

Before Louis V. Imundo, Jr., Fact Finder

In the matter of fact finding between

City of Trotwood

and

Trotwood Professional Firefighters IAFF Local 4024

SERB Case No. 2015-MED-11-1220

This matter was heard before Louis V. Imundo, Jr., Fact Finder, in Trotwood, Ohio on September 23, 2016

1.0 Introduction

1.1 Appearing For Management

- Kelly E. Babcock, Esq., Clemans – Nelson & Associates, Inc.
- Stephanie L. Kellum, Deputy City Manager & Human Resources Manager
- Stephen H. Milliken, Fire Chief
- Chris Peeples, Finance Director

1.2 Appearing For The Union

- Stephen S. Lazarus, Esq., Attorney at Law
- Ross M. Gillingham, Esq., Attorney at Law
- Tony Johnson, Lieutenant, Fire Fighter
- Chris Gilson, Lieutenant, Fire Fighter
- James Neal, Medic, Fire Fighter
- Kris Long, Medic, Fire Fighter

2.0 Unresolved Issues

Article 22 - Compensation

Article 30 – Duration of Agreement

Article 36 – Layoffs

Memorandum of Understanding

3.0 Findings And Recommendations

Article 22 – Compensation, Section 22.1

Management proposed a zero (0%) percent increase for 2016, a one percent (1%) increase for 2017 and a reopener for 2018. Management proposed that current language in the other sections (22.2, 22.3, 22.4, 22.5, 22.6, 22.7) be carried over intact into the successor agreement.

The Union proposed a zero percent (0%) increase for 2016, a three percent (3%) increase for 2017 effective on January 1st, another one percent (1%) increase effective on July 1st, and another one percent (1%) increase effective January 1, 2018.

The Union proposed two additional changes to the current wage structure: a modification of the current two-tier system and a modification to the number of wage steps for Lieutenants.

The Union did not seek any changes in the existing language in sections 22.2, 22.3, 22.4, 22.5, 22.6, and 22.7.

It was undisputed that until 2013 the City had been under severe financial stress. The collapse in housing prices, the near collapse of the banking system due to the unethical, immoral and arguably illegal behavior of the senior managements of nearly all of the major US banks, home foreclosures, and loss of jobs resulting from bad trade agreements, which adversely affected the entire country hit the Miami Valley particularly hard.

During the extraordinarily difficult period, 2008-2013, the City's employees and in particular bargaining unit members made considerable financial sacrifices to keep the City financially solvent. That is the past. What is important is the present and the outlook for the future. In November 2013 the voters approved a 4.15 mill levy to provide additional funding for the Fire Department's operations. The Department's operating budget is derived from the monies generated by levies. The City no longer has to provide monies from the General Fund to fund the Department. In fact, there is a surplus of monies in the account that can only be used to fund the Department's operations.

Before the levy was passed the current Chief publicly stated that some of the money would go towards salaries. Since the levy passed base wages have increased by only one (1%) percent. At the Hearing, witnesses for the City expressed sympathy for bargaining unit members' current wage situation and expressed a desire to improve them in the future. Apparently some part of the City's financial situation was due to poor management practices and the new management team has been quite busy putting the

City's financial house in order. Management also expressed concern that if bargaining unit members are given the salary increases they seek it will result in a "me too" bargaining climate with the City's other unions.

The Union provided the Fact Finder with considerable information to show that the City's Fire Fighters/Paramedics are significantly underpaid when their wages are compared to the wages of firefighters in comparable cities in the area. The Union also provided data to show that the City's financial condition has considerably improved in the past few years and the future outlook is very good.

In the Fact Finder's opinion, Management's ability to pay, i.e., the City's financial condition, and external comparables are far more important than internal comparables. The Fact Finder rejects the notion that if one union successfully negotiates a certain percentage wage increase for its members that the other unions in the same village, town, or city are automatically entitled to the same percentage wage increase for their members. Many, many factors must be considered in negotiating wage increases and internal comparables is just one of them.

The record shows that the Department has a significant surplus in the operating fund. The record indicates that it is highly unlikely that any external factors in the next few years will adversely affect the surplus. The one external exception is higher than projected healthcare insurance premium costs. In the Fact Finder's opinion, the modest wage increases the Union seeks over the life of the successor agreement will not result in the disappearance of the surplus.

As noted, Management seeks a wage reopener for 2018. In the Fact Finder's opinion, considering the size of the bargaining unit, the number of members who would participate in negotiations, the time away from performing their regular job duties, and other related costs would likely far exceed the cost of a one (1%) percent wage increase for 2018. If the costs associated with Management personnel preparing for and participating in negotiations with likely assistance from external counsel are considered there is no question that the cost of negotiating a wage reopener would far exceed the cost of a one percent (1%) wage increase.

Currently, the City has in excess of 500K unencumbered balance for non-capital Fire and EMS. It appears that the Fund will show a surplus for the third consecutive year.

The record shows that the job demands for the Firefighter/Paramedics has been steadily increasing for many years while the City has not increased the total number of full time staff since 2007 and perhaps earlier. The mid year stats for first rescue responses from 2012-2016 has increased from 2691 to 3173. EMS runs from 2012 through 2015 increased from 5640 to 6394.

In the Fact Finder's opinion, the written information provided by the Union coupled with the testimony of witnesses at the Hearing overwhelmingly demonstrated that bargaining unit members deserve the raises the Union seeks. As noted, Management did not assert that the bargaining unit's members do not deserve the raises they seek. Management's position was that they need more time to finish sorting out the City's finances, the City's current surplus fund balance needs to improve, and they need to feel more confident about the local economy.

The Fact Finder appreciates Management's concerns and understands the reasons for such. However, after reviewing the documentary record and the testimony of all of the witnesses the Fact Finder is convinced that the City can afford to fund the modest wage increases the Union seeks.

In conclusion, the Fact Finder recommends that effective January 1, 2017 employees receive a three percent (3%) across the board wage increase; effective July 1, 2017 employees receive a one percent (1%) across the board increase, and effective January 1, 2018 a one percent (1%) across the board increase.

Under the current wage classification system an individual who is promoted on or after January 1, 2013 to Lieutenant or hired on or after January 1, 2013 as a Firefighter/Paramedic is assigned to a lower wage tier. The Union proposed that only bargaining unit employees over the current 18 will be paid on the lower Firefighter/Paramedic wage scale based on Department seniority. Management proposed that the current system be retained.

The purpose of any two tier wage structure is through attrition to reduce the cost of labor. In some workplaces such action became necessary because of dire financial situations. In many work places two tier wage systems have been retained longer after the need for such exists. There are many undesirable consequences that arise from having two-tiered wage structures. In many workplaces employers have learned, or are leaning that true costs of having two-tiered wage structures far exceed the easily recognizable monetary benefits of such.

In the Fact Finder's opinion, considering that the number of full time Firefighter/Paramedics in the Department is unlikely to increase in the next few years what the Union seeks is a defacto way to end, in practice, the two tier wage structure. While it would still exist on paper in reality it would not be applied. The exception would be if the number of full time Firefighter/Paramedics increases.

In conclusion, the Fact Finder recommends that the Union's proposal be memorialized in the successor agreement.

The Union proposed to decrease the number of steps for Lieutenants. Specifically, the Union proposed the deletion of the first two steps. The Union's proposal would ensure that promoted employees will earn more than a top step Firefighter/Paramedic. Management proposed that the current number of steps be retained.

It is well known that the core competencies or skill sets necessary to be a competent firefighter/paramedic and a command officer are not identical. Being a good firefighter/paramedic does not necessary guarantee that he/she will be a good command officer. A top step Firefighter/Paramedic will very likely be more proficient in performing his/her job duties when compared to his/her peers at the lower steps. Of course there can be exceptions to such.

In the Fact Finder's opinion, a person newly promoted or newly hired as a Lieutenant may have a lot to learn and may not be worth as much to the Department as a top step Firefighter/Paramedic. Considering that an increase in wages is a way of rewarding people for doing better at their jobs the opportunity for wage progression is not only desirable it is arguably requisite.

In the Fact Finder's opinion, the current three steps with the recommended percentage wage increases should be retained.

Article 30 – Duration of Agreement

In the Fact Finder's opinion, the successor agreement, without any wage reopeners should remain in full force and effect until December 31, 2018.

Article 36 – Layoffs

The Union proposed that no full time bargaining unit member could be laid off until after all part time Firefighter/Paramedics are laid off. Management proposed that the current language be carried over intact into the new agreement.

In the Fact Finder's opinion, the City has a far larger investment in its full time employees than it does in its part time employees. While part time employees are useful and sometimes necessary it is a very risky proposition to place a high degree of reliance on using part time employees where public safety is concerned. This is not to imply that part time employees cannot be as committed to doing a good job as the full time employees.

Part time employees do not have as much invested, i.e., time, energy, dedication, etc., as full time employees. Given that they are not putting their City job related skills to use on a daily basis their skills and proficiency are not going to be at the same level as competent full time employees. In the Fact Finder's opinion this is particularly true when

it comes to public safety work. A part time Firefighter/Paramedic who only occasionally puts those job skills to use is certainly not going to have the same level of job knowledge, quickness of response to emergency situations and judgment as an experienced full time Firefighter/Paramedic.

In the Fact Finder's opinion, the only benefit for the City in laying off full time employees prior to, or in some ratio to part time employees is to save money. In the Fact Finder's opinion such thinking is short sighted and fails to fully consider the fact that part time employees are not as loyal, dedicated, productive or knowledgeable as full time employees. Additionally, when full time employees know they could be laid off before part time employees it will adversely affect morale, which could affect job performance and most certainly affects loyalty. Most important is the undeniable fact that as the reliance on part time safety employees goes up the risk to the safety and well being of citizens also goes up.

In conclusion, the Fact Finder recommends that the Union's proposed language be adopted and memorialized in the successor agreement.

Memorandum of Understanding

At the Hearing, the Parties agreed to the MOU's language with the exception of the number of days. The Union proposed seven (7) days and Management proposed four (4) days.

After considering the Parties' respective arguments, the Fact Finder recommends four (4) days in 2017 and five, (5) days in 2018.

The MOU should read:

Members of Local 4024 will be awarded four (4) days off with pay in 2017 and five (5) days of same in 2018 to be used prior to October 31, 2018.

Concession days will be scheduled in accordance with the provisions of Article 16, Section 16.5 of the Agreement.

Any member hired after January 1, 2012 shall receive a prorated amount of concession days, if any, based on the amount of concession days that they took.

The Fact Finder recommends that all of the tentatively agreed to articles and sections be memorialized in the successor agreement.

October 11, 2016
Date

Louis V. Imundo, Jr.
Fact Finder