

STATE OF OHIO
BEFORE THE STATE EMPLOYMENT RELATIONS BOARD

IN THE MATTER OF FACT-FINDING	:	SERB Case Number: 11-MED-09-1121
	:	
BETWEEN THE	:	
	:	
CITY OF SPRINGFIELD, OHIO,	:	
	:	Date of Fact-Finding Hearing:
Employer	:	December 15, 2011
	:	
AND THE	:	
	:	
SPRINGFIELD POLICE PATROLMEN'S	:	
ASSOCIATION,	:	Howard D. Silver, Esquire
Union	:	Fact Finder
	:	

REPORT AND RECOMMENDED LANGUAGE OF THE FACT FINDER

APPEARANCES

For: City of Springfield, Ohio, Employer

Jerome M. Strozdas, Esquire
Law Director for the city of Springfield, Ohio
Law Department
76 East High Street
Springfield, Ohio 45502

For: Springfield Police Patrolmen's Association, Union

Paul J. Kavanagh, Esquire
COLE ACTON HARMON DUNN, L.P.A.
Attorney for the SPPA
333 North Limestone Street, Suite 102
P.O. Box 1687
Springfield, Ohio 45501

PROCEDURAL BACKGROUND

This matter came on for fact-finding hearing at 10:00 a.m. on December 15, 2011 at the city of Springfield, Ohio's City Hall located at 76 East High Street, Springfield, Ohio 45502. Mediation was attempted but did not result in an agreement between the parties. The hearing record was opened at 1:15 p.m. on December 15, 2011 and the hearing concluded at 6:00 p.m. At the hearing both parties were afforded a full and fair opportunity to present evidence and arguments in support of their positions. The hearing record was closed following the presentation of closing arguments by the parties.

This matter proceeds under the authority of Ohio Revised Code section 4117.14(C) and in accordance with Ohio Administrative Code section 4117-9-05. Both parties have met their obligations in carrying out pre-hearing procedures. The parties submitted to the fact finder prior to the hearing their positions on the issues raised by this fact-finding process. This matter is properly before the fact finder for review, report, and recommendation.

FINDINGS OF FACT

1. The parties to this fact-finding process, the city of Springfield, Ohio, the Employer, and the Springfield Police Patrolmen's Association, the Union, are parties to a collective bargaining agreement in effect from January 1, 2011 through December 31, 2013.
2. The parties' collective bargaining agreement covers a bargaining unit comprised of sworn persons holding the position of patrol officer in

the Police Division of the city of Springfield, Ohio on a permanent, full-time status.

3. The bargaining unit covered by the parties' collective bargaining agreement is comprised of one hundred full-time law enforcement officers employed within the city of Springfield Police Department.

4. The collective bargaining agreement between the parties in effect from January 1, 2011 through December 31, 2013 provides, in Article 41, that during the month of September, 2011, either party may notify the other party of its intention to reopen negotiations with respect to Schedule A, the pay schedule, and Article 31, Section B, health insurance.

5. The Union notified the Employer during the month of September, 2011 that it wished to reopen negotiations with respect to Schedule A, the pay schedule, and Article 31, Section B, health insurance.

6. As to Article 31, Section B, health insurance, the parties have agreed to change the date in the language of Article 31, Section (B)(1) from October 1, 2010 to October 1, 2011, and the fact finder recommends this change.

7. The issues that remain unresolved between the parties under the re-opener language of Article 41 include the pay of bargaining unit members effective January 1, 2012 and January 1, 2013, and the division of costs between the Employer and a bargaining unit member for the provision of health insurance coverage to the bargaining unit member.

DISCUSSION

The Union's final wage proposal at the conclusion of the fact-finding hearing was an across the board wage increase for the bargaining unit of 2% effective January 1,

2012, and an across the board wage increase for the bargaining unit of 2.5% effective January 1, 2013. The Union recommends that at these wage levels the sharing of the costs of health insurance coverage should be a 90% contribution from the Employer and a 10% contribution from the bargaining unit member.

The Employer recommends that no wage increase occur on January 1, 2012 and no wage increase occur on January 1, 2013. The Employer is amenable to the 90/10 split in paying for health insurance coverage costs in the absence of wage increases during the remaining two calendar years of the parties' Agreement.

The Union emphasizes that in the negotiations that led to the parties' present collective bargaining agreement, negotiations that occurred in December, 2010, the Union agreed to a zero wage increase for the first year of the Agreement effective January 1, 2011, and noted that the bargaining unit had last received a wage increase on January 1, 2009, a 1% wage increase.

The Union has presented detailed data that describes municipal police departments in the geographic region formulated by the State Employment Relations Board that includes the city of Springfield, Ohio. The Union points out that when counties contiguous to Clark County, the county containing the city of Springfield, Ohio, and Franklin County are included in a comparison of the cities in the region with populations greater than ten thousand, the top pay among police officers employed by the city of Springfield Police Department ranks last among thirty-three municipalities.

The Union emphasizes the bargaining unit's right to chart its own course in negotiating with the Employer, unencumbered by the activities and decisions of other bargaining units. The Union emphasizes the sovereignty of the bargaining unit in

determining what is in the best interest of the bargaining unit, including decisions that relate to wages and health insurance coverage. While other bargaining units negotiate their working relationship with the Employer unaffected by the activities and decisions of the SPPA bargaining unit, the SPPA bargaining unit claims a similar right, the right to set its own course in negotiating the working relationship between the Employer and the bargaining unit without influence from other bargaining units.

The Employer emphasizes that with the exception of the AFSCME bargaining unit that is scheduled to enter into negotiations with the Employer shortly after this fact-finding procedure, all other bargaining units employed by the city of Springfield, Ohio, including the firefighters' bargaining unit, the police command bargaining unit comprised of sergeants and lieutenants, the dispatchers' bargaining unit, and the clerks' bargaining unit have agreed to zero wage increases for 2012 and 2013. The Employer points out that exempt (non-organized) employees of the city of Springfield have received no wage increase over the past two years and are not to receive a pay increase in 2012. The Employer urges that the city's internal parity among bargaining units and exempt employees as to zero wage increases in 2012 and 2013 be maintained in the fact finder's recommended language.

The Employer argues that the cities described as comparable to the city of Springfield, Ohio by the Union are less similar to the city of Springfield than the cities presented by the Employer. The Employer's metric on comparable cities includes a municipality that is a county seat and has a population exceeding twenty-five thousand. While the cities proposed by the Employer for comparison are in many cases located in northeastern Ohio and not within the SERB region that includes the city of Springfield,

Ohio, the Employer claims that its criteria present municipalities with greater similarity to the city of Springfield, Ohio. The Employer notes that when these cities are compared to the city of Springfield, Ohio the top pay of city of Springfield police officers ranks first or second. The Employer denies that bargaining unit members are underpaid and contends that within the geographic area in which these positions are employed the pay provided for these positions remains competitive.

The Union points to the improved budget figures for the city's general fund in 2011 in comparison to what had been projected for the city's general fund in late 2010. The Union notes that while a nine hundred thousand dollar deficit had been projected, with an unencumbered carryover for 2011-2012 of 6.41% of the general fund's annual budget, it has now been determined that the carryover from 2011 to 2012 is 12.15% of the general fund's annual budget, a much more advantageous circumstance than had been projected when the collective bargaining agreement now in effect between the parties had been bargained in December, 2010.

The Union argues that the re-opener language within the parties' Agreement is intended to enable the parties to determine with greater certainty what the finances of the city of Springfield, Ohio are at the beginning of the second and third years of the parties' Agreement. The Union points to the increased income tax revenue that has produced a 2011-2012 general fund carryover of over four and one-half million dollars, and a budget that presents appropriated but unspent appropriations for personal services in the amount of six hundred thousand dollars. The Union argues that these improvements in the resources available to the city of Springfield, Ohio are more than sufficient to fund the

modest wage increases proposed by the Union for the second and third years of the parties' collective bargaining agreement.

The increased carryover cited by the Union for 2012 is, in part, the result of increased city income tax revenue, an increase that could indicate an economy with upward momentum. The larger carryover figure, however, also contains the savings realized through attrition, that is, by not filling a number of positions when they became vacant. The Springfield Police Department is adequately if minimally staffed at 131; at the time of the fact-finding hearing and for some time previous to the hearing the staff of the Springfield Police Department totaled 126. The hearing record contains credible evidence that a substantial number of exempt positions within the table of organization of the city of Springfield, Ohio have been vacated by incumbents and not filled. The reduction of employees due to limited financial resources may produce an increase in the carryover of the Employer but the reduced number of staff members undercuts the claim that the larger carryover reflects an improved financial circumstance for the Employer.

While the number of staff employed by the city of Springfield has lessened, the work required by the city is not reduced, leaving greater portions of this workload to employees retained by the city. Such an increased workload supports a wage increase in recognition of the fact that city employees are expected to produce more work.

While the Employer has worked diligently to contain the costs of operating the city, some costs, in particular health insurance coverage costs, are not subject to decisions by managers. Health insurance coverage costs have risen steeply and continue to rise, with increases in 2012 projected to be in the nine percent to twelve percent range. While the Employer, assisted by the Union, can determine coverage that is more efficient, a

better value, neither the Employer nor the Union can control the health care history of the coverage pool. The very substantial costs associated with health insurance coverage in 2012 and 2013 must be considered in determining the Employer's ability to fund the wage increases suggested by the Union. The 90/10 split between the Employer and the bargaining unit members in paying for the costs of health insurance coverage is herein recommended by the fact finder, and is viewed as a valuable and increasingly expensive benefit.

In the midst of a reduction in positions and an increased workload among those remaining in the employ of the city, furlough days have not been required. The increased workload faced by the bargaining unit herein is faced by every other bargaining unit employed by the city and by every exempt city employee. Those bargaining units that had bargained with the city prior to this fact-finding procedure had agreed to zero wage increases in 2012 and 2013. Although other bargaining units agreed to a zero wage increase in 2011 and 2012 and 2013, the bargaining unit herein wishes to avoid being the last bargaining unit to agree to a zero wage increase, preferring instead to be the first bargaining unit to secure a wage increase in a progression of bargaining units securing pay increases due to the improved economic circumstances of the city.

The fact finder finds no flaw in the Union's argument about the bargaining unit members deserving a wage increase based on the volume, nature, and quality of the work provided by the bargaining unit. The fact finder is less persuaded that the financial circumstances of the city of Springfield, Ohio indicate sufficient public funds available to the general fund, augmented by the police levy fund, to support a wage increase for the bargaining unit effective January 1, 2012. The one year improvement in the carryover

and tax revenue figures from 2011 to 2012 are not sufficient in and of themselves to persuade the fact finder that the city of Springfield, Ohio, at this time, has the wherewithal to spend the extra \$140,000 for the two percent wage increase effective January 1, 2012, and the additional \$175,000 for the January 1, 2013 wage increase.

There is also the foregoing of wage increases by other bargaining units employed by the city and by exempt employees of the city, reflecting a shared sacrifice apportioned evenly throughout the workforce. Presumably the bargaining units who agreed to the waiver of wage increases for the next two years did so with the understanding that all city employees would be treated similarly. The fact finder understands the difficulty in accepting a zero percent wage increase for January 1, 2012 by the bargaining unit but such an acceptance brings the bargaining unit in line with other city employees, organized and exempt, and reflects a fair share of the sacrifice required to maintain the operations of the city and the positions presently filled and funded in the bargaining unit addressed by this fact-finding proceeding.

The fact finder is not persuaded that the local, regional, state, or national economies indicate that the finances of the city of Springfield, Ohio are on the upswing. Housing, employment, wages, and inflation have shown little movement during the past year and are not projected to increase substantially over the following year. All municipalities and all municipal bargaining units are working to maintain services in the face of the loss of substantial funding from the state of Ohio through local funds being retained by the state of Ohio to balance the budget of the state of Ohio and through the elimination of the estate tax in 2013. These losses in revenue and the stagnation in the

economy generally prompt the fact finder to adopt a cautious approach. This approach also limits the arbitrator's recommendation in this case to January 1, 2012.

The fact finder understands that the parties negotiated in December, 2010 and negotiated again in December, 2011 and would prefer to avoid negotiations in December, 2012 that are envisioned by Article 41 of the parties' Agreement. The uncertainty in the economy and the finances of the city of Springfield, Ohio in 2012 however lead the fact finder to err on the side of caution, and rather than make a recommendation as to a wage increase for January 1, 2013, the fact finder recommends that the parties wait, and if either party wishes to reopen negotiations on pay or health insurance or both there is a mechanism within the language of Article 41 that allows the parties to again assess the ability of the Employer to pay for an increase in the pay of members of a very deserving bargaining unit at that later date.

As to January 1, 2012, however, the fact finder cannot recommend a wage increase. The fact finder remains convinced that such an increase is premature, is not in the best interest of the Employer or the bargaining unit, and is not shown to be fiscally responsible at this time. A higher wage that cannot be afforded by the Employer simply shrinks the size of the bargaining unit thereby exacerbating the problem of too few staff for the workload. The fact finder understands the zero wage increase is difficult for the bargaining unit members to accept but a 90/10 split in health insurance coverage costs, no furlough days, and no reduction in pay in the face of a 2012 city general fund budget that is less than the 2010 general fund budget persuades the fact finder that this is a time to maintain not strain limited available resources.

RECOMMENDED LANGUAGE

Schedule A

The fact finder recommends a zero across the board wage increase for the bargaining unit effective January 1, 2012, with step increases and longevity payments remaining in effect.

Article 31, Section B

The fact finder recommends that in the language of Article 31, Section (B)(1) the date October 1, 2010 be changed to October 1, 2011.

The fact finder recommends that the sharing of health insurance coverage costs between the Employer and each bargaining unit member availing himself/herself of health insurance coverage through the Employer be ninety percent (90%) from the Employer and ten percent (10%) from the bargaining unit member.

In making the recommendations presented in this report, the fact finder has considered the criteria presented in Ohio Revised Code section 4117.14(C)(4)(e) and Ohio Administrative Code section 4117-9-05(K).

Finally, the fact finder reminds the parties that any mistakes by the fact finder are correctable by agreement of the parties pursuant to Ohio Revised Code section 4117.14(C)(6)(a).

Howard D. Silver
Howard D. Silver
Fact Finder

Columbus, Ohio
December 28, 2011

CERTIFICATE OF FILING AND SERVICE

I hereby certify that the foregoing Report and Recommended Language of the Fact Finder in the matter of fact-finding between the city of Springfield, Ohio and the Springfield Police Patrolmen's Association, SERB case number 11-MED-09-1121, was filed electronically with the Ohio State Employment Relations Board at MED@serb.state.oh.us and served electronically upon the following this 28th day of December, 2011:

Jerome M. Strozdas
Law Director for the City of Springfield, Ohio
Law Department
76 East High Street
Springfield, Ohio 45502
jstrozdas@ci.springfield.oh.us

and

Paul J. Kavanagh
Attorney for the SPPA
333 North Limestone Street, Suite 102
P.O. Box 1687
Springfield, Ohio 45501
pkavanagh@coleacton.com

Howard D. Silver

Howard D. Silver
Fact Finder

Columbus, Ohio
December 28, 2011