

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

STATE EMPLOYMENT
RELATIONS BOARD

2001 JUL 16 A 10: 26

July 11, 2001

In the Matter of Conciliation Between

THE CITY OF WILLOWICK)
)
 and)
)
 WILLOWICK FIRE FIGHTERS ASSOCIATION)

Case No.: 00-MED-10-¹²⁶²~~142~~

APPEARANCES

For the City:

Tom Grabarchzyk
Harley Rudersdorf
Joseph P. Busher

Consultant, Labor Relations Management, Inc.
Fire chief
Asst. Fire Chief

For the Union:

Michael L. Palumbo
Stanley F. Muraski

Vice President
Treasurer

Conciliator:

Virginia Wallace-Curry

INTRODUCTION and BACKGROUND

This matter concerns the conciliation proceeding between the City of Willowick (the “City”) and the Willowick Fire Fighters Association (the “Union”). The bargaining unit consists of approximately 70 part-time fire fighters. The terms of the parties’ collective bargaining agreement expired on December 1, 2000. The parties participated in fact-finding before Gregory J. Van Pelt, who rendered a fact-finding report on April 5, 2001. The report was not accepted, and the parties proceeded to conciliation on three issues.

Virginia Wallace-Curry was appointed conciliator in this matter by the State Employment Relations Board. The parties declined the conciliator’s offer to mediate the issues, and a hearing was held on June 27, 2001, at which time the parties were given full opportunity to present their respective positions on the issues. The conciliation proceeding was conducted pursuant to Ohio Collective Bargaining Law and the rules and regulations of the State Employment Relations Board, as amended. In compliance with O.R.C. Section 4117.14(G)(7), the conciliator resolved the remaining issues at impasse by selecting, on an issue-by-issue basis, from between each of the parties’ final settlement offers, taking into consideration the factors specified by statute.

The three issues at impasse are:

1. Article 4 - Hours of Work; Section 2 - Minimum Hours
2. Article 22 - Scheduling; (New) Section 4 - New Employee Scheduling
3. Article 24 - Conversion of Workforce

ISSUES

City's Position

It is the City's position that all three of the issues are intertwined. The first two concern the City's ability to fully staff three shifts, and the third concerns the conversion from a part-time to a combination full-time and part-time workforce. Problems in staffing are due to the fact that the City's entire firefighting force is manned by part-time fire fighters. Staffing for six slots on each of the three shifts has been consistently short, and the City has been unable to reach the minimum number of man hours needed to meet the City's liability concerns and to give proper service to the community. Fire fighters are currently required to work a minimum of 36 hours a month. Although some employees work well over the 36 hour minimum (working an average of 80 hours a month), many employees do not, and some shifts have been short anywhere from one hour to 15 hours. The City proposes a change to Article 4 raising the minimum number of hours required of employees from 36 to 48 hours a month. This proposal was recommended by the Fact-Finder.

The City also contends that the increase in the minimum number of hours will only help to alleviate the problem, but will not solve it entirely. Consequently, the City proposes an addition to Article 22, Scheduling, which would give the City more control in assigning hours of work to new employees hired after January 2001, which would help ensure that all shifts are adequately staffed. New Section 4 would allow the City to assign new employees up to 10 shifts per month and/or subject them to a required call-out to man shifts that are short of personnel. The Fact-Finder recommended the City's proposal in general, but did not include all the language the City believes is necessary to properly implement this concept. Therefore, the City proposes a more detailed version of Section 4 than that in the fact-finding report.

The final issue involves language that would allow the City to convert the workforce from all part-time employees to a combination of full-time and part-time employees. The current language of Article 24, Conversion of Workforce, was negotiated when the City had no intention of using full-time employees. As it becomes more evident full-time employees will be necessary, the City is concerned about getting the best available candidates to fill the full-time positions. The City contends that this is only possible if current part-time employees are considered on the same basis as outside applicants. In its original proposal, the City did not offer any credit to employees for their current part-time service, and the Fact-Finder rejected the proposal for that reason. The City's current proposal offers to give current employees additional percentage points of their passing score, up to five percent, for continuous service with the City. This proposal meets the objections of the Fact-Finder while still allowing the City to select from the best available candidates.

Union's Position

The Union rejects the City's proposal to raise the minimum number of hours required of the part-time employees. The Union believes that the minimum staffing for each shift can be achieved if the contract is enforced, and employees who fail to show up for scheduled shifts are disciplined. The Union also argues that the City expand the number of part-time positions available to have a greater pool from which to fill shift positions. Although most of the current Fire fighters work more than the minimum 36 hours a month, a few of the employees cannot work 48 hours a month because of their full-time jobs and/or their families obligations. Forcing these employees to work more hours than they are capable would reduce the potential pool of employees from which City fills its positions. The Union recommends keeping the minimum

number of hours at 36.

The Union also rejects the City's proposal to give the City the ability to assign new hires to man shifts involuntarily. This gives away rights of employees not yet hired and creates a two tier workforce. The Union argues that the City should move to a combination full-time/part-time workforce to adequately staff the shifts rather than placing the great burden on new employees to fill shifts of missing personnel.

The Union contends that the current contract language is sufficient to ensure that the City hires the best possible candidates for any full-time positions it creates. The language allows the City to establish the qualifications it requires of those applying for the positions. Current employees not meeting the qualifications established by the City would not be automatically eligible and would be required to take examinations or training necessary to achieve the proper qualifications. The Union's proposal to keep the current contract language was recommended by the Fact-Finder.

Discussion

The City presented ample evidence to support its position that it cannot adequately staff six positions on all shifts. The Union's contention that the City should enforce the provisions of the contract and discipline employees who do not report for shifts has merit. Cracking down on employees who skip out on shifts would help. However, that may not be sufficient to alleviate the problem. Disciplining employees usually involves suspension, which would exacerbate the shortage in staffing. Increasing the minimum number of hours required of employees would help to ensure that all members carry some of the burden of filling the shifts. Most employee work far more than the 36 hour minimum and will not be impacted by the change in minimum

requirement. This position was recommended by the Fact-Finder and is selected here.

The City's position regarding scheduling of new hires is also selected. All parties involved, the City, the fire fighters and the community, have an interest in maintaining adequate staffing. The proposed new section on scheduling would allow the City to assign new employees up to 10 shifts per month and/or subject them to a required call-out to man shifts that are short of personnel. The provision would give the City some control over staffing if the increase in minimum hours proves insufficient to meet staffing needs. The full provision, including the details of how the scheduling of new hires would be implemented, is selected.

On the issue of conversion of workforce, it appears that a combination full-time/part-time workforce is inevitable. The City argues that in hiring career, full-time fire fighters it must be allowed to choose the best candidates. The current language on conversion of the workforce was negotiated about ten years ago when the possibility of hiring full-time employees seemed remote. The City argues that standards have changed and the language forces the City to hire those meeting minimum qualifications, rather than allowing the City to choose the best candidate to be a career fire fighter.

The Fact-Finder faulted the City's original proposal because it did not give any recognition or credit for past part-time service to the City. The City's new proposal meets the concerns of the Fact-Finder and is the preferred position here. The City's new proposal gives current part-time fire fighters additional percentage points to their passing score for each calendar year of continuous service up to 5%. In forming a new career fire fighter workforce, the City should be able to choose the best possible candidates. The Conciliator agrees with the outside consultant hired by the City to evaluate the needs of the Fire Department. The consultant's report noted that if the current personnel are the best candidates for the position, they will be

selected based on knowledge, skill and abilities, not because of longevity or their part-time status.

Although no community is the same position as Willowick, dealing with a conversion from all part-time to full-time and part-time employees, the language for hiring full-time career fire fighters is relevant because that is what Willowick may be forced to do in the near future. In comparison to other communities, the City's proposal meets or exceeds other contract language. Of the five communities cited by the City (Wickliffe, Mentor, Willoughby, Willoughby Hills, and Mentor on the Lake) only three award of percentage points for prior part-time Fire service with any Agency. The language proposed by the City awards percentage points only for those with prior fire service with the City and not for service with other communities. This is also an advantage for the current employees. For these reasons, the City's position is selected.

CONCILIATION AWARD

1. ARTICLE 4 - HOURS OF WORK

City's Proposal - In Section 2, increase the minimum hours required from thirty-six (36) to forty-eight (48).

Union's Proposal - Maintain current contract language.

Conciliator's Selection - City's Proposal

2. ARTICLE 22 - SCHEDULING

City's Proposal - New Section 4 added.

Section 4 - New Employee Scheduling

Employees hired on or after January 1, 2001, shall be permitted and required to be scheduled as follows:

- A. Employees shall provide the Employer with their full-time work schedule if so employed. The periods that the employees are not working at their full-time employment will be considered as time they are generally available for shift assignments.

Seven (7) calendar days prior to the end of each month, employees will submit those days they will not be available for duty and the reasons therefore. Consideration will be given to times of vacation from full-time employment, special events or circumstances. Except for months in which vacations from full-time employment are scheduled, generally employees will not be permitted to show more than ten (10) twelve (12) consecutive hour periods between the hours of 6:00 a.m. - 6:00 p.m. or 6:00 p.m. - 6:00 a.m. of which only four (4) twelve (12) consecutive hour periods may be weekend (Saturday/Sunday) days that they are unavailable to be assigned shifts. In those weeks in which the employee is scheduled off from full-time employment for purposes of vacation, two (2) twelve (12) consecutive hour periods will be deducted from the required bank of ten (10) periods for each full week (7 consecutive days) of scheduled vacation.

Any significant change in an employee's full-time work schedule shall be conveyed to the Employer within seven (7) days of its occurrence or prior to the next "shift assignment" period in the last week of each month.

- B. Employee will be permitted to sign-up voluntarily and in the manner set out in Section 3 of this article except that at the conclusion of the fifth pick free for all, the Employer may "assign" the employee up to ten (10) twelve (12) consecutive hour periods between the hours of 6:00 a.m. - 6:00 p.m. or 6:00 p.m. - 6:00 a.m. of shift work based on the needs of the Department. Shifts shall be assigned in increments of six (6) or twelve (12) hours from times and days that have been established as available.

Assignments of shifts would be made in a manner that broadly distributes the remaining shifts based on the needs of the operation and employees available time.

- C. If the Employer does not pre-schedule any or all of the employees ten (10) twelve (12) consecutive hour periods of shift work in Section B of this article, such hours may be subject to a required call out to fill a short shift during the respective month. If shifts remain unfilled by volunteers, employees will be ordered in based on available days on a rotating basis.

Union's Position - Rejects City's proposal. No new language.

Conciliator's Selection - City's Proposal.

3. **ARTICLE 24 - CONVERSION OF WORKFORCE**

City's Proposal - Delete current Section 3 and replace as follows:

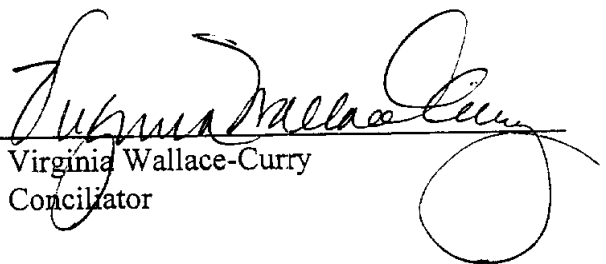
Section 3

Should the Employer determine to establish full-time Fire Fighter positions, it will consider current part-time employees in the same manner as it considers outside applicants except that current part-time bargaining unit employees may be entitled to additional credit added to the results of their civil service test scores. Current part-time Fire Fighters will receive an additional one (1%) percentage point of the passing score of minimally seventy percent (70%) for each calendar year of continuous service as of the date of the test for full-time employment with the City of Willowick Fire Department not to exceed five percent (5%) of their passing score. Such service credit will be added to their Civil Service test score utilized in development of the eligibility list.

Union's Proposal - Keep current contract language.

Conciliator's Selection - City's Proposal

Submitted by:


Virginia Wallace-Curry
Conciliator

July 11, 2001
Shaker Heights, Ohio

CERTIFICATE OF SERVICE

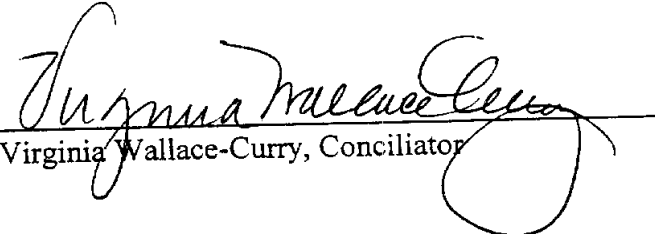
This is to certify that a true copy of the Conciliation Report for the City of Willowick and the Willowick Fire Fighters Association was sent to the parties by regular mail and to the State Employment Relations Board by regular U.S. mail on this day, July 11, 2001. The Conciliation Report was served upon:

Mr. Michael L. Palumbo
Vice President
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Willowick, OH 44095

Mr. Tom Grabarczyk
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Toledo, OH 43617

Ms. Lorraine M. Fende
Mayor, City of Willowick
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Willowick, OH 44095

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Virginia Wallace-Curry, Conciliator