State of Ohio

State Employment Relations Board

In the Matter of Fact Finding	:	SERB Case Number: 2017-MED-02-0150 & 2017-MED-02-0151
Between:	:	
City of Monroe, Ohio	:	
Employer	:	Date of Hearing: July 14, 2017 Date of Report: July 21, 2017
And:	:	
Ohio Patrolmen's Benevolent Association Union	:	Felicia Bernardini, Fact Finder

Fact Finder Report and Recommendation

Appearances:

For City of Monroe, Employer

Donald L. Crain, Esq., Frost Brown Todd LLC., Fact Finding Spokesperson

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Tina Williams, Finance Director, City of Monroe

Robert Buchanan, Chief of Police, City of Monroe

For Ohio Patrolmen's Benevolent Association, Union

Joseph M. Hegedus, Esq., Fact Finding Spokesperson

Eddie Myers, Police Officer, City of Monroe, President OPBA

Brad Pelfrey, Sergeant, City of Monroe

Introduction

Case Background

Felicia Bernardini was selected by the parties to serve as fact finder in the above referenced case and duly appointed by the State Employment Relations Board (SERB) on May 31, 2017 in compliance with Ohio Revised Code (ORC) Section 4117.14C(3). The case concerns a fact finding proceeding between the City of Monroe, Ohio (hereafter referred to as the "Employer" or the "City") and the Ohio Patrolmen's Benevolent Association (hereafter referred to as the "Union" or "Unit" or "OPBA").

Prior to the hearing, the parties engaged in contract negotiations on April 13, 17 and May 10, 2017. The parties ultimately found themselves at impasse over the final package of economic issues. A fact finding hearing was scheduled for July 14, 2017. Both parties timely filed the required pre-hearing statement. In the days just prior to the hearing multiple open issues were settled. The day of the hearing the parties engaged in further informal discussion of the few remaining issues. Although a final settlement was not achieved, the parties did narrow the path to settlement and left the fact finder with an understanding of a final economic package that might be acceptable to both. The parties determined to forgo a formal hearing and rely on documents submitted into the record.

Issues

The remaining open articles addressed by both parties via their extensive exhibit books are as follows:

Patrol Contract (2017-MED-02-0151)	Sergeant Contract (2017-MED-02-0150)
Article 14: Wages	Article 14: Wages
Article 18: Holidays	Article 17: Holidays
Article 23: Insurance	Article 22: Insurance

General Background Information

The City of Monroe is located in Southwest Ohio along Interstate 75 between Dayton and Cincinnati. The population of Monroe in 2016 was estimated to be 13,666 up 15% over the 2010 estimate.[1] Monroe is Butler County's fastest growing small city, experiencing significant business and

[1] Employer Exhibit 2

industrial growth in the past few years.[2] The Monroe Police Department service area has grown in recent years from 7.5 square miles to about 18.5 square miles.[3] There are 23 police officers in the bargaining unit and three Sergeants in a separate bargaining unit. These two bargaining units provide professional law enforcement services to the citizens of Monroe including patrol, traffic enforcement, detective services, and a variety of specialized assignment. The Monroe Police Department is funded by two main sources. Approximately 13% of the Departments funding comes from the local property tax levy; the remainder comes from the General Fund.[4]

Positions, Discussion and Recommendations

The remaining open contract articles are presented in numeric order. Below, the position of each party is briefly summarized on each open article. The position summaries are followed by a single brief analysis and discussion of all of the open articles, which is followed by the fact finder's recommendation for a settlement package which is in keeping with the discussion of the parties on the hearing day.

In analyzing the positions of the parties and making recommendations the fact finder is guided by available, relevant evidence and the criteria set forth in ORC 4117.14(G)(7)(a) to (f):

(a). Past collective bargaining agreements, if any between the parties;

(b). Comparison of the unresolved issues relative to the employees in the bargaining unit with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;

(c). The interests and welfare of the public, the ability of the public employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standard of public service;

(d). The lawful authority of the public employer;

(e). Any stipulations of the parties;

(f). Such other factors, not confined to those listed above, which are normally or traditionally taken into consideration in the determination of the issues submitted to

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[2] Ibid

[3] Employer Exhibit 4

[4] Employer Exhibit 3

mutually agreed-upon dispute settlement procedures in the public service or in private employment.

1. Article: 14 Wages

Union Position

The Union is seeking the following wage increases over the term of the three-year agreement.

- 5% June 1, 2017
- 4% June 1, 2018
- 3% June 1, 2019

In addition, the Union proposes a 2% increase in the Sergeant rank differential raising it from 13% to 15%. The Union also proposes a new longevity benefit that would begin after 5 years of service at the rate of 1% of base pay and increase at 5-year intervals and 0.5% increments up to a maximum benefit at 25 years of service earning 3% of base pay.

It is the Union's position that the base wages for the Monroe Police Department bargaining units are below average and are deserving of a market adjustment to bring them in line with area comparables. To this end the Union has proposed a higher than average cost-of-living increase, an increase in the rank differential, and a new longevity benefit. Charted for the fact finder's review are the current Patrol and Sergeant base wage rates for surrounding municipalities in both Butler and Warren Counties (i.e., Fairfield, Franklin, Hamilton, Lebanon, Mason, Middletown, Oxford, Springboro, and Trenton). The average Patrol and Sergeant wage rates for the nine referenced cities are $69,415.85 and $81,441.00 respectively. The comparable Monroe rates are $62,189.00 and $70,273.00 respectively. This shows that the Patrol unit is 12% below the average and the Sergeants are 16% below the average. Accepting that Employers and Unions often disagree over what constitutes a set of fair comparables, OPBA has separated out, for closer comparison, four local municipalities that the parties generally agree are most like Monroe and have been used in prior fact finding reports. These municipalities are Trenton, Lebanon, Springboro, and Franklin. Using this smaller set of comparables for comparison Monroe's base wages are 8.5% below average for Patrol and 9.7% below average for Sergeants. Rounding out the Union's data on external comparables is charted wage data for municipalities in neighboring Montgomery County as well as SERB's wage data for the Cincinnati Region. In all cases Monroe's wages compare unfavorably, ranging anywhere from 7.7% below average to 14.6% below average.

The Employer is well able to fund the Union's wage proposals given its current healthy financial condition. The Employer's finances are robust, economic growth is forecast for the City, and the General Fund has a very healthy reserve, therefore the timing is right for the Union's proposals. Both the City of Monroe's Comprehensive Annual Financial Report for 2016 and a Moody's Rating Presentation from late 2014 comment on the financial strengths of the City including ongoing commercial development at Park North, continuing increase in residential investment, and the effect of nearby Cincinnati Premium Outlets and Miami Valley Gaming. The City's income tax was up 12% in 2016 over 2015 collections, and a 0.5% income tax increase is on the November 2017 ballot which will increase future revenue over current levels. The General Fund had an unencumbered balance in January 2017 of $4,572,270 and is projected to end 2017 with approximately a $4.0Million balance. Such a fund reserve exceeds the GFOA best practice recommendation which is a minimum reserve of two months of general fund operating revenues or expenses.

The Union's proposals for the Sergeant rank differential and a new longevity benefit are both supported by external comparables. Current rank differentials in nearby Butler and Warren County Municipal Police Departments range from a low of 9.5% to a high of 29%. Six of the nine researched municipalities have a rank differential higher than the City of Monroe's. The average rank differential is 16.5%. The Union's proposal to raise the differential to 15% is not excessive given this comparable data. As for the proposed new longevity benefit, SERB data on longevity benefits for Police Units in the Cincinnati and Dayton regions show that a full 62% of all Police Unit contracts have a longevity benefit. Longevity is a well-established norm. It is a reasonable benefit and one that could help mitigate the gap between the Monroe wage scale and those of comparable area municipalities.

Employer Position

The Employer proposes the following wage increases over the term of the three-year agreement.

- 3% June 1, 2017
- 3% June 1, 2018
- 3% June 1, 2019

In addition, the Employer offers a 1% increase in the Sergeant rank differential raising it from 13% to 14%, and rejects the Union's proposal for a new longevity benefit.

The Employer's wage offer takes into consideration the general financial condition of the City, internal parity, and external comparables. The City of Monroe is well-managed and its finances are stable; however as recently as 2004 the City was in a state of fiscal emergency. Although the City has recovered and is financially secure with a healthy General Fund reserve and Aa3 bond rating, the City's growth in population and geographic borders has led to a significant increase in demand for services. A recent Police Department staffing study has identified the need to increase the number of Patrol Officers and Sergeants from the current 27 to 35 total officers. In addition, the City has significant facility needs and plans to either build a new or renovate the existing Police Station. These financial demands as well as those of the City's Fire Department have resulted in a need to place a 0.5% income tax increase on the November 2017 ballot. 0.35% of the income tax increase is earmarked for public safety services. Excessive wage and benefit increases for employees at the same time as a ballot tax issue could undermine the public trust.

The City has a long-standing practice of seeking parity among its bargaining units, most especially Police and Fire. From 2008-2014 the two safety Units received the same wage increases. In the last round of collective bargaining (2014-2016) through fact finding and mediation the Police Units received a significantly better wage settlement than did the Firefighter Unit. In the current round of contract negotiations the City recently settled the Firefighter contract with wage increases of 3.0%-3.0%-2.5%. The City's offer to settle the Police contracts at 3.0%-3.0%-3.0%, along with a 1% increase in the Sergeants' differential, is once again a greater wage increase for the Police Department. Anything more than what the City has offered would be wholly unacceptable.

Finally with respect to the wage increase it is important to consider the broader economic picture. According to SERB's most recent wage settlement report, average wage increases statewide, regionally (Cincinnati Region), and specifically for Police bargaining units have been at, or slightly above, 2.0%. Likewise, the Consumer Price Index (CPI) has been low nationally and regionally. In the Cincinnati area the CPI-W has not been above 2.0% since 2012. Meanwhile the Police Unit's wage increases have been at or above 2.0% over the same timeframe.

As for the Union's proposal for a new longevity benefit, the Employer rejects the proposal entirely. Longevity is a passé form of compensation – as a result of the Police & Fire Pension Fund DROP program it is no longer needed to retain officers in service. Furthermore no other employee group in the City of Monroe receives such a benefit and to grant the proposal for this Unit would undermine parity and esprit de corps across the Employer's workforce.

2. Article 17/18: Holidays

Union Position

The Union proposes to add Veterans Day to the list of paid holidays for unit members working a 'four days on two days off' work schedule (4 and 2) and to add language that would provide for regular holiday work compensated at 1.5 times the straight time rate, and all overtime holiday work compensated at 2.5 times the straight time rate. Including Veterans Day as a holiday for the 4 and 2 work schedule is a matter of internal parity. All other employees in the municipality receive the day as a holiday and there is no particular reason to carve out this group of bargaining unit employees and treat them differently than their coworkers. As for holiday premium pay, the Union's proposal is consistent with the holiday premium benefit found in the Police Unit contracts in comparable municipalities. Charted data supporting this fact is documented for the fact finder's review.

Employer Position

The Employer opposes both of the Union's proposals pertaining to Holidays. In 2012 the parties negotiated a Memorandum of Understanding (MOU) regarding the implementation of a new 4 and 2 Patrol work schedule. As part of this negotiated MOU the Union agreed to give up the Veterans Day holiday for unit members assigned to the 4 and 2 work schedule. Since that time the Union has sought to undo this one holiday provision of the MOU while at the same time retain the preferred 4 and 2 schedule for its members. Most recently, in the last fact finding with this Unit, the Union made the same proposal to reinstate Veterans Day as a holiday and Fact Finder Mancini rejected the Union's proposal citing the ongoing relevance of the deal struck in the MOU. As for the Union's proposal for premium holiday pay for all holidays, there is no basis to support this proposal. It is a significant cost item for the Employer, it is out of step with the best interests of the Monroe taxpayers, and it would disrupt the parity that exists between the Police Unit holiday provisions and those of the Firefighter Unit.

3. Article 22/23: Insurance

Union Position

The Union proposes to maintain current contract language, with updated effective dates, in all existing provisions of the Insurance Article. In addition, the Union proposes a new section that provides for Employer funding of HSA's for all bargaining unit plan participants at 60% of deductibles for each year of the three-year contract. In making this proposal the Union simply seeks to continue the Employer's current practice.

Unit members already contribute 17% to their monthly healthcare premium, which is higher than the average percentage paid by public employees in the area. According to SERB's most recent published healthcare data the average percent of premium paid by employees in the Cincinnati Region is 13.5% for single coverage and 14.8% for family coverage. In the Dayton Region the average percentages are 14.1% and 15% respectively. The fact that City of Monroe employees are paying more than their counterparts in the area for their healthcare premium is offset by the Employer's practice of annually prefunding 60% of the HSA. There may be many uncertainties in the healthcare marketplace, however high inflation is not one of them. Healthcare inflation is expected to be in double-digit territory; therefore even with the percentages currently in place for employees (i.e., 17% of premiums and 40% of the deductible) healthcare costs will be going up for employees. Given that the Union has demonstrated that the base wage rate for these Units is significantly below average, and current healthcare contributions are above average any further increases in their contribution percentages would be an unacceptable financial burden.

Employer Position

It is the Employer's position to maintain current contract language, with updated effective dates, in all existing provisions. The Employer rejects the Union's proposal to add a new contractual benefit that would mandate the City to fund HSAs at a required amount. It has been the City's practice to fund 60% of the deductible for employees, however given the uncertainties in the healthcare insurance market it may become unsustainable for the Employer. Imposing a contractual percentage for funding HSA contributions exposes the City to unknown financial obligations. Although the City does not intend to discontinue the current practice of funding the HSA at 60%, it should not be required to do so. This is a critical economic issue for the Employer. The Employer needs discretion in the structure of the healthcare benefit in order to offer the best available benefit plan. For this reason the Employer cannot be bound to benefit level language in perpetuity.

Discussion and Recommendation

The day of the scheduled hearing the parties entered into informal settlement discussions and although no final settlement was reached, the parties were able to provide the fact finder with a general idea of a package of concessions that might form the basis of a ratified contract. No commitments or guaranties were offered by either party because the details of the final settlement were to be left to the fact finder to structure. Upon a thorough review of the extensive documents submitted into evidence I have come to appreciate the difficulty the parties face in reaching a fair settlement and I respect the concessions that they have indicated could become a path to settlement.

The parties are not far apart in the matter of the annual cost-of-living adjustment. The Union seeks 5%-4%-3% and the Employer offers 3%-3%-3%. Over the three years of the new contract, only 3% divides the parties. The Union's external comparable data tells a compelling story of under-market base wages, not disputed by the Employer. Furthermore, the Employer has not made an 'inability to pay' argument. Rather the Employer has argued that the timing is not right for raises that exceed a standard cost-of-living adjustment due to several factors including: the 2017 income tax ballot initiative, the need to increase staff in these Units, and the need to undertake a major facilities improvement for the benefit of these Units. I am inclined to support the Employer's position on the wage increase. At three years of 3% raises the Employer's offer is higher than internal comparables, it is higher than the national inflation rate which has averaged 2.5% over the past five years, and significantly higher than the regional CPI data which is below 1% in recent years. The Employer's offer is also above average when compared to SERB's wage settlement data. Additionally, I agree that 5% and 4% raises do not generally sit well with the public when they are being asked to ante up more in taxes to pay for capital improvements and promote the sustainability of public services. Public finance is rife with examples of tax levies that have failed due to a public perception of excessive employee pay and benefits, whether the perception is merited or not.

As for the Sergeant rank differential, at its current 13% it is not so far off the norm that it needs significant adjustment. However, the Employer has offered to raise the differential by 1% and that offer is accepted and incorporated into the final economic package.

The longevity benefit proposed by the Union is a common enough benefit as evidenced by the Union's Exhibit 20. However the exhibit also illustrates that a longevity benefit can take on a wide range of structures and values. The provided document identifies longevity benefits as small as a single annual lump sum payment of $75 and as large as 11% of the base wage, as well as every conceivable variation between those two extremes. It seems clear that this is not the type of benefit that should be awarded by a fact finder, but rather negotiated by the parties in order to fully vet the pros and cons of the benefit, the value of the benefit, and the costs of the benefit, none of which are available in this particular fact finding scenario.

The Union has proposed that the Veteran's Day holiday be reinstated for those bargaining unit members on the 4 and 2 schedule, and has proposed an increase in holiday pay to a premium level for all holidays. In an effort to strike a viable package settlement I support the reinstatement of the Veteran's Day holiday. Other than the fact that removal of the holiday was part of a prior negotiated package deal, there is no apparent operational reason to continue to carve out the small group of employees on the 4 and 2 schedule and exclude them from this holiday. The Employer's own calculations indicate that the cost of providing this benefit is approximately $7032.00, which is minimal in comparison to the equity achieved by providing the benefit. On the other hand, the Union's proposal to increase holiday pay to premium pay for all holidays rather than limiting it to Thanksgiving, Christmas and New Year's Day, as is current practice, is an overreach not supported by internal or external comparables. For this provision I support continuing the current contract language.

Both parties have proposed continuing all existing provisions of the Insurance Article as they currently are with an updated effective date for the new contract. The Union has proposed adding a new section that would codify the Employer's practice of prefunding employee HSAs at 60% of the healthcare plan deductible. Currently the benefit is $1500 for the single plan and $3000 for the family plan. The parties have legitimate concerns about the rising costs of healthcare and the potential effect of those costs on an individual household budget and the City's budget. In an effort to find an overall settlement package I recommend that the Employer continue the current HSA funding level of 60% of the plan deductible through the end of calendar/benefit year 2018. For one additional year, calendar/benefit year 2019, I recommend funding the HSAs at the lesser of 60% of the plan deductible or $1500 for the single plan and $3000 for the family plan. This 'transition' year would cap Employer costs at the 2017 benefit level. In the final year, calendar/benefit year 2020 the funding of HSAs would be at the discretion of the Employer. The advantage to changing the terms of the HSA benefit one year at a time is that it gives bargaining unit members two years to plan for a possible cost increase in funding their individual HSAs. It also provides for the opportunity to return to the bargaining table in the same timeframe as the final change in the benefit structure. For the Employer, adopting the recommended year-by-year change stabilizes costs in 2019 at today's level (which is affordable given the City's healthy financial condition) and then achieves the goal of reverting to a discretionary benefit by the end of the CBA. It is worth emphasizing that although this recommendation leads to an outcome that gives discretion to the Employer, the Employer has indicated its intention to continue to provide some level of benefit to the extent that budgetary constraints reasonably allow. A final recommendation on this provision is to make it an MOU rather than add a section to the CBA. The thought process behind this recommendation is simply that the benefit is not currently part of the CBA, it only requires the Employer to maintain the benefit for the next two years, and the mandatory continuation of the benefit expires prior to the expiration of the CBA.

Recommendation

The statutory criteria require that the fact finder consider past collective bargaining agreements between the parties, comparable public jurisdictions, and the Employer's ability to pay and administer the recommended provisions. In light of these criteria the fact finder recommends the following settlement package:

Wages

Pay rates in Appendix B will increase as follows:

- 3% June 1, 2017
- 3% June 1, 2018
- 3% June 1, 2019

The Sergeant rank differential will increase by 1% effective June 1, 2017.

No new longevity benefit.

Holidays

Veteran's Day shall be added to the list of holidays for employees on the 4 and 2 schedule.

Current contract language for holiday compensation.

Insurance

Current contract language with an updated effective date of June 1, 2017.

Insurance MOU

1. For the period effective June 1, 2017 and ending December 31, 2018, the City agrees to fund 60% of the deductibles for bargaining unit members in their HSAs in accordance with current practice, provided the City offers an HSA health insurance plan.
2. For the period effective January 1, 2019 and ending December 31, 2019, the City agrees to fund bargaining unit member HSAs at the lesser of 60% of the deductible or $1500 for single plan enrollees and $3000 for family plan enrollees, provided the City offers an HSA health insurance plan.
3. Effective January 1, 2020 the funding of bargaining unit member HSAs shall be at the discretion of the City.

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 by mutual agreement may adopt alternative language.

After giving due consideration to the positions and arguments of the parties and to the criteria enumerated in ORC 4117.14(G)(7)(a) to (f) the fact finder recommends the provisions as enumerated herein. In addition, all tentative agreements (TAs) previously reached by the parties along with all sections of the current Agreement not negotiated and/or changed, are incorporated by reference into this Fact Finding Report and should be included in the resulting collective bargaining agreement.

Respectfully submitted and issued at Columbus, Ohio this 21st day of July, 2017.

Felicia Bernardini,
Fact Finder

CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of this Fact Finding Report was sent by e-mail on July 21, 2017 to:

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