

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

2016-

IN THE MATTER OF FACTFINDING BETWEEN: Case No. MED-11-1333

City of Norton

Employer

Date of Hearing: August 31, 2017

Date of Report: September 21, 2017

And

Local R7-26 of the
International Association of EMTs and Paramedics
Employee Organization

Meeta A. Bass, Fact Finder

FACT FINDER'S REPORT AND RECOMMENDATIONS

Appearances:

For City of Norton:

Paul Jackson, Esq., Principle Representative
Ron Messner, Director of Finance
Mike Schultz, Fire Chief
Robert Fowler, Chief Administrator

For Local R7-26 of the
International Association of EMTs and Paramedics

Richard H. Anderson, Jr. Principle Representative
159 Burgin Parkway
Quincy, MA, 02169.

Ken Skaggs, National Representative of IAEP
Bradley Witschey, Board of Trustees

INTRODUCTION

Case Background

This case is a fact-finding proceeding between the City of Norton, hereinafter referred to as Employer, and the Local R7-26 of the International Association of EMTs and Paramedics, hereinafter referred to as Union. On July 11, 2017, the State Employment Relations Board (SERB) appointed Meeta A. Bass as the Fact Finder. The parties to this fact-finding have had an ongoing bargaining relationship. The most recent collective bargaining agreement, a three (3) year agreement, between the parties expired on December 31, 2016. The parties have met on several occasions to negotiate a successor agreement. However, unable to reach an Agreement, the parties declared impasse and proceeded to Fact-Finding. The parties agreed to extend the time period for the issuance of the findings of fact and recommendations of this Fact-Finder pursuant to the Ohio Administrative Code Rule 4117-9-05(G).

By agreement of the parties, a fact-finding hearing was held on Thursday August 31, 2017, at 9:00 a.m. at the Norton Community Center, Norton, Ohio. At the hearing, the Employer was represented by Paul Jackson, Esq. along with Ron Messner, Mike Schultz and Robert Fowler. Union was represented by Richard Anderson, along with Ken Skaggs and Bradley Witschey. Mediation was discussed at the hearing, and it was decided by all that any attempts to mediate, at this point, would not be productive.

The parties have negotiated relative to a successor contract during several bargaining sessions. At the present time, there remain only two (2) issues open. These issues deal with: (1) Article 8, Section 1, a requested increase in the number of hours that part-timers are expected to work per month; and (2) Article 10, Section 2, Wages. The Fact-Finding hearing was commenced to consider said issues. During the course of the hearing the

parties reached tentative agreements on Article 8 Sections (1) (b) (c) and (d). The parties presented evidence and arguments in support of their positions on the open issue of Article 10 Wages, Section 2, and Article 8 Section (1)(a), number of work hours. At the conclusion of the hearing, the parties agreed that the Fact Finder would issue her report on September 22, 2017.

Description of Employer

The appointing authority is the City of Norton. The City of Norton Fire Division and its employees are responsible for providing emergency medical and fire services for the citizens of Norton, Ohio. The City of Norton Fire Division employs thirty-four (34) individuals, twelve (12) fulltime and twenty-two (22) part-time firefighters and EMTs. Full-timers and part-timers are represented by different unions. The ultimate goal of the City is to staff three full-timers and 3 part-timers per shift and have all three medical units available to provide services to the public.

The City of Norton made the transition to a combination division approximately three and half (3½) years ago due to the increase in call volume. Its mission is to provide better services to its residents and to become more efficient in its operations by hiring more full-time employees who hold positions at their primary jobs with benefits. All of the full-timers currently work a 24/48 shift with the exception of one (1) individual who does inspection, and who works a forty (40) hour work week; there are twenty-two (22) part-timers who work a 6 hour shift and a minimum of forty-eight (48) hours per month. Prior to making this decision, there were three (3) full-timers and the remaining members were part-timers who had primary employment with other employers.

The City of Norton's neighboring municipalities include Clinton Village, Chippewa Twp, New Franklin, Wadsworth, Fairlawn and Copley.

Description of the Bargaining Unit

The bargaining unit is represented by Local R7-26 of the International Association of EMTs and Paramedics. The bargaining unit consists of twenty-two (22) members, nineteen (19) part-time Firefighter Paramedics, one (1) part-time Firefighter EMT, one (1) part-time EMT Lieutenant and one (1) part-time Paramedic Captain.

OPEN ISSUES

The remaining unresolved issues are listed herein and a brief summary of the positions of the parties is provided along with a discussion and the recommendation of the Fact Finder. In making these recommendations, consideration was given to the factors set forth in Ohio Revised Code Section 4117.14 (G) (7) (a) to (f):

- Past collectively bargained agreements between the parties;
- Comparison of the unresolved issues relative to the employees in the bargaining unit with those issues related to other public and private employers doing comparable work, giving consideration to factors peculiar to the area and the classification involved;
- Interests and welfare of the public, the ability of the public to finance and administer the issues proposed, and the effect on the normal standards of public service;
- Lawful authority of the public employer;
- Stipulations of the parties; and
- Such other factors, not limited to those above, which are normally or traditionally taken into consideration.

**FIRST ISSUE
ARTICLE 8, Section A**

Position of City

City contends that the call volume has increased in the last few years resulting in more work hours. The part-time firefighters currently work forty-eight (48) hours and additional hours are necessary to maintain minimum staffing to operate efficiently. Eighteen (18) of the twenty-two (22) part-time firefighters currently work more than seventy-two (72) hours per month. The increased number of expected hours to be worked each month allows the City to insure that it provides the level of service expected by the residents of the City. At the same time, requiring seventy-two (72) monthly hours from each part-time firefighter will also help make sure that those part-time employees maintain their familiarity with the City's procedures.

City further contends that the organizational structure of the City has changed in the last four (4) years. The City has in the past several years transitioned to a full-time division consisting of ten (10) full-time firefighters, an assistant fire chief, the fire chief, and twenty two (22) part-time firefighters and EMTs. Despite the increased full-time firefighters, the City currently struggles with maintaining coverage. There has been a twenty percent (20%) increase in call volume, such that all three (3) medical units, the ambulances, may be on the road at the same time. The City opines there is need for the part-timers to work more hours.

Additionally, City contends that there is a need to have the part-timers work at least eighteen (18) of those seventy-two (72) hours each month on either a Saturday or Sunday. Even though the part-timers do meet and exceed their contractual obligations, there were five hundred (500) uncovered hours arising from vacancies by the full-time firefighters in the past year. The City is desirous of providing complete coverage for its residents, and these vacancies can be reduced if the part-timers were obligated to work three (3) shifts per month on Saturday or Sunday.

City is proposing that part-time firefighters and EMTs be required to work seventy-two (72) hours a month with eighteen (18) of those seventy-two (72) hours each month being worked on either Saturday or Sunday.

Position of Union

Union contends that the part-timers are employed full-time with another employer. Part-timers usually work this job as a second job to supplement their income. The higher number of hours they are required to work for the

City has the probability to affect their primary job where they receive their benefits, i.e. insurance, pension, and so forth.

Union further contends that the increase in the number of work hours from forty-eight (48) to seventy-two (72) hours will make it difficult for part-timers to achieve a satisfying work-life balance. This is secondary employment. The members need rest and relaxation along with an opportunity to interact with family. Any obligation requiring set days each week is disadvantageous to the members, and it may cause them to leave their part-time positions.

Additionally, Union contends that in the past calendar year there were 20,280 hours available for part-timers, and only twenty (20) hours were unfilled. Part-timers who desire to work weekends work the weekends. Vacancies exist because full-timers are taking a lot of time off on the weekend, and they are not working their scheduled shifts. Most part-timers in their primary jobs are required to work weekends.

Union is proposing that part-time fire fighters be required to work 60 hours a month not inclusive of Saturday or Sunday.

DISCUSSION

ARTICLE 8 - - WORK PERIOD

SECTION 1 - MONTHLY WORK REQUIREMENTS

Employer and Union both share the common desire to provide services to the community and promote safety for its employees/members. The Division is a combination unit; it contains both full time and part time firefighters. The traditional work schedule for the firefighter is a 24/48 shift; they work twenty-four (24) hours and then they are off forty-eight (48) hours. This traditional 24/48 work schedule provides firefighters with the opportunity to seek secondary employment based upon their availability from their primary jobs and in consideration of their family responsibilities and personal needs. This is a second job for most of the part-timers, and most of the part-timers have full time employment, which covers their benefits.

Six (6) of the twenty-two (22) part-time firefighters work a forty (40) hour work week rather than the traditional 24/48 schedule or a combination

of two or more part time jobs. The remaining sixteen (16) firefighters work the traditional 24/48 schedule. The duties and responsibilities of their primary jobs have priority over their secondary employment with the City, and this has been historically recognized by the City in hiring part-time fighters. The bargaining history of the parties as set forth in the current bargaining unit provides that:

A. Each Part-Time Firefighter shall be required to work forty-eight hours (48) a month. Each day of the month shall be broken up into four (4) consecutive six-hour shifts with the first shift beginning at midnight. All sign ups must be completed at least one week prior to the beginning of the next week. The Employer may assign Part-Time Firefighters who have not signed up for the required number of shifts into open Part-Time slots, provided such assignment does not interfere with the individual's primary employment...."

The City and the Union have negotiated the terms and conditions of employment of the part-time firefighters recognizing the importance of protecting their primary employment. The number of required work hours is forty-eight (48), and the shift hours are reduced to six (6). There is also contained in the parties' collective bargaining agreement a restriction on Employer's ability to schedule the part-timer firefighters in a manner that will not interfere with the individual's primary employment. All of these terms and conditions of employment provide the part-time firefighter with the flexibility in scheduling and balancing their primary employment where they receive their benefits, i.e. insurance, pension, home life, companionship with family, and rest.

Any scheduling changes in their primary job may affect part-timers availability for work with the City. Ironically, nine (9) of the sixteen (16) firefighters work the same shift day resulting in these part-timers being unavailable to for the City on those days. Most of the part-time firefighters already work 3-4 weekend days per month. Part-timers do voluntarily work

weekend day. However shift vacancies more often due to full-timers schedule issues.

The number of run calls for the Division has increased approximately twenty (20) percent creating a need for more staffing. The City has considered hiring other fulltime firefighters but opted to continue to use the part-timers employment pool, and give them the additional work.

Of the 20,080 work hours scheduled for the part-timers, only twenty (20) hours were not filled last year. It is not disputed that most of the part-timers work seventy-two (72) hours or more in an effort to satisfy the demand. However, the part-timers object to the increase in the number of contractual hours. The part-time firefighters have surpassed their contractual agreement in order to provide services due to the increased call volume and to provide sufficient coverage for the City. The City's proposal penalizes the part-timers by taking away their flexibility and requiring the additional twenty-four (24) hours or four (4) additional shifts, of which eighteen (18) hours or three (3) to be worked on the weekend days.

After reviewing the arguments, documentation provided by City and Union with due consideration to the statutory criteria for fact-finding, the undersigned fact-finder adopts that Union's proposal.

The fact-finder recommends the following contractual language.

- A. Each Part-Time Firefighter shall be required to work sixty (60) hours a month. Each day of the month shall be broken up into four (4) consecutive six-hour shifts with the first shift beginning at midnight. All sign ups must be completed at least one week prior to the beginning of the next week. The Employer may assign Part-Time Firefighters who have not signed up for the required number of shifts into open Part-Time slots, provided such assignment does not interfere with the individual's primary employment. These assignments shall be made consistent with the procedures outlined in Section 2 below.

SECOND ISSUE

Article 10

Position of Employer

City contends that one employee who is certified as an EMT-Basic (B) does not have all of the skills that the City desires. The City desires that all of their EMTs are paramedics. The City in the past encouraged all firefighters to be paramedics. They should not be compensated as an EMT-Paramedic (P) until such time as they acquire the particular skills.

City contends that the part-time Lieutenant and Captain no longer have supervisory authority, and have voluntarily disclaimed any supervisory responsibilities. The Union stipulated that the part-time Lieutenant and Captain are not doing anything as an officer or in a supervisory capacity since the full-time officers have taken over all of those duties. Therefore, those part-time employees are a Lieutenant and a Captain in name only.

City further contends City Fire Division funds are paid out of a separate levy, and that fund is currently in a deficit situation and there is no money to provide a 4% increase as requested by the Union. In accordance with the City's proposal the part-time firefighters would make \$17.79 per hour in 2017 which is more than the comparable jurisdictions in the area. Given that comparable data, the percentage offered by the City is certainly reasonable and appropriate particularly given the current financial status of the City.

Additionally, City contends that the full-time firefighters who had stepped out were given a 1% wage increase in 2016 and a 1.5% wage increase in 2017. The entry level full-timers after one year of service through five years of service were given an averaged 9.5% wage increase per year to achieve parity with the other full-time tenured firefighters.

City proposed freezing the wages of the part-time Captain and part-time Lieutenant until such time as the wages of the EMT-P part-timers rise to their level.

City proposed freezing the EMT-B wages with the understanding that if EMT-B employee takes the necessary courses to be and becomes certified as an EMT-P, that person would be paid the higher wages as an EMT-P.

City proposed the City proposed raises of 1.5% in year one, 1.5% in year two and 1.75% in year three of the agreement for part-time firefighters except for the position of EMT-B, part-time Lieutenant and part-time Captain.

Position of Union

Union contends that the services of the EMT-B are still utilized by the City, and the EMT-B is paid at a lower rate in recognition of the fact that the individual does not have certification as a paramedic. EMT-B provides a useful function for the City. Three (3) individuals respond to an ambulance call. Someone has to drive the unit, the EMT-B, is the driver and the two paramedics. On scene, the EMT-B provides supportive services to the EMT-P and take vitals. This particular employee has been employed for eleven years with the City.

Union further contends that even though the Captain and Lieutenant no longer have a supervisory role, a comparison of the external comparables demonstrate that three municipalities pay at a higher rate and three municipalities pay at a lower rate than their current wage. The Union agrees that the part-time Captain and Lieutenant do not exercise any supervisory role.

Additionally, Union contends that the full-time firefighters received an average of 9.5% each year of their contract. The only difference between the full-time firefighter and the part-time firefighter are their schedules or the number of hours they work. Their duties are the same and they should be compensated the same. It is disingenuous for the City to argue that they cannot afford to pay more than 1.5 percent for the part-timers but pay 9.5% for the entry level full timers.

Union is proposing 4% pay increase for each year of the parties' collective bargaining.

DISCUSSION

The City Fire Division receives all of its operating funds from the levy. The last levy passed in 2016, and the City is currently operating under said levy. After the last levy had been approved, the City gave the part-timers a \$0.15 pay increase. In accordance with current contract, they were paid as follows:

Firefighter	201	2015
EMT-B	13.8	13.9
EMT-P	16.9	17.1
Lieutenant	17.5	17.7
Captain	18.1	18.3

The Finance Office was cited in 2016 for expenditures exceeding appropriations in 2016. The salary and wages exceeded the budget by \$58,955, and the fringe benefits exceeded the budget by \$28,924.00 for Fire/Ems Levy. The Alternative Tax Budget indicates three (3) different funding accounts, Fire/EMS Fund (105), Fire/EMS Fund (106) and Fire/EMS Fund (107) which represents Capital Expenditures. For the Fire/EMS Fund (105) in 2015, the actual revenue over (under) expenditures is \$(54,955.30); in 2016, the actual revenue over (under) expenditures is \$(141,368.40); in 2017, the current year estimate revenue over (under) expenditures is \$44,831.00; and in 2018, the budget year estimate is \$44,831.00. For the Fire/EMS Fund (106) in 2015, the actual revenue over (under) expenditures is \$189,713.55; in 2016, actual revenue over (under) expenditures is \$47,882.06; in 2017, the current year estimate revenue over (under) expenditures is \$ 33,617.00; and in 2018, the budget year estimate is \$33,617.00.00. For the Fire/EMS Fund (107) in 2015, the actual revenue over (under) expenditures is \$(41,669.37); in 2016, the actual revenue over (under) expenditures is \$112,653.49; in 2017, the current year estimate revenue over (under) expenditures is \$(64,264.43); and in 2018, the budget year estimate is \$(64,264.43).

Property taxes are down which affects the revenue for Fire/EMS Fund. The property tax levies for Fire/EMS for 2013 was \$1,651,119., for 2014, \$1,636,440, for 2015 \$1,762,935., and for 2016 \$1,583,197.

The assessed value for residential/agricultural real property for 2016 is \$195,916,920 compared to its value of \$195,729,110 in 2015. The estimated actual value of real property for 2016 is \$667,957,914 compared to \$668,148,886 in 2015. The assessed value for commercial/industrial real property for 2016 is \$37,868,350 compared to its value of \$38,123,000 in 2015. The assessed value for Tangible personal Property/Public Utility was \$8,959,310, and the estimated actual was \$10,011,693.00 in 2016. The

assessed value for Tangible personal Property/Public Utility was \$8,810,290 and the estimated actual was \$10,011,693 in 2015.

The tax levy for 2016 was \$2,286,053, and the tax levy for 2015 was \$2,282,245. Collection of property tax levies were around 96.82% in 2016, a slight increase from 96.68% in 2015. Delinquent taxes in the amount of \$72,651 for 2016, approximately 3%, are collected by the Attorney General.

EMS calls totaled 1,126 in 2016, 1,129 in 2015, 1,070 in 2014 and 1,004 in 2013. Fire calls totaled 538 in 2016, 440 in 2015, 464 in 2014 and 369 in 2013. The gross ambulance billing collections in 2016 were \$256,749, in 2015 were \$306,753, in 2014 were \$295,625, and in 2013 were \$257,198. Revenue per run equaled 228 in 2016, 272 in 2015, 276 in 2014 and 256 in 2013.

From the facts presented the City's ability to pay the Union's proposal is at issue for the first year.

Pursuant to the City's proposal, part-time firefighters would make \$17.79 per hour in 2017, with a 1.5 increase to \$18.06 per hour in 2018, and with a 1.75 increase to \$18.38 in 2019. The City of Norton has a median income of \$62,551. The Comparable data exhibit for the surrounding municipalities did not accurately reflect the median income of the municipalities due to interchanging of the mean and median income. Part-time firefighters in Wadsworth which has a median income of \$58,572.00 earn \$19.50 per hour. Part-time firefighters in Fairlawn which has a median income of \$63,936 earn \$22.65 per hour. Part-time firefighters in Copley which has a median income of \$79,986.00 earn \$21.04 per hour. Under the City's proposal it will continue to lag behind the other adjoining municipalities.

The Exhibit D. indicates that the part-time firefighters in Clinton Village which has a median income of \$63,936 earn \$13.85 per hour. The Exhibit D. indicates the part-time firefighters in Chippewa Township which has a median income of \$45,078 earn \$14.75 per hour. The Exhibit D. indicates

the part-time firefighters in New Franklin which has a median income of \$50,944 earn \$15.40 per hour. The corresponding documents attached to the Exhibit D. from the U.S. Census Bureau do not include information for these municipalities.

Union is requesting a four percent (4%) wage increase for each of the three (3) years of the contract. Union argues that this is the correct number due to the ability to pay by the City, and the internal and external comparables. The part-time firefighter earns \$17.53, and under the union proposal would earn \$18.23 in 2017, \$18.96 in 2018 and \$19.72 in 2019. The wages may be slightly below, but they are more competitive with Wadsworth at \$19.50 per hour, Fairlawn at \$22.65, and Copley at \$ 21.04.

The City of Norton is comprised of eleven (11) full-time firefighters and twenty two (22) part-time firefighters. The salary budget for the full-time firefighters is \$463,000.00, and the salary budget for the part-time firefighter is \$580,000.00. The City provides a wage increase of 9.5% or \$41,670.00 for the firefighters who were full-time entry level with additional future step increases. The City provided a \$1.5-\$1.75 wage increase for full time firefighters who were stepped out. The City proposes a \$1.5, \$1.5, and \$1.75 wage increase for the part-time firefighters which is estimated at \$8,700.00 or \$10,150.00, respectively. The Union proposes a four (4%) percent wage increase totaling \$23,200.00 per year. So, for years 1 and 2 of the contract, the difference between the City and Union proposals is \$14,500, and for year three (3), the difference is \$13,050.

The City argues that the EMT-B wages should be frozen until such time as he becomes certified as EMT-P. It is not disputed that the EMT-B has a different skill set than the EMT-P, and the individual has been paid lower wages in recognition of said differences. There was no evidence regarding why said individual chose not to avail himself of the opportunity to become certified as a paramedic. There was no evidence of external comparables related to the wages of EMT-B within the adjoining

municipalities. Said individual is an eleven (11) year employee who continues to provide a useful service to the City. The City proposal to freeze his wage is rejected.

Both parties stipulated the part-time Captain and the part-time Lieutenant no longer exercise any supervisory role within the Division.

After reviewing the arguments, documentation provided by the City and the Union and with due consideration to the statutory criteria for fact-finding, the undersigned fact-finder adopts that City's proposal to freeze the wages of the part-time Captain and part-time Lieutenant until such time as the wages of the EMT-P part-timers rise to their level.

The fact-finder recommends the following contractual language.

The part-time firefighters and EMTs shall all receive 1.5% for the first year, 4% for the second year, and 4% in the third year of the contract with the exception that the wages of the part-time Captain and the part-time Lieutenant shall be frozen until such time as the wages of the EMT-P part-timers rise to their level.

CONCLUSION

In this report, I have attempted to make reasonable recommendations that both parties will find acceptable. If errors are discovered or if the parties believe they can improve upon the recommendations, the parties may adopt alternative language by mutual agreement.

After giving due consideration to the positions and arguments of the parties and to the criteria enumerated in Ohio Revised Code Section 4117.14, the Fact finder recommends the provisions herein.

In addition, all tentative agreements reached by the parties are hereby incorporated by reference into this Fact Finding Report, and they should be included in the resulting Collective Bargaining Agreement.

September 22, 2017

 /s/ Meeta A. Bass
Meeta A. Bass, Fact Finder
Dublin, Ohio

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of this Fact Finder Report was sent by e-mail on September 22, 2017.

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