

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

In the matter of
Fact Finding between

THE CITY OF MEDINA)	
)	CASE NOS. 10-MED-08-0955
-and-)	10-MED-08-0956
)	
OHIO PATROLMEN'S)	JEFFREY A. BELKIN,
BENEVOLENT ASSOCIATION)	FACT FINDER

REPORT AND RECOMMENDATION

This matter was heard on February 10, 2011 at Medina, Ohio. The parties were represented as follows:

For the Union:

Daniel Leffler, Esq.	Attorney
Dan Warner	Patrol Representative
Tom Carrell	Patrol Representative
Nate Simpson	Sergeant Representative
George Horton	Sergeant Representative

For the City:

Jon Dileo, Esq.	Attorney
Patrick Berarducci	Chief of Police

I. BACKGROUND

The Union represents bargaining units of Patrol Officers and Sergeants, with a separate CBA covering each unit. However, the two units bargain as one, and the two agreements, at least for purposes of this proceeding, are identical. The previous agreements (the “2007 agreements”) expired October 31, 2010; and the parties are looking to finalize the terms of successor three-year agreements. Although they have held five bargaining sessions, and participated in mediation, the parties were unable to resolve several issues.

II. FACT FINDER’S REPORT

In reaching the Findings and Recommendation on the sole issue at impasse, the undersigned has considered the parties’ prehearing statements, oral presentations, and exhibits. Also taken into account were the factors mandated by statute:

Past collectively bargained agreements, if any, between the parties:

Comparison of the unresolved issues relative to 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;

The interests 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;

The lawful authority of the public employer;

Any stipulations of the parties;

Such other factors, not confined to those listed above, which are normally or traditionally taken into consideration in the determination of the issues submitted to mutually agreed-upon dispute settlement procedures in the

public service or private employment.

III. UNRESOLVED ISSUES

1. Shift Bids

The Union proposes new language covering “shift bids.” Specifically Article 10 (Seniority), Section 7 would include “shift bids” among the various actions (such as layoff, displacement rights and recall), governed by seniority. In Article 16 (Duty Hours), Section 1, the Union seeks to add a new paragraph detailing the annual process whereby shifts would be made available for seniority-based bidding.

Following off-the-record discussions the Union withdrew its “shift bid” proposals with the understanding that if the Fact Finder’s Recommendations are rejected, the Union reserves the right to raise the “shift bid” issue in Conciliation.

2. Elimination of 10-hour Shifts

Article 16 (Duty Hours), Section 1 of the 2007 agreements provides that the workweek for bargaining unit employees “shall generally consist of four (4) ten (10) hour days.” The City proposes to eliminate 10-hour shifts from the CBA, and to retain only the contractual requirement of a 40-hour workweek.

Following off-the-record discussions the City withdrew its proposal to eliminate the 10-hour shifts, with the understanding that if the Fact Finder’s Recommendations are rejected, the City reserves the right to raise the “elimination of 10-hour shifts” issue in Conciliation.

3. Insurance – Article 26

Under the 2007 agreements, group health insurance has been provided by Medical Mutual under a Preferred Provider program (“PPO”) titled “Super Med Plus.” Effective August 1, 2008, bargaining unit employees have contributed 6.5% of the insurance premium through payroll deductions. The Union has not proposed any change in the current program.

The City, however, has presented several proposals:

B. Insurance – Article 26

- Increase monthly premium contributions from 6.5% to 10%
- Institute annual deductible for in-network providers of \$300 for single coverage, \$600 for family coverage; increase non-network deductible to \$600 for single coverage and \$1,200 for family coverage.
- Increase in-network out-of-pocket maximum to \$750 for single coverage and \$1,500 for family coverage; maintain current non-network out-of-pocket maximums at \$3,000/single and \$6,000/family
- Increase office visit co-pay from \$10 to \$20 per visit

Relevant facts

Among the City’s exhibits is a SERB document from 2010 titled “18th Annual Report on the Cost of Health Insurance in Ohio’s Public Sector.” Another exhibit, also from 2010, is a survey of employer health benefits compiled by the Kaiser Family Foundation and Health Research & Educational Trust (“Kaiser Survey”). Included in both exhibits are sections covering worker and employer contributions for premiums and employee cost-sharing. The information contained in these exhibits was neither questioned by the Union nor contravened by other evidence. Both exhibits are deemed relevant for purposes of

comparison between the costs and benefits of the current Super Med Plus program and those of other employers. It is not necessary to create a line-by-line comparison between the costs of the City's Super Med Plus program versus the average charges to employees detailed in the two exhibits. Suffice it to say that in the four areas covered by the City's proposal, the charges to employees under the current Super Med Plus program are significantly lower than average.

Also relevant to the resolution of this proposal is an ad hoc Health Care Committee ("HCC"), advisory in nature, convened by the Mayor to study the City's current health care program and, hopefully, recommend mutually acceptable alterations. The HCC has had one meeting (attended by a designated member of the patrol officers' bargaining unit) and further meetings are planned. The parties agreed at the Fact Finding hearing that any agreed-upon resolution of health care program issues adopted by the HCC and approved by the City and the Union, would supersede the findings and recommendations that result from fact finding.

Findings and Recommendation

(a) Monthly Premium

Finding

The current premium (6.5%/month) is below average in relation to those charged by other cities of comparable size. Health care costs are definitely on the rise, placing a very difficult burden on public employers. However, the premium increase sought by the

City (10%/month) does not appear to be justified, particularly in view of the modest salary increases recommended herein.

Recommendation

A more appropriate increase, under the circumstances, is a monthly contribution of 8%/month, effective with the first pay in January, 2011, and continuing through the life of the new agreements.

(b) Annual Deductibles

Finding

Currently there is no benefit period deductible, either for single employee or family coverage, provided the services are in-network. Non-network deductibles are \$400 for single employee, \$800 for family coverage. The City's proposal, if accepted, would have an immediate, significant impact on the household expenses of all affected employees.

While the status quo places the City well below the average of comparable cities , the City has not demonstrated the financial justification to immediately implement its proposal. However, given the likely increase in health care costs and the fact that the City's proposals would still put the employees in a better position than their peers in other jurisdictions, the adoption of the City's proposal, over time, is reasonable.

Recommendation

First year - -0- deductible, single or family, in-network.
\$400 single, \$800 family, non-network

(same as current program).

Second year - Introduce deductible of \$200 single, \$400 family, in-network.

Continue \$400 single, \$800 family, non-network.

Third year - deductible of \$300 single, \$600 family, in-network.

\$600 single, \$1200 family, non-network.

(c) Out of Pocket Maximums

Finding

Currently the amounts are:

\$250 single, \$500 family - in-network

\$3000 single, \$6000 family – non-network

The City is not proposing any change in the non-network out of pocket maximum expenses.

Regarding in-network coverage, as with the other items in the City's proposal, the maximum out of pocket expenses under the City's Super Med Plus program are well below average. Thus it is reasonable to increase this item, but not to the extent proposed by the City, and not all at once. Given the other recommended changes in the health care program, and the very modest wage increases recommended for the first year of the new agreements, the new maximums should be phased in over the life of the agreements.

Recommendation

First year – Maximum out of pocket expenses:

\$250 single, \$500 family – in-network.

(same as current program)

Second year - Maximum out of pocket expenses:

\$400 single, \$800 family – in-network.

Third year - Maximum out of pocket expenses:

\$500 single, \$1000 family – in network.

(d) Office Visit Co-pay

Finding

The City’s proposal to raise the office visit co-pay to \$20/visit is justified by comparison with the plans covered by the two surveys. However, similar to the other items in the proposal, introduction of this increased cost in the first year of the agreements is problematic.

Recommendation

First year - \$10 office visit co-pay
(same as current program).

Second year - \$20 office visit co-pay.

Third year - \$20 office visit co-pay.

4. Article 27 - Wages

The Union proposes an “across the board three per cent (3%) wage increase for each year of the contract,” as follows:

- Effective the first pay after January 1, 2011 – three per cent (3%)
- Effective the first pay after January 1, 2012 – three per cent (3%)

- Effective the first pay after January 1, 2013 – three per cent (3%)

The City’s proposal states:

2011 – no wage increase

2012 – 1% wage increase (effective first pay after January 1, 2012)

2013 – 2% wage increase (effective first pay after January 1, 2013)

Relevant Facts

The Union’s proposal of 3% annual increases basically replicates those provided in the 2007 agreements: 3.25% - 3.0% - 3.0%.

In support of its position, the City offered various exhibits demonstrating diminishing revenues, plus cost-cutting measures designed to deal with those circumstances. Examples: From 2008, income tax collections declined about 7.75% (from \$13,234,499.05 to \$12,223,622.90). Virtually all city departments have adopted austerity budgets.

Further, in the Police Department, overtime has been reduced; “specialized units” have either been discontinued or cut back; and the mileage limit on patrol cars has been increased. These measures enabled Chief Berarducci to request the City Council to reduce the 2011 appropriation for the Police Department by 18.727%.

Finding and Recommendation

Union position

The Union did not present additional evidence or argument beyond the fact that its proposal tracks the increases in the prior CBA's.

City Position

The following quotes from the City's Pre-Hearing Statement are in order:

"...the City has managed to maintain a sound fiscal footing through its responsible shepherding of its finances. Therefore, while many public entities have forced concessions and layoffs upon their workforces, the City has not imposed any such hardships upon its employees. As a result, the OBPA's members are among the highest paid in Medina County, and maintain superior healthcare benefits.

The financial crisis which has befallen this nation, state and region requires a conservative outlook on expenditures. The economic climate simply cannot support the excessive demands of the Union. Therefore, in this hearing, the City will be seeking a one-year wage freeze and modest increases in years two and three of the Agreement..."

While no evidence was presented to contravene these assertions, it is also correct to note that the City does not claim that its current financial status precludes any wage increases in the first year. Moreover, while the City has undertaken the austerity measures set forth above, including the budget-cutting items listed in the Chief's presentation to Council, there is insufficient evidence upon which to predict with any probability that the City's current economic position is likely to carry over into the second year of the new agreements. Therefore a 1% increase in the second year, on the heels of zero increase in the first year, as proposed by the City, is not warranted under the circumstances.

At the same time, the 3% annual increases proposed by the Union each year of the new agreements clearly appears excessive – especially since no external evidence was presented in support of that proposal. Based on the evidence, wage increases greater than those proposed by the City, but less than those proposed by the Union, are in order.

Recommendation

First year of agreements: 1.5 % increase, retroactive to the first pay in
January, 2011.

Second year of agreements: 2 % increase.

Third year of agreements: 2.5 % increase.

IV. TENTATIVE AGREEMENTS AND PENDING PROPOSALS

The parties agreed at the Fact Finding hearing that all tentative agreements (“TA’s”) reached prior to the hearing shall remain in effect. They further agreed that any pending proposals or unresolved issues not covered in this FACT FINDING Report shall be withdrawn.

Respectfully submitted,

Jeffrey A. Belkin
Fact Finder

Beachwood, Ohio
February 24, 2011