

**IN THE MATTER
OF
FACT FINDING**

REPORT & RECOMMENDATION

| | |
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| BETWEEN | (|
| The | (CASE NO. : 96-MED-09-0688 |
| City of Urbana, OH | (|
| and the | (FACT FINDER: JOHN S. WEISHEIT |
| Urbana Firefighters Association, IAFF | (|
| | (DATE OF HEARING: Oct. 28, 1996 |
| | (|
| | (DATE OF REPORT: Nov. 11, 1996 |
| | (|

**REPRESENTATION
by**

| <u>Employer Representatives</u> | <u>Union Representatives</u> |
|--|--|
| Dale Miller, Director of Finance Jim McIntosh, Fire Chief | Brett Evilsizor, Negotiations Chair Dave Torsell, Negotiation Co-Chair Patrick J. Lemming, Negotiations Sec. Ron Lyons, Negotiations Treas. |

AUTHORITY

This matter was brought before Fact Finder John S. Weisheit, in keeping with applicable provisions of ORC 4117 and related rules and regulations of the Ohio State Employment Relations Board. The parties have complied in a timely manner with all procedural filings. The matter before the Fact Finder is for consideration and recommendation based on merit and fact according to the provisions of ORC 4117, in particular those that apply to safety forces.

ISSUES OF TENTATIVE AGREEMENT

Prior to the fact-finding Hearing, the parties had reached tentative agreement on the following issues:

| | | | |
|-----------|------------------------------|------------|-------------------------------|
| Article 1 | Agreement/Purpose | Article 15 | Holidays |
| Article 2 | Recognition & Dues Deduction | Article 17 | Extended Injury Leave |
| Article 3 | Management Rights | Article 20 | Personal Property Replacement |
| Article 4 | Labor Management Committee | Article 21 | Food Allowance |
| Article 5 | Seniority, Layoff/Recall | Article 22 | Salary Negotiations |
| Article 6 | Military Leave | Article 23 | Grievance Procedure |
| Article 9 | Equal Pay | Article 24 | Severability |

ISSUES OF TENTATIVE AGREEMENT AT FACT FINDING

The following issues reached Tentative Agreement at the fact-finding Hearing and disposition of each:

| | | | |
|------------|---|------------|--|
| Article 7 | Court Leave - Withdrawn. | Article 19 | Educational Incentive Plan, E. I. P. - Current provision brought forward into new Agreement. |
| Article 10 | Paramedic Compensation - Will reflect an equal percentage rate increase to the base rate of pay as set forth in Article 8. Other terms to remain as in current agreement. | Article 25 | Drug Testing - As modified and reflected in the following section. |
| Article 12 | Sick Leave - Current provision brought forward into new Agreement. | Article 27 | Funeral Leave - Withdrawn |
| Article 13 | Personal Leave - as modified and reflected in the following section. | Article 28 | Union Business - Withdrawn |
| Article 18 | Uniform Allowance - as modified and reflected in the following section. | | |

Article 13 - Personal Leave - Current Language with the following sentence added to the first paragraph: "Use of Sick Leave for death in the immediate family, will not adversely effect this provision."

Article 18 - Uniform Allowance - Current Language with the following modifications:
 1st paragraph, replace \$600.00 with \$650.00.

Insert new 3rd paragraph in the Union proposal introduced at Fact-finding, with the following change of the 2nd sentence:

“The City will provide a full set of normal uniform accessories.”

Article 25 - Drug Testing - (New Article)

Drug testing may be for new firefighters, on promotion and in cases of reasonable cause. Cost of rehabilitation, in excess of that provided under insurance benefits, will be at the employee’s expense. Application of this provision will be in a uniform manner.

ISSUES AT IMPASSE

The following issues remain unresolved and are considered at impasse:

| | | | |
|------------|--------------------------------|------------|-----------------------|
| Article 8 | Base Rates of Pay | Article 16 | Vacation |
| Article 11 | Insurance Benefits | Article 26 | Residency Requirement |
| Article 14 | Overtime and Compensatory Time | | |

**SUMMARY OF THE PARTIES’ POSITION
ON ISSUES AT IMPASSE**

| Employer | Issue | Union |
|--|--|---|
| Base increase of 3% each year of a three (3) year agreement. | Article 8 Base Rates of Pay | Base increase of 4% each year of a three (3) year agreement, plus adjustment of incremental step rates. |
| Agree to add dental and orthodontic, with employee paying 15% of insurance premiums. | Article 11 Insurance Benefits | Increase life insurance from \$25,000 to \$30,000. Add dental & orthodontics. |
| Retain current language. | Article 14 Overtime & Compensatory Time | Increase call-back minimum to 3 hours instead of the current 2 hours. |
| Retain current language | Article 16 Vacation | Modify the current rate of scheduled vacation with an added rate after 20 years. |
| Do not include in Agreement | Article 26 Residency Requirement | Provide that work rule, regarding residency, would not apply. |

DISCUSSION

General

All issues in dispute involve a common factor...cost. The issue of ability to pay is not present in this situation, rather focus is on "comparable worth", "appropriateness" and "equity".

The City and the Union tend to use some of the same and some different communities for purposes of comparisons. The respective comparables tend to support the party's position on the selective issue. The Fact Finder takes into consideration the respective comparable communities as well as other bargaining units in the City. All factors are considered, as required under ORC 4117, in forming the recommendations in this Report.

In addressing the issues in dispute item by item, financial implication is taken into consideration as a total package.

Comparisons of the employment wages and benefits provide valid data regarding how the City and Union agreement provides in a competitive market to others. Comparables are not the controlling fact in determining the Agreement terms. Comparable factors are not identical with each and every factor considered. Much is subjective. The organizational structure, duties, benefits are not uniform from one department to another. Thus, in comparison to any other similar employer bargaining unit or other employee units of the City there will exist a degree of inherent disparity. This does not negate the use of comparisons. Considering the comparable data submitted does provide the Fact Finder with needed information to frame the Recommendation included in this Report.

It is also taken into consideration that each bargaining unit engaging with the City has its own unique issues addressed in addition to base rate of pay. There are recognized cost factors that may not be readily disclosed, but are an integral part in reaching agreement with the respective group. The same scenario is found in the bargaining status of the City and the Union.

The parties have tentatively agreed to Contract terms providing for the financial support in developing a well trained fire and emergency force. Many fire and emergency forces will forgo the high cost of internal training by enticing the better trained and experienced to join its ranks by offering higher wage and benefit incentives. By reviewing the facts, it is determined to be in the best interest of the City and community to provide wage and benefits that will encourage to retain its trained and experienced personnel. Those related issues at impasse are addressed considering the above stated concepts.

The City operates with a General Fund of about 4.2 million dollars. The Fire Department has additional sources of operational funds. Again, no argument of ability to pay is raised in this case. It is understood that the cost to raise the base rate of pay for the 18 bargaining unit members will cost about \$6,000.00.

Article 8 - Base Rate of Pay

Two concepts need to be addressed in this disputed matter: 1) The structure of the wage scale; and 2) the amount of increase to the base rate of pay. The Union proposal incorporates both matters. The City proposes to retain the current structure and proposes an across the board percentage increase.

The facts and testimony indicate that the structure of the wage scale has not been modified in several years. Without periodic modification, it is common that wage scales tend to erode regarding internal equity and uniformity. The facts presented indicate such pay scale erosion has occurred in relative to this bargaining unit. Not only does this result in real or perceived inequity, it can significantly have a negative impact on employee moral, efficiency, and employee stability and loyalty. It is understood that this, in part, results from prior contract compromise and modification of prior terms and benefits. It is considered that the time has come to make this a matter of priority for more comprehensive revision, recognizing that other issues are deferred at this time in consideration of the overall benefit package cost. The actual percentage change in contract terms reflects the ingredients taken into consideration. The "exact" amount will depend on the factors used by the interpreting party. The Fact Finder therefore makes a recommendation, regarding base wage and structure considered fair, equitable, and overall defensible cost limitations.

There has been a significant change in the training and experience of the bargaining unit make up in the last 2-3 years. The unit had a large number of retirements resulting in the vast majority of the unit members having ten (10) years or less service to the City.

A comparison of the current wage scale and the recommended scale follow.

Current base wage scale

| Step | Current Hourly Rate | Step Increment Increase(\$0.0) | Step Increment Increase (%) |
|------------------|---------------------|--------------------------------|-----------------------------|
| Probationary | \$8.93 | | |
| After 1 Year | \$9.44 | \$0.51 | 5.71% |
| After 2 Years | \$10.05 | \$0.61 | 6.46% |
| After 5 Years | \$10.57 | \$0.52 | 5.17% |
| After 10 Years | \$10.65 | \$0.08 | 0.76% |
| After 12.5 Years | \$10.75 | \$0.10 | 0.94% |
| After 15 Years | \$11.08 | \$0.33 | 3.07% |
| After 17.5 Years | \$11.18 | \$0.10 | 0.90% |
| After 20 Years | \$11.38 | \$0.20 | 1.79% |

The recommendation included in this Report, reflects a 3% increase on the Probationary Step of the base wage scale, retaining the current number of steps in the schedule, but increasing the 2nd and 3rd steps by 6.25% , the 4th step by 5.5%, and 2% each remaining step. The estimated costs for the schedule adjustment has a projected cost of about 1%. It will also increase the difference between the beginning base pay and top base pay from about 27% to about 31%.

The paramedic compensation schedule reflects a 4% increase at each respective step of recommended base hourly wage schedule and is made a part of this recommendation .

Article 11 - Insurance

There are a number of factors raised in the Union proposal to increase insurance benefits coverage. The most basic is the fact that current language provides for the City to determine the plan benefit level. The Union's proposal is specific only in increasing the term life insurance from the current \$25,000.00 to \$30,000.00. The City's medical plan includes terms of coverage for all City employees. It is not found to be a "cafeteria plan", allowing for different levels of coverage to apply otherwise to various employee classifications. It is therefore recommended that the current insurance provision be brought forward into the Contract.

Article 14 - Overtime & Compensatory Time

The Union argues parity on report time comparable to that provided under the City and Police Agreement. In essence, it seeks a minimum of three (3) hour report time when required to work beyond or report back for unscheduled work. At the Hearing, it was indicated that, though such a provision is provided in the City/Police Agreement, the provision also provides that in order for an employee to leave before the end of the three (3) hour period, approval of the officer in charge is required.

It appears reasonable and equitable to include similar language in the Agreement . It is therefore recommended that relevant provision be adjusted to reflect the concept set forth above.

Article 16 - Vacation

The Union proposes to modify the amount of vacation accrual and add additional time after twenty-five (25) years of service. The City's position is to retain the current language.

The residual economic effect of this proposal is found significant. Additional scheduled time off results in the projection of either additional tours of service by current staff, impacting cost of overtime, or increasing the size of the regular work force. The City's right to determine the size of the work force is not challenged. The issue is mentioned only as an economic factor to be considered in attaining adequate staffing for each tour of duty if this benefit was modified as proposed by the Union.

The vacation scale currently in effect appears equitable and comparable to other area departments. Also, recognizing the majority of the bargaining unit members have less than ten (10) years service, justification for adding additional vacation after twenty-five (25) years of service is found lacking.

It is determined that other unresolved economic issues are of greater inequity and priority and should be adjusted prior to consideration of this provision..

It is therefore recommended that current contract language be included in the Agreement.

Article 26 - Residency Requirement

This is the only issue at impasse that is primarily not a "hard" economic issue. Yet, there are definite indirect cost implications. The Union proposes a new term barring the City from applying an existing work rule governing residency as a condition of employment.

The City argues that the status quo should be maintained. It argues that pending legislation and recent litigation may nullify such residency provisions Statewide. The City further argues that it is reasonable to require its emergency employees to reside in close proximity to the City in order to respond to emergency situations.

A review of facts indicates that the work rule in question requires employees to reside within the 911 telephone exchange area of the City. The facts also indicate that this work rule is not being uniformly applied to all City employees and it was a factor in the recent loss of a bargaining unit member who attained similar employment in a nearby community.

The City is located within commuting distance of the metropolitan centers of Columbus, Springfield, Dayton, and Lima. There are a number of additional area governmental agencies that also provide fire and emergency protection. Many of these communities offer higher wages and benefits at a rate that can readily entice City trained and experienced individuals to relocate, or commute for work. The City has made the investment in these employees, training and experience that makes them attractive potential employees to other agencies. Any reasonable accommodation that can encourage these employees to remain with the City should be actively pursued. Any rule or regulation that inhibits retaining such employees should be abolished.

Noting that the current residency requirement has been selectively enforced, it is reasonable to conclude that the City would be vulnerable to challenge, through existing channels of appeals, if it attempts to impose its current residency work rule in a discriminatory manner.

Reasonable residency limits may have merit and may be better refined through candid discussions under the labor-management committee. Sufficient consideration has not been presented to the Fact Finder to support any recommendation on this subject in the Agreement.

At this time it is not recommended to include this provision in the Contract.

RECOMMENDATIONS

It is recommended that all items having been tentatively agreed to prior to Fact Finding be included in the Agreement.

It is recommended that all items tentatively agreed to at the Fact Finding Hearing and as set forth in Exhibit "A" be included in the Agreement.

It is recommended that the items at impasse be included in the Agreement as set forth in "Exhibit "B" be included in the Agreement.

Exhibit "A"
Items as Tentatively Agreed to at the Fact Finding Hearing

The following issues are withdrawn:

- Article 7 - Court Leave
- Article 27 - Funeral Leave
- Article 28 - Union Business

Article 10 - Paramedic Compensation: To include current contract language with the compensation rate adjusted at 4% of the hourly base rate schedule in Article 8.

Article 12 - Sick Leave: Current language to be brought forward into the Agreement.

Article 13 - Personal Leave: Current language to be brought forward into the Agreement with the following sentence added to the 1st paragraph: "Use of Sick Leave for death in the immediate family, shall not adversely effect this provision."

Article 18 - Uniform Allowance: Current language to be brought forward into the Agreement with the following changes:

In the 1st paragraph, replace \$600.00 with \$650.00.

Add the 3rd paragraph as proposed by the Union at Fact Finding with the following change to the 2nd sentence: "The City shall provide a full set of the normal uniform accessories."

Article 25 - Drug Testing (Add as a new article)

"Drug testing may be conducted for new firefighters, on promotion and in cases of reasonable cause. Cost of rehabilitation, in excess of that provided under insurance benefits, will be at the employee's expense. Application of this provision shall be in a uniform manner."

Exhibit "B"
Recommendations of Issues at Impasse

Article 8 - Base Rates of Pay: Current language to be brought forward into the Agreement. Base hourly rates of pay schedule to be the following:

| Step | Base Wage Scale | | |
|--------------------|-----------------|---------------|---------------|
| | Eff. 11/15/96 | Eff. 11/15/97 | Eff. 11/15/98 |
| Probationary Level | \$9.20 | \$9.47 | \$9.76 |
| After 1 Year | \$9.77 | \$10.07 | \$10.37 |
| After 2 Years | \$10.38 | \$10.70 | \$11.02 |
| After 5 Years | \$10.95 | \$11.28 | \$11.62 |
| After 10 Years | \$11.17 | \$11.51 | \$11.85 |
| After 12.5 Years | \$11.40 | \$11.74 | \$12.09 |
| After 15 Years | \$11.63 | \$11.97 | \$12.33 |
| After 17.5 Years | \$11.84 | \$12.21 | \$12.58 |
| After 20 Years | \$12.09 | \$12.46 | \$12.83 |

Article 10 - Paramedic Compensation: It is recommended that the following paramedic compensation schedule be included in the Agreement.

| Step | Paramedic Compensation | | |
|--------------------|------------------------|---------------|---------------|
| | Eff. 11/15/96 | Eff. 11/15/97 | Eff. 11/15/98 |
| Probationary Level | \$0.37 | \$0.38 | \$0.39 |
| After 1 Year | \$0.39 | \$0.40 | \$0.41 |
| After 2 Years | \$0.42 | \$0.43 | \$0.44 |
| After 5 Years | \$0.44 | \$0.45 | \$0.46 |
| After 10 Years | \$0.45 | \$0.46 | \$0.47 |
| After 12.5 Years | \$0.46 | \$0.47 | \$0.48 |
| After 15 Years | \$0.47 | \$0.48 | \$0.49 |
| After 17.5 Years | \$0.47 | \$0.49 | \$0.50 |
| After 20 Years | \$0.48 | \$0.50 | \$0.51 |

Article 11 - Insurance Benefits: Current language to be brought forward into the Agreement.

Article 14 - Overtime & Compensatory Time: Current language to be brought forward into the Agreement with the 4th paragraph to read:

"When an employee is held over from a regular scheduled shift or is called in for unscheduled work, such overtime shall be for time actually worked, and in no case less than three (3) hours. An

employee working overtime under this provision will work a minimum of three (3) hours, unless authorized to leave earlier by the immediate supervisor.”

Article 16 - Vacation: Current language to be brought forward into the Agreement.

Article 26 - Residency Requirement: Do not include in Agreement.

TOTALITY OF AGREEMENT

This will affirm the foregoing report, consisting of **12 pages**, inclusive of this page, and **recommendations** contained herein, are made in this matter of **Fact Finding** by the below signed **Fact Finder**.

All matters presented before the Fact Finder and not specifically addressed were given consideration but are not recommended for inclusion in the Agreement.

If there is found conflict in the Report between the Fact Finder's Discussion and his Recommendations, that language in the Recommendations shall prevail.

All matters of tentative agreement are **recommended**, to be included in the Agreement.

To the best of my knowledge, said Report and its **included recommendations** complies with applicable provisions of **ORC 4117 and related Rules and Regulations adopted by the State Employment Relations Board.**

I therefore affix my signature at the City of Galion, in the County of Crawford, in the State of Ohio, this 11th of November, 1996.


John S. Weisheit, Fact Finder

STATE EMPLOYMENT
RELATIONS BOARD
CERTIFICATE OF SERVICE

This will affirm that the Fact finding Report in the Matter of Fact finding between

SERB Case No. 96-MED-09-0688

City of Urbana

v

Urbana Firefighters Association

was served to the below named parties at the stated addresses

Brett Evilsizer
3824 W. U. S. Highway 36
Urbana, OH 43078

Mr. Dale Miller
205 S. Main St.
Urbana, OH 43078

by 1st Class U.S. Postal Service Mail, on November 11, 1996.

I affirm, to the best of my knowledge that the foregoing is true and accurate.


John S. Weisheit, Fact Finder

November 11, 1996

Date