for each of the two shifts worked by the respective full-time dispatchers).

The Employer position was that the shift premium was not appropriate for this bargaining unit as the Records Technician classification employee only works on first shift and the two full-time Dispatcher classification employees work in a classification that was created to only work on shifts outside the preferred Monday-Friday first shift worked by the Records Technician and thus pay rates were established with this consideration in mind.

Findings and Recommendation

The parties agreed that the issue of shift premiums was not essential to finalizing this initial collective bargaining agreement. Most notably, the parties considered that longevity payments were preserved for these bargaining unit employees. Further, they considered that as this is a first contract between the parties, essentially all of the provisions represent gains of some sort for the employees.

Therefore the Fact-finder recommends that no shift premiums be provided for in the collective bargaining agreement.

Issue: Longevity

Positions of the Parties

The bargaining unit members currently receive longevity pay according to section 147.26 of the City's Codified Ordinances, as do all of the City's employees outside of the two Police Department bargaining units. The Union proposed a continuation of this compensation.

The Employer proposed a continuation of this benefit, contingent on the bargaining members not being provided the shift premium requested. In the absence of a shift premium, the Employer noted that it is not averse to allowing the new bargaining members to retain their current benefit of longevity pay -- pursuant to the terms and conditions currently set forth in the Codified Ordinances.

Findings and Recommendation

In consideration of the parties' agreement for there to be no shift premium provisions, the parties agreed to the retention of the current longevity payment as is currently provided for all City employees other than the members of the two other Police Department collective bargaining units.

Therefore the Fact-finder recommends that the collective bargaining agreement contain a provision memorializing the current longevity payment matrix for these employees.

Issue: Fitness Benefit

Positions of the Parties

The Union proposed a reimbursement for up to \$500 for participation in health and fitness programs as well as various health and fitness items and services.

The Employer proposed that no fitness benefit be included in this agreement.

Findings and Recommendation

While the cost for this proposed benefit for this very small bargaining unit is minimal, several factors persuaded the parties to forego agreeing to add this provision. First and foremost is that this is a benefit that other City employees outside of the other two Police Department collective bargaining agreements do not have. While it would be a generous benefit that could improve the health and wellness of the members of this bargaining unit, it may not be the most cost-effective method of doing so. Additionally, the nature of the work performed by this bargaining unit is such that physical fitness is not an important element of job performance.

Therefore the Fact-finder recommends that no Fitness Benefit be included in this collective bargaining agreement.

Issue: Dental Benefit

Positions of the Parties

The Union proposed a reimbursement of up to \$250 for dental services incurred by them or their immediate families.

The Employer proposed that no dental benefit be included in this agreement.

Findings and Recommendation

In an effort to reduce costs in the face of declining income tax revenue, the Employer had previously eliminated dental insurance coverage for all non-bargaining unit employees. The two Police Department bargaining units previously agreed to a dental reimbursement provision identical to the one proposed above in return for elimination of their dental insurance coverage in their current agreements.

The parties agreed that given the current downturn in income tax revenue it would not be appropriate to grant this benefit at this time, even though with only three employees in the bargaining unit it would be of minimal cost. The parties further agreed that this proposed benefit could be funded for calendar year 2012 should the income tax receipts reach \$3,150,000 in 2011.

Therefore the Fact-finder recommends that Article 26 – Miscellaneous include the following provision:

Section 7. Should the City's income tax receipts reach \$3,150,000 in calendar year 2011, the City shall reimburse each employee an amount not to exceed Two Hundred Fifty (\$250.00) Dollars in 2012 for any dental services incurred by them or their immediate family in 2012. Such reimbursement request shall be submitted to the Finance Director who shall reimburse the employee for their costs incurred up to that \$250.00 amount.

Issue: Lay-Off Protocol

Positions of the Parties

The Union proposed that a protocol for lay-offs be included in the agreement, specifically providing that any part-time dispatchers would be laid off prior to any bargaining unit members being laid off.

The Employer proposed that no lay-off protocol be included.

Findings and Recommendation

The parties agreed that full-time Dispatchers in this bargaining unit would not be subject to lay-off while part-time dispatchers outside of the bargaining unit continued to work. Further they agreed that employees in the Dispatcher classification would have no recall rights to the Records Technician position, regardless of seniority.

Therefore the Fact-finder recommends the contract include the following:

ARTICLE XXX

Section 2. In the event of a lay-off situation, lay-offs of members of the bargaining unit will be held in accordance with their departmental seniority (last hired, first laid-off), and laid-off only after all non-full-time, nonpermanent employees in the classification have been laid-off. Nothing contained herein will prevent the Employer from laying-off Full-Time Dispatchers before a Record Technician.

Section 4. A recall from lay-off will be based upon departmental seniority (last laid-off, first recalled). Nothing contained herein will prevent the Employer from recalling a Record Technician before Full-Time Dispatchers.

Additional recommendations of the Fact-finder

This is the first contract between the parties, and as such they reached agreement on a large number of other issues during their negotiations.

The Fact-finder has reviewed all the agreements reached by the parties during their negotiations, and finds them reasonable and fair to both of the parties and to the public.

Therefore, the Fact-finder recommends all other agreements reached by the parties during their negotiations.

The above represents in total the Fact-finder's findings and recommendations in this matter.

A handwritten signature in black ink that reads "Martin R. Fitts". The signature is written in a cursive, flowing style.

Martin R. Fitts
Fact-finder
December 14, 2010