

**Before the State Employment Relations Board
State of Ohio**

In the matter of

City of Grandview Heights
Employer

Case Nos.
10-MED-10-1376
10-MED-10-1377

And

Sandra Mendel Furman,
Fact finder

FOP/Capital City Lodge No. 9
Union

FACTFINDER'S REPORT

For The City:
Marie Joelle Khouzam, Esq.
Law Director
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For the Union:
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Fact Finder:
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2011 MAY -6 P 1:30

STATE EMPLOYMENT
RELATIONS BOARD

Procedural Matters

SERB appointed this fact finder by letter (e mail) dated March 8, 2011. Pre-hearing statements were received by the fact finder and served by each party upon the opposing party prior to the hearing. There has been substantial compliance with OAC rule 4117-9-05 (F).

The hearing was held on April 12, 2011 at the Grandview Heights Library. The fact finder offered to mediate any/all of the issues. The parties indicated that mediation efforts would be unavailing as SERB had mediators work with the parties for two days in early February 2011. No mediation occurred at the fact finding.

After opening statements the parties proceeded with their proofs. A full hearing was had. The parties presented witnesses and exhibits in support of their respective positions. Representing the Employer was Marie Joelle Khouzam, City Law Director. Also present on behalf of the City was Mayor and Acting Service Director Ray De Graw; Finance Director Bob Droraczky, Assistant Finance Director Megan Miller and Megan Boiarsky from Khouzam's law firm. The Mayor and Finance Director provided testimony.

The Union was represented by Robert Byard, FOP counsel and other members of the bargaining committee: Thomas Mc Cann, Leslie Jackson, Ryan Starns and Jason Pappas. All union members contributed information as needed during the hearing. Wade Steen CPA testified as an expert witness.

The parties had engaged in multiple bargaining sessions for a successor agreement prior to appointment of the fact finder. At the date of hearing there were seven (7) issues left for determination by the fact finder: wages; health insurance; pension pick up; longevity pay; time off for negotiations; vacation scheduling; injury leave pay.

The report is submitted at the date stipulated by the parties.

Findings of Fact

1. The City's 2009 population is approximately 6,389. Forty (40) percent of the population is renters.
2. Grandview Heights is a landlocked community and has no opportunity for annexation. It abuts Marble Cliff, Upper Arlington and Columbus.
3. Median household income per available data from 2009 is \$63,313. City Ex. 31.
4. The City's income relies upon a variety of sources. The City is funded from income tax (54%), state referred local government funds (6%), estate tax (2%), other state shared taxes (2%) and other (uncategorized) revenue (17%) and property taxes (18%), These percentages date from 2010.
5. For the 2011 budget the percentages remain relatively constant.
6. In 2010 total revenues were \$8.5 million dollars (rounded) and expenditures of \$8.75 million.
7. There are uncertainties for 2011 planning purposes related to the state budget. Impact will possibly be felt both in terms of decreased local government funds from the State and elimination of the estate tax. The City's budget reflects these possible scenarios.
8. For 2011 the City did not budget for receipt of estate taxes. The eleven (11) year average for estate tax receipts is \$193,500. \$159,290 was received in 2010. City Ex. 14.
9. The budget for 2011 is \$8.6 million (rounded) with \$9.5 million expected in expenditures.
10. The City is in a deficit budget situation.
11. Workers compensation premiums are expected to increase for each of the three (3) years of the contract. In 2011 premiums are expected to increase by \$60,000. City Ex.15.
12. The City revised upwards its fuel budget for 2011. Its original calculations were based upon \$3.50/gallon. New projections are at \$4.50 gallon in 2011 and \$5/gallon in 2012. At time of writing the award average fuel costs in Columbus Ohio are \$4.19 unleaded.

13. In 2010 Grandview Heights received \$518,788 from local government funding from state and county sources. Using best available information from the Ohio Municipal League Grandview Heights is anticipating a 6% decrease in 2011. Projections for 2012 project a decrease of \$180,700 from the amount to be received in 2011 and in 2013 a decrease of \$235,856 from the amounts in 2012. City Ex. 13.
14. There is at time of writing no certainty as to the impact of the next biennium budget on local government. It is clear that there will be cuts to local governments (and schools-resulting in perhaps an indirect adverse effect on the City) -all parties agree on that.
15. In 2010 and in 2009 there was a less marked discrepancy between budget and actual expenditures.
16. Although Grandview Heights does not currently have a bond rating it would purportedly not qualify for AAA based on its cash to expense ratio. Moody's and Standard and Poor's expect a cash reserve of 180 days. The City currently maintains seventy –one (71) days cash reserve.
17. A five year City planning document shows deficits for 2010-2016. These estimates were prepared in February 2010 (prior to discussions in the Ohio legislature for the upcoming biennium). Deficit projections run from (rounded) \$370,000 at the lower end to \$852,000 (rounded) at the highest end. The same document also predicts increasing revenues from 2010 forward to 2016.
18. Both City and Union projections indicate that expenditures will exceed income in 2012 and 2013. Union charts/graphs were prepared from City provided source documents.
19. From the City's Ex. 8, cash balances for each of the three (3) years of the successor collective bargaining agreement are (rounded) 2011: \$1.9 million; 2012: \$1.28 million and 2013: \$622,000. This document was prepared before the next biennium budget proposed before the Legislature.
20. City Ex. 9 stated the actual amount remaining over budget for 2010 as \$282,655. This is dramatically less than projected in the planning document.

The \$1 million shortfall was primarily due to the percentage reduction in the income tax rate over 2009, and a reduction in collected income taxes. City Ex. 12

21. Retirement payouts (estimated) for Police Department retirees during the period up to December 31, 2012 total over \$303,000. The amount calculated for currently announced Police Department retirees is \$65,948 as of April 7, 2011. This amount increases as days are added for days in continued employment. These payouts are a non-budgeted item.
22. In 2010 the City repaid economic incentives offered to businesses resulting in a budget loss of over \$1 million. Incentive refunds were budgeted.
23. As a reaction to information provided by the City's Finance Department the City Council made several decisions in 2010: no new posted positions; no filling of other vacancies¹ and keeping overall budget growth to 3.25%.per annum.
24. Most Grandview Heights residents work in Columbus.
25. In 2009 Grandview Heights experienced a dramatic decline in tax revenues due to receipt of .25% instead of .5% rebates. Stated differently the income tax rate was reduced from 2.5% to 2.25%. Expenditures exceeded income in 2009 for the first year since 2005.
26. Grandview Heights residents working in Columbus experience a 2.75% tax rate. 65.5% of residents work in Columbus; only 9.3% work in Grandview. The balance 25.2% work in other places.
27. The income tax rate increased to 2.5% on July 1, 2010.
28. R.I.T.A. income tax receipts projections for 2010 through February 2011 are \$1.16 million (rounded) 2010's total was \$4.53 million. (figures are rounded). City Ex. 12.
29. Both parties represented that Grandview Heights is a mixed commercial and bedroom type community. There was limited additional information provided about the economic make up of its citizens.

¹ Two firefighter positions were filled.

30. A major economic development boom was anticipated with the building of Grandview Yards. Although the development has resulted in the addition of several businesses and some tax revenues, the development is far from fully complete. There are vacancies in the commercial structures now extant. There has been no ground breaking for the later phases of the planned development.
31. Further development is anticipated at the Dublin Road-Grandview Avenue intersection but it is not yet a reality.
32. Bed tax revenues from the Hyatt Place hotel located in Grandview Yards are allocated to the Visitors Bureau and Parks Funds. (3/4 of the amount received) The general fund of the City received \$18,000 so far in 2011. City Ex. 20. There was no testimony as to expectations projected for the remaining years of the contract.
33. Certain employers have permanently left Grandview Heights in recent years. Businesses located at Dublin Road and Grandview Avenue intersection have left and no other development has occurred at that corner. Loeb Electric and Penn Traffic (Big Bear) left in the recent past (Loeb in 2010). Penn Traffic in the highest year since 1997 contributed \$427,836 in tax receipts. By 2004 this fell to \$70,291. (Grandview Yards is developed on the former Penn Traffic site.)
34. Crime statistics for 2009 indicate that Grandview has had no murders. There have been no murders in 2010 or 2011 to date. Burglaries break ins and assaults constitute the largest portion of crimes.
35. The average number of officers/1000 population in Grandview is 3.03. In Ohio the average is 2.16 officers/1000. Of the surrounding Franklin County municipalities Grandview has the highest average police coverage per 1000. Statistics date from 2009.
36. The City has sixty-seven (67) authorized employees but there are three (3) vacancies currently: Fire Marshall, Police Chief and Service Director. There is also an unfilled police officer position.

37. In its historical past the City had at one point employed one hundred 100 persons.
38. Average salaries for the groups are listed in parentheses. There are thirty-three (33) non- uniformed; (\$52,451); sixteen (16) firefighters (IAFF) (\$57,459); eighteen (18) police (FOP) (\$64,504).²
39. The Police Department employs four (4) sergeants, one (1) detective, eleven (11) Officer 3s; one (1) Officer 2 and no (0) Officer 1. There is one vacant Officer position that the City has not posted since the officer left.
40. Wages, salaries and fringe benefits constituted the majority (72% budgeted, 76% actual) of 2010 City expenditures. Total costs in 2010 for wages, salaries and benefits were \$6.7 million (rounded)
41. For the police unit benefits made up 33.5% of the total amount received exclusive of health insurance.
42. The City projected costs to include a currently vacant position to the Police Department. City Ex. 29.
43. The City's website lists no vacancies for any positions.
44. For annual budget purposes (as shown on City Ex. 28) the City calculated the hourly costs of a Police Sergeant at \$56.95/hour and \$50.48 for a Police Officer.
45. There were some major equipment purchases for the police and fire departments in 2007.
46. There was testimony concerning major planned capital improvement projects particularly to the municipal buildings but these projects are currently on hold.
47. There was testimony concerning the decrepit nature of certain parks and playground facilities. These projects likewise are on hold.
48. Roads within city limits need to be repaired. These repairs are on indefinite hold.
49. No employees have been laid off in recent memory. Positions have not been filled after vacancies occur due to retirement or other reasons.³

² There are seventeen (17) Police Department employees at time of hearing. The Chief of Police position is vacant due to retirement.

50. There is significant longevity in the Police Department. Four employees have been there 25 plus years; three for 20 plus years; five for 10 plus years and two for 5 plus years. The most recent hire was in September 2008. There are only three (3) employees with less than five (5) years tenure.
51. According to Union testimony one Officer left in recent years for a higher salary opportunity in law enforcement at OSU.
52. The Fire Department also contains a seasoned, long tenured work force.
53. Based upon testimony and a review of City Ex.5 most employees stay employed by and at the City for long periods of time.
54. There have been no wage freezes to date in the past ten (10) years.
55. In comparison to department heads certain Police Department bargaining unit employees (Sergeants) consistently rank in the top five (5) highest paid employees from 2007-2010. City Ex. 25.⁴
56. Non bargaining unit employees raises for 2011 and 2012 were established in ordinance 2010-29 passed 12-6-10. Union Ex. 1. Those employees with the exception of the Mayor received 1.5% for each of the next two (2) years.
57. Pension pick up (PPU) for non- unit employees in 2010 is 7.5%; 7.39% in 2011 and 7.28% in 2012.⁵
58. Longevity payments for non- bargaining unit employees are capped at \$1500.
59. The City is not in a competitive position for purchasing health insurance. The City is informed of its premium payments generally on a yearly basis. The City and the Union worked in a cooperative fashion to secure insurance from Anthem. This plan required active involvement from the city's workforce as there were surveys and programs to determine the insurability of the pool. Despite some adjustments it appeared that the workforce was satisfied with the current carrier and hopes to re-negotiate with it again this year. The

³ The Mayor is acting as Service Director at the present time.

⁴ There was discussion at the hearing about the significant percentage increase granted/to be granted to Mayor DeGraw during the next two years. See Union Ex. F. The fact finder indicated that she considered this discussion extraneous to the matters before her. Likewise she makes no effort to analyze the contents of City Ex. 26.

⁵ Non bargaining unit employees are not barred by S.B. 5 from receiving PPU.

current insurance contract expires 6-1-11 at the end of an eighteen month period.

60. The current plan for group health insurance (Anthem ERC) includes medical, prescription drugs, vision, dental and vision benefits, and a free health club membership. The City also contributes the full amount to the employee's Health Savings Account deductible.
61. Non bargaining unit employee's share of the health insurance premium costs is 10% for 2010; 12.5% for 2011 and 15% for 2012. ⁶
62. Health insurance costs (annual) for police department employees in 2010 were \$14,034 based upon a family plan. Presently Police Department employees are paying \$33.41 less per month than non uniformed employees. There are more individuals on family plan than not.
63. The City provided a ten (10) year comparison of percentage wage increases received by its workforce. In the past three years (2008-2010) the percentage increases broke down as follows: IAFF: 3 -2.5 -2.5%; Non uniformed: 3 -3 - 1.5%; Police: 3 -3- 3%.
64. The current IAFF contract expiring December 2011 provides for across the board increases of 2.5-2.5-2.5%.
65. Based upon City Ex. 23 there is a 6.16% average annual increase in employee costs if PPU is eliminated, which, when combined with the City's proposed 1.5% first-year increase, nets slightly more than the 7.6% PPU amount currently being provided.
66. At the present time ten out of fourteen officers in the Department earns officer-in-charge pay. (OIC) City Ex. 30. In 2010 the amount of hours spent in OIC status exceeded 2080. A FTE is counted at 2080 hours.
67. For municipalities around Grandview Heights it appears that Grandview Heights is above the average for entry level positions in the Police Department per the City's comparables and below the average for the top salary.

⁶ Different percentages apply to the Clerk of Courts and permanent part timers.

68. Wage comparisons presented by the Union included areas of many times the population size of Grandview Heights. There was not a true equivalent (apples to apples) comparable based upon population.
69. All jurisdictions have a step system for salary increases for police.
70. The Union comparables⁷ based on 2010 figures show that the City is second to last in top step officer pay.
71. Average percentage increases in 2011 for the FOP listed jurisdictions was 2.96%. For the information available for 2012 the average percentage increase is 3%.
72. For the FOP comparables Grandview Heights ranks 14th among 20 FOP/Capital City Lodge 9 jurisdictions in top step police officers in 2009. Union Ex. A.
73. For 2010 the same pool has Grandview Heights in 11th place. Union Ex. B.
74. Percentage increases for 2010 ranged from 0% to 4% for the FOP comparables.
75. Union Ex.C reflects available information on percentage increases granted in 2011 for police officers. Increases ranged from 2%-3.5%.
76. Union Ex. D lists available top step officer wage increases for 2012. Increases range from 2.5% to 3.5%.
77. The statewide comparables were not presented by either party. Statewide wage studies exist for 2009 only at date of writing.
78. The City has no recruitment issues that were discussed at the hearing. There was some discussion at the hearing about retention due to alleged lack of competitive wages. This appeared to be a minor issue affecting only one employee.
79. Reviewing the comparables cited by the parties the number of steps in the salary schedules for police officers ranges from three to five (3-5).

⁷ FOP jurisdictions in Franklin County were in the FOP's pool: Bexley; Blendon Township; Clinton Township; Columbus; Dublin; Franklin Township; Gahanna; Grove City; Hilliard; Perry Township; Pickerington; Reynoldsburg; Upper Arlington; Westerville. A minority of these jurisdictions had pension pick up.

80. For the available comparables health insurance employee share percentages for family coverage range from 8%-15% for contracts ending from 2010-2012.
81. Non uniformed employees contribute 12.5% of the cost of health insurance premiums in 2011.
82. The City currently has pension pick up (PPU) in the amount of 7.6% for its police employees. The statutory employer share is 19.5%.
83. The parties have for years enjoyed a good working relationship; this remains the situation.

ISSUE NO. 1. Article 22 Wages

The current collective bargaining agreement has a two tier wage structure. It separates wages based upon dates of hire: those hired pre and post 1-1-09. Neither party proposed to dismantle that structure. The top pay for officers hired pre 1-1-09 is achieved in three (3) years; the top tier for officers hired after 1-1-09 is four (4) years.

The Union's wage proposal is 0% -3%-4%. It seeks to have the same percentage increases applied to both tiers. It also seeks to eliminate the current City pension pick up share of 7.6% and meld that amount into the wage tables in year one of the contract effective upon contract ratification. Its rationale follows:

- Pension pick up (PPU) is a dollar-dollar benefit to members. (i.e. for every dollar paid by the City into the employee's pension it is equivalent of a dollar in the employee's paycheck.). If the City does not roll over the amount of the pension pick up percentage into the wage schedule the employee suffers a direct wage reduction.⁸
- Public employers receive a benefit in Senate Bill (S.B.) 5's reduction in the amount of employer contributions to the pension system.⁹ Employees are

⁸ The parties' proposals on elimination of PPU reflect an awareness of the effects of recently passed S.B.5. Although the ultimate fate of that legislation is unknown as it stands it is effective in June. Both agreed it was prudent to address at a minimum this one feature of the statute. The parties' analysis leads to the decision to head off any likely scenario where the PPU is eliminated during the term of the contract by legislation.

⁹ The Union claims its acknowledges the increased cost in providing wage adjustments in lieu of PPU as PPU involved pre-tax amounts.

required to make up the difference. The Governor's budget bill is still in committee at date of writing.¹⁰

- The Union seeks parity with other FOP/Capital City Lodge 9 jurisdictions in Franklin County¹¹. It ranks 14/20 with listed townships and Pickerington below it.
- An average wage increase for 2011 in the available comparables is 2.96%. Those jurisdictions ranked higher than Grandview Heights currently received an average of 3.375% for 2011.
- An average increase for 2012 for available comparables is 3%.
- Other FOP jurisdictions have received like increases in the current or nearly current bargaining cycles. The proposed 0-3-4% proposal is to prevent Grandview Heights falling even further behind its peer group. Based upon increases received by other law enforcement agencies it could have with justification sought a 3% in year one (2011). It did not in recognition of the need to salvage the loss of PPU. Its proposals do not place the City at a higher ranking; the sought for increases merely keep its place in the relative rankings. The Union has exercised responsibility and prudence in not seeking higher increases. Its sought for increases are in line with other wage settlements reached in neighboring jurisdictions.
- The 4% proposed for year three (3) is in line with other jurisdictions; maintains relative ranking with comparables and accounts for the loss of a wage increase in year one (2011) and a less than comparable increase in year two (2012).
- Grandview Heights did not until the date of the fact finding hearing argue inability to pay-merely unwillingness to pay. The City has regressed in its fact finding proposals from its earlier positions in bargaining.

¹⁰ The fact finder notes that Columbus has made adjustments in its budget anticipating cuts in the state budget.

¹¹ The Union included in its comparables PPU in its wage comparisons consistent with its position that it is a dollar for dollar benefit.

- The roll in of the lost PPU in 2011 at ratification is a clean, rationale approach. The City's approach is unnecessarily complicated and less transparent.
- Creation of the corporal positions is unnecessary. There is no demonstrable problem with the OIC system. The corporals create an unnecessary additional level of supervision for such a small department making it top heavy in supervision. (8:10)
- In the event S.B.5 remains in effect as passed the position of corporal would arguably be excluded along with sergeants thereby further diluting the unit. This is an untenable result.
- Overtime costs for corporals would be an expense greater than the OIC amounts.

The City proposes a wage increase of 1.5%-1.25%-1%.¹² In order to compensate for the elimination of the 7.6% PPU in 2011 it proposes to grant a 1.5% wage increase for the first six months of the contract then an additional 6% beginning in June 2011.

It proposes an 8% increase for the tier B officers effective with the pay period beginning December 15, 2010.

It further proposes an expansion of the step increases needed to reach top step for officers hired after 1-1-09 (Tier B) to seven (7) rather than the current four (4). The end point would be to ensure a result where a new officer with seven years' service or less would never make more than a current officer with three or more years' service.

A third component of the City's wage proposal is the addition/creation of a new corporal step in the pay scale. It is a rank position between the officer classification and the sergeant classification. It would require civil service testing.

Its rationale for its proposals follows:

¹² Non bargaining unit employees per the December 2010 ordinance will receive 1.5% in 2011 and 2012. That group has a 7.5% PPU. PPU for non unit employees is not barred by S.B.5.

- Step expansion from 4-7 for Tier B officers serves as a money saving opportunity for the City without harm or penalty to any current employee.
- Other jurisdictions are not true comparables for a variety of reasons: different socio-economic make-up of the cited communities, size, geographic location and ability to pay.
- Grandview Heights is a desirable jurisdiction in terms of working conditions. It is not a high crime jurisdiction based upon most recently available statistics.
- Phase in of the loss of PPU should be gradual to ameliorate the effects of the budgetary impact on the City.
- It cannot afford the demands of the Union as its budget expenses exceed revenues-a situation that was markedly worsened with presentment of the state budget.
- The City cannot again go to the voters for another income tax increase as their burden is already significant. Taxes were increased only last year; the burden of the City's taxpayers most of whom work in Columbus is significant.
- The City is currently spending in excess of its revenues and the trend is projected to continue into the future. This is an untenable state of affairs. Layoffs may be inevitable.
- There is scant evidence of inability to retain officers at the current pay levels.
- Economic hard times for citizens make it politically imprudent to award sizable increases. The City's wage proposals are economically responsible, fair and in line with those received by other city employees.
- With OIC pay/overtime the officers' compensation is already higher than most other City employees including most management level staff.
- Elimination of the OIC option offers the City significant cost savings.

- Creation of the corporal position offers a promotional opportunity to the Officers not heretofore existent.
- Having corporals instead of rotating individuals in the OIC position would promote consistency in management/operations thereby providing better services.
- Other Franklin County FOP jurisdictions utilize corporals.

FINDINGS

The fact finder has taken into consideration relevant factors set forth in R.C. 4117.14 (C) (4) (e) and has followed the guidelines set forth in OAC 4117-9-05(J) and (K).¹³ Some of the listed factors were not relevant. Other factors had no evidence or arguments in support presented in the record.¹⁴

Balancing all of the statutory factors the fact finder agrees that no increase for 2011, 3% for 2012 and 3.5% for 2013 is reasonable, fair, equitable and consistent with the market. SERB's wage report for 2010 is not yet available. Both sides presented the same jurisdictions for analysis. Although the City argued valid distinctions on the differences between the FOP units the bottom line is the record contains no other available data on average wage increases.

The fact finder finds there is a *present* ability to pay. Some of the City's budgetary assumptions may not come to pass. Development may increase and occupancy in commercial buildings and residences as well. Grandview Heights remains a very desirable suburb with a fiscally responsible and committed management team.

The recommended 0-3-3.5% wage increases will be of course tempered by the potential of escalating health care costs, the increased premium shares

¹³ The relevant factors to be considered are: past collective bargaining agreements; comparables as defined in the rules; public welfare and interest; ability to pay and administer; effect on public services; lawful authority of the employer; parties' stipulations and other traditional factors related to bargaining.

¹⁴ In this case, the lawful authority of the public employer was in dispute due to the pendency of S.B.5. However the parties made necessary or perceived necessary adjustments in their bargaining stances at the hearing. Unlike other jurisdictions, Grandview Heights came to the table and was and remained willing to bargain a full contract for a full term. Thus the fact finder followed the lead of the parties in this regard. The effect on public services was not in dispute on any of the matters submitted to fact finding as no layoffs or reductions in services were discussed. The parties did not present the fact finder with any stipulations.

now borne by the bargaining unit, loss of PPU¹⁵ and unknown external economics such as inflation. OIC pay was left unchanged (see discussion below); overtime was not discussed and is assumed to still be available. Availability of OIC/overtime may supplement wages on the member's side. Alternatively the City may be better able to manage costs in these areas resulting in taxpayer savings.

There was concern on the fact finder's part in awarding the Union's requested 4% increase for year three. Many of the other comparable (FOP) jurisdictions cited have not reached settlements for year three (2013). 4% is on the high end of wage settlements. Although there is sacrifice evident in no wage increase for 2011, the current revenue projections for 2012 and 2013 are not bright. Deficit spending is not the prudent basis for allocation of resources. To further hamper the City's already stressed financial condition with another 1% at this juncture is not warranted by the record.

At the same time the Union is being asked by the City to absorb 15% of health care costs for years two and three of the contract. It is also taking a hit on increased costs in 2011. The City asks for this increased contribution in light of an anticipated 12% premium growth rate. To offset in part this added cost it is appropriate to acknowledge this expense with a wage increase in the amount of 3.5% in year three. The Union may not increase its relative position to the other Franklin County FOP jurisdictions in this contract round. But a 3.5% increase in contrast to the 1% offered by the City is better supported by the comparables and the other factors discussed herein.

The fact finder found insufficient support in the record for creation of the corporal classification under the present state of the record. Had this position been a pressing concern of the City it is more likely than not that it would have surfaced at an earlier juncture. There is reasonable concern expressed by the City about OIC costs being excessive-even to the point of amounting to a FTE. Of course this is a cost minus benefits which would otherwise inure to a FT

¹⁵ Primarily a benefit to employees nearing retirement-as a quarter of the unit is at or close to that point in their career.

employee. There may be possible scheduling arrangements that would lessen the cost factors. The City may implement those changes consistent with contract language.

The Union was not clamoring for promotional opportunities above and beyond those extant. The corporal positions cost savings (over OIC payments) were not sufficiently demonstrated. The Union makes a valid point that adding the corporals makes a very top heavy supervisory ratio. There are no doubt costs associated with creation of a new classification and civil service test administration. The other police departments cited that have corporals are larger than Grandview Heights. (e.g. Dublin, Westerville, the Franklin County Sheriff) There was insufficient opportunity for the parties to discuss the pros/cons of this proposal as it was not formally presented prior to fact finding. Without a crystal ball it may happen that the existing sergeants unit will be negatively impacted by S.B.5. It is more prudent to "wait and see" in this writer's opinion.

It is also unclear what the economic outlook will be for this area and central Ohio. Prospects for the City's financial health and growth are not entirely pessimistic nor are they crystal clear. There is economic development in progress and in planning; the community is experiencing limited economic decline. There was no mention of vacant housing or foreclosures although the Census showed a 4-5% reduction in residences. Grandview Yards and other condominium developments current and future in the City may correct that loss. The estate tax may not disappear. Economic recovery in Franklin County is slowly in progress. Unknown business/economic developments may provide for more of an income base.

The parties will meet again in three (3) years to assess the situation and bargain again. The equities and facts will undoubtedly be different.

Recommendation

**Both tiers of the unit shall receive a 0% increase across the board for 2011; 3% for 2012 and 3.5% for 2013.
There shall be no change in the number of steps for the Tier B group.
(existing language).**

ISSUE NO. 2. Article 24 Pension Pick up

There is a direct spillover/overlap between to above wage discussions and the issue of PPU. For purposes of brevity the discussion will not be repeated again herein.

FINDINGS

The fact finder has taken into consideration relevant factors set forth in R.C. 4117.14 (C) (4) (e) and has followed the guidelines set forth in OAC 4117-9-05(J) and (K). Some of the listed factors were not relevant. Other factors had no evidence or arguments in support presented in the record.

Both parties agreed that as a matter of political necessity the current arrangements for PPU were not going to be acceptable. This pressure comes from S.B.5 and generally negative public sentiment for PPU. Both parties agree that PPU represents a dollar for dollar benefit in lieu of wages. Both parties agree that elimination of the PPU results in an actual wage reduction to employees. Neither party expects the employees to suffer a 7.6% diminution of wages.¹⁶

The disagreement lies in the implementation of the mutual intention. After considering the parties' arguments the Union's proposal is the more reasoned, simpler approach. The fact finder noted the goal is mutual: "roll in" of 7.6% in 2011 to the wages of the Police unit. This replacement of the lost PPU is not a wage increase. It is a necessary one- time adjustment due to the bargained- for loss of a significant benefit.

Recommendation

It is recommended that the parties approve the following language:

Article 24 be deleted in its entirety upon ratification¹⁷ The 7.6% no longer part of PPU will be reflected as a dollar for dollar equivalency in wages paid the pay period following ratification.

ISSUE No. 3. Article 10 Negotiations

10.1 Negotiations

¹⁶ 6.16% is the actual dollar equivalent to 7.6% PPU.

¹⁷ This will result in renumbering of the following articles. This clerical task will best be undertaken by the parties at a later date.

The Union seeks twenty- four (24) hours release time for FOP members for preparation of negotiation proposals during the final year of the contract. It points out that due to the 24/7 schedules the Union bargaining committee faces great hurdles in assembling/reviewing its proposals prior to the start of the first negotiation session. Allowance of this release time would make the negotiations sessions more productive as the parties would be ready to go as Union members would be up to speed at the first session. As such it would cut down on time needed at the table thereby saving the parties time and money.

The City argues no necessity for this change and proposes no change in existing language.

FINDINGS

The fact finder has taken into consideration relevant factors set forth in R.C. 4117.14 (C) (4) (e) and has followed the guidelines set forth in OAC 4117-9-05(J) and (K). Some of the listed factors were not relevant. Other factors had no evidence or arguments in support presented in the record.

The fact finder cannot support the Union's request. It is likely true that the City has the opportunity to schedule its planning sessions on company time. This is in fact an advantage. But neither custom nor practice requires a similar process being mandated for the Union. No comparable provisions in other jurisdictions were offered by the Union. The release time extant in the contract is sufficient absent a more compelling showing.

Recommendation

Current language

ISSUE No. 4. Article 35 Health Insurance (35.1 and 35.2) and Life Insurance (35.3)

35.1 Insurance

The City seeks to revise current language. It proposes elimination of the requirement that benefits be maintained at a substantially similar level. It argues that the Union is seeking to lock the City into the current arrangement. The City argues that the future options for insurance coverage are unknown. It cannot

safeguard that the current system will be an option after June 2011. It expressed the inability to predict rate increases. Providers only offer quotes at the very last minute.

The City also proposes creation of a health insurance committee with a FOP representative to look into options. The City argues that since everyone is in the same pool, common interests exist to acquire/maintain the highest possible level of coverage at the lowest possible costs.

The Union predictably wants to maintain its current level of benefits. Recognizing that a new insurance contract may lead to a new system of payment/reimbursement, it seeks language protecting its member's benefits at a substantially similar level to current (not 2004 as per existing language) benefits.

The Union acknowledges that the reference to 2004 level of benefits is no longer apt. It proposes elimination of same.

It finds fault with the proposed creation of the insurance committee as it is weighted towards nonunion/management representation. Current language provides for Union input and no additional changes are necessary.

35.2 Health and Dental Care Insurance Premiums

The City proposes increases in the employee's share of premium costs from the 10% current levels to 12.5% retroactive to December 2010 and up to 15% for years two and three. These proposed changes are in line with the salary ordinance passed in December 2010 for the non-bargaining unit employees.

The City also seeks language requiring the Union to cooperate in obtaining rate renewal credits.

The Union proposes no increase in 2011, an increase to 11% in year two of the contract and 12% in year three. It indicates that this is a 20% increase in costs to the members in contrast to the City's proposed 50% increase (effective December 2011). It characterizes its proposal as reasonable and it recognizes that its employees must take a "fair share" of the costs.

The Union points out that the City anticipates no more than a 12% increase in premiums during the contract. Premium increases are in effect a form of wage reduction. Holding at 12% in year three, the employees shoulder the proportionate

share of costs of the projected premium increases. More is inequitable and unreasonable.

The Union disputes the necessity for adding contract language regarding Union cooperation in providing information relating to rate renewal credits. It argues that the Union has and will continue to cooperate without the necessity of amending the contract.

35.3 Life Insurance

The City seeks to add language regarding eligibility for receipt of benefits.

The Union argues that the need for the language has not been explained and thus is unnecessary.

Both parties agreed to increase current coverage from \$50,000 to \$75,000.

FINDINGS

The fact finder has taken into consideration relevant factors set forth in R.C. 4117.14 (G) (7) (a-f) and has followed the guidelines set forth in OAC 4117-9-05 (J) and (K). Some of the listed factors were not relevant. Other factors had no evidence presented as to their applicability and thus are outside of the record.

At present there is no showing of increased costs. The 12% projection is just that-an estimate. This situation may likely change by the second and/or third years of the contract. The fact finder concludes that these anticipated but not yet actualized increased costs are equally disliked by both the primary payer (City) and the co- payees (members of the bargaining unit).

This coincidence of interests is exemplified in the fact of the Insurance committee and in the simple fact that the plan affects all City employees in the same manner. Therefore there is mutual self interest in finding the lowest cost, maximum benefit plan for all parties concerned. Even though it is difficult for a jurisdiction of Grandview's size to compete and negotiate, the past year showed that some gains could be made when dealing with an insurer.

The health insurance issue remains –perhaps more than ever- a confounding item for negotiations. Neither side presented testimony from any industry “expert”. The plan itself was not placed in evidence.

The Union argued forcefully that the City's proposed increases amount to a 50% increase in contribution rates by contract's end. This is indeed a dramatic representation. But there are *very* few persons who are not experiencing the pain related to health care costs. A larger solution is always a possibility in the form of state/federal legislation. Until then the City's proposal while a stark change in percentages does not so violate concepts of fairness and reason so as to merit its denial.

The City pointed out some of its political realities. There are six out of seven members on the council that are self-employed. Neither the Mayor nor Council members have the option to receive health insurance by virtue of their positions. Although it was not specified if any of their spouses have family coverage it is more likely than not that at least a few council members pay 100% for their own insurance.

Public opinion in general has embraced the perception that public employees have a sweet deal when it comes to benefits. The reaction of the public- or at least a noisy portion of the electorate- is evincing great hostility to the concept of employer fully funded or heavily funded benefits. The fact finder is required to take into account the public interest among other factors listed above. Perhaps health insurance ranks with wages as the most publically watched item in negotiations for the public sector. Although this year pensions are also front and center in the public's gun sights the parties wisely have deflected those potential bullets.

For such a small jurisdiction there is a solid reason to have parity within the jurisdiction for premium payments for health insurance. Currently police are paying dollars less per month for family coverage. Quite frankly the ability of the employer to administer a differing reimbursement amount was not argued by the City. Even though this was not a stated factor equities weigh in favor of the City's proposal.

There is simply no telling what the economic impact of the increased premiums will be. It is within the fact finder's experience to see premiums stabilize and even (rarely) decrease. New preventative care initiatives and wellness programs offer possibilities for reduced costs. Of course the pendulum could also swing to the

side of higher costs. But the pain will be borne equally. The City's proposal weighing all the statutory factors is more reasonable. In the event costs become dramatically increased it is a better topic for hard bargaining at the next round.

There should in this writer's opinion be a quid pro quo for the dramatic change in the health insurance premium payment equation. The parties' collective bargaining agreements for at least the past two rounds have included the language "substantially similar" as a means of not further eroding level of benefits. Since neither side brought to the fore any grievances indicating a lack of understanding or compliance with this language the fact finder sees no reason to tamper with it. Of course the reference to 2004 is not apropos seven (7) years later. The deletion of that year would address the Union's concerns about diminution and not unduly hamper the City's need to be responsible and fiscally prudent in its health care benefits administration.

The fact finder agrees with the Union that the City's proposed language concerning cooperation in "reasonable requests to obtain renewal rate credits" is not necessary. Adding language in the absence of a demonstrated need often results in later confusion as to intent. Although the City argued there was an incident of alleged Union recalcitrance regarding forms it was readily resolved. Certainly there is recourse for the City in the unlikely event of lack of cooperation that would not be gained by inclusion of this proposed language.

The City proposed a change to the Life Insurance premiums language. Little information was presented as to the need for the change or for concerns that would be met by the language. The Union's predictable response was-"if it isn't broke don't fix it." Without a better developed record adding language even if seemingly innocuous serves no purpose and instead creates a possible future opportunity for a dispute.

Recommendation

The parties' current language should be amended as follows:

35.1.

The City shall offer members the opportunity to elect group health care and dental care insurance program(s). The group health care insurance program shall include comprehensive hospitalization, surgical, major

medical, prescription drug, dental care, vision and an employee assistance program. A joint City/FOP/IAFF insurance committee "Insurance Committee" consisting of one (1) representative from each Department or Division including one (1) representative selected from the Lodge [and one (1) from the IAFF shall meet with the Director of Finance to confer, review proposals and provide input for the group health care, vision and dental care programs being considered by the City for the following calendar[insurance contract] year, and shall make such recommendations to the City to select group health care (comprehensive hospitalization, surgical major medical, prescription drug) vision and dental plans in a manner that achieves the objectives of providing coverage within the anticipated budgetary constraints. The coverage and benefits shall be substantially similar to those [that] in effect in December 2010. The City shall provide eligible employees with plan enrollment forms and benefit information and shall assist employees and their covered dependents in obtaining coverage.

35.2

Effective December 1, 2010 the City will pay 87.5% of the monthly cost per member for single and family coverage for healthcare, dental and vision programs and the member shall pay 12.5% of the cost per month for single or family coverage. Effective December 1, 2011 the City's percentage shall be decreased to 85% and the member's percentage shall be increased to 15%. Member's premium payments shall be made by payroll deductions. The City will maintain a section 125 plan that conforms with current IRS regulations and members shall be eligible for participation in the Section 125 plan.

35.3

The City shall provide \$75,000 group term life insurance coverage for each member. The City shall pay 100% of the premium for this coverage. The total amount of coverage shall be doubled for a member killed in the line of duty.

Issue No. 5. Article 25 Longevity Pay

The City proposal eliminates longevity pay for persons hired after January 1, 2011. It sees this proposal as a long term cost savings measure. It harms no current employee.

The Union proposes no change in existing language. It argues no compelling reasons support the change proposed by the City. Cost savings will be marginal. Longevity pay is in all of the other contracts offered as comparables. To

further widen the gap between new hires and the remainder of the bargaining unit is disruptive and unnecessary.

Findings

The fact finder has taken into consideration relevant factors set forth in R.C.4117.14 (G) (7) (a-f) and has followed the guidelines set forth in OAC 4117-9-05(J) and (K). Some of the factors are not relevant. Others have no evidentiary support in the record.

Longevity pay is a traditional incentive for long and loyal service. The amount of pay and the number of years required to earn same are not unusually generous. Comparables support the current language. It may be rational to have a two tier step system but ultimately everyone ends up at the same place. The same result would not obtain for a longevity pay provision that excludes a portion of the work force (at least until such time as no "old-timers" are left.) There is insufficient demonstrated cost savings to warrant changing the language at this time.

The Union's proposal of no change is recommended. The City has presented insufficient countervailing arguments to outweigh the Union's proposal. This is a minimal cost item and will impose no great burden on the City.

Recommendation

Current language.

Issue No. 6. Article 30 Vacations

30.2 Personal Leave

The Union seeks to delete references to eight (8) hours in the personal leave section and change it to one (1) day. It points out that only one member works an eight (8) hour day; the remaining members of the Department work four (4) ten (10) hour days. Due to the fact that in order to get a whole day off as a personal day a member has to apply for two (2) hours vacation leave it is unnecessarily cumbersome to use personal leave. And the Chief has discretion to disapprove vacation requests.

As a corollary to this proposal the Union seeks to change the language allowing personal leave to be taken in one hour increments.

30.3 Scheduling and Approval

The Union seeks to revise the current system of scheduling vacation leave. It argues that the current "one pick" chance of up to a maximum of a three (3) week segment per year leaves a member unable to take vacation time for important lifecycle events outside of the three (3) week pre designated period. Vacation requests are granted at the Chief's sole discretion. Thus if events occur outside of the pre-selected slot attendance is far from assured as the Chief has discretion to deny/approve all requests.

The Union's proposal calls for a revised vacation scheduling system that allows members the opportunity to select one week blocks to address vacation needs that occur at different times of the year thereby allowing for planning and assured participation in life cycle events. It is a no cost item promoting goodwill in the unit.

The City argues that the present system has been in place and has worked well. It also points out that scheduling is a management prerogative. It wants to preserve the right of the new Chief-not yet hired- to establish a scheduling system that works best for his/her needs.

FINDINGS

The fact finder has taken into consideration relevant factors set forth in R.C. 4117.14 (G) (7) (a-f) and has followed the guidelines set forth in OAC 4117-9-05(J) and (K). Certain factors however were not present in the record. Other factors were not relevant to the determination.

The fact finder agrees with the City that the manner of scheduling vacations should remain in place until a new Chief is hired. Although the Union's proposal is a no cost item that is rational and orderly the fact finder finds it untimely in the sense it is premature. Nothing would prevent the parties from agreeing to a scheduling system proposed by the Union once the new chief is hired. S/he may see its benefits. But to take away the current language allowing the Chief discretion is not balanced by a demonstrated necessity. There were no personal anecdotes from any members indicating that s/he was denied a

vacation request. The fact finder concludes that the public employer's lawful authority outweighs the *current* necessity of amending the language.

Recommendation

30.2

The parties should adopt the following language:

Each member shall receive one personal leave day each calendar year. Personal leave hours must be used in the calendar year in which they accrue. No personal leave hours shall carry over from year to year.

30.3

Current Language Unchanged

ISSUE No. 7. Article 33 Injury Leave

The City proposes to limit injury leave from its current level of twenty-six (26) weeks to thirteen (13) weeks. It argues that the Bureau of Worker's Compensation (BWC) seems to process claims more quickly once salary is discontinued. It provided one anecdote in support of its claim. It sees this as a cost saving measure for the City. It points to rising premium rates. It will improve the rehabilitation efforts of employees who now have a greater incentive to obtain necessary services from the BWC.

The Union seeks retention of current language. The City's proposal penalizes members hurt in the line of duty. There is the specter that BWC will disallow or deny a claim leaving the employee without income after thirteen (13) weeks. It will force them to retain counsel at the outset in order to not be without income after week thirteen (13). Lawyers' fees cut into the amount available to the employee. Current language allows the City to recoup any double pay.

FINDINGS

The fact finder has taken into consideration relevant factors set forth in R.C. 4117.14 (G) (7) (a-f) and has followed the guidelines set forth in OAC 4117-9-05(J) and (K). Certain factors however were not present in the record. Other factors were not relevant to the determination.

Although the City's concerns about the vicissitudes of dealing with the BWC are no doubt real there is a potential for harm to the employee. The BWC operates by its own rules, not those of the parties. Twenty-six (26) weeks is not such an unusually generous amount of time per the comparables. The City is protected from double payments. It is not sufficiently demonstrated that shortening the period of injury leave will facilitate prompter claims processing. The risk of harm versus the benefit do not support this desired change.

Recommendation

Current language Unchanged.

Respectfully submitted,



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Certificate of Service

Originals and true copies of the fact finder report were sent by ordinary US mail on the State Employment Relations Board, 65 East State Street, 12th floor, Columbus, Ohio 43215; on Marie Joelle Khouzam, Esq. 365 East Broad Street, Columbus, Ohio 43215-3819 and Robert Byard Esq. 3360 Tremont Road Columbus, Ohio 43212 on April 29, 2011. An electronic copy was also sent to the parties' representatives and SERB Bureau of Mediation.



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