

STATE OF OHIO STATE EMPLOYMENT  
STATE EMPLOYMENT RELATIONS BOARD RELATIONS BOARD

CITY OF ZANESVILLE  
EMPLOYER

2003 MAY 21 A 10: 32

and

ZANESVILLE PROFESSIONAL FIRE FIGHTERS  
LOCAL NUBER 88 I.A.F.F  
EMPLOYEE ORGANIZATION

In the Matter of:

02-MED-07-0669

**CONCILIATOR'S AWARD**

**CONCILIATOR:**

Philip H. Sheridan, Jr.  
Attorney at Law  
915 South High Street  
Columbus, Ohio 43206-2523  
(614) 445-0733

**FOR THE UNION:**

James T Prang  
Negotiation Committee Chairman  
Local # 88 I.A.F.F.  
Zanesville, OH 43701

**FOR THE CITY:**

Dale Raines, Budget & Finance Director  
City of Zanesville.  
401 Market Street  
Zanesville, Ohio 43701

**Award:**

**May 20, 2003**

## CONCILIATION AWARD

**STATEMENT OF CASE:** The parties, the City of Zanesville, represented by Dale Raines, Budget & Finance Director, City of Zanesville and the bargaining unit, Zanesville Professional Firefighters, Local # 88 I.A.F.F. including 42 firefighters of the City, represented by James T. Prang, Negotiation Committee Chairman., have entered into negotiations for a contract between the parties to take effect January 1, 2003, and to expire December 10, 2005.

The parties have engaged in previous contract negotiations leading to agreed contracts. The parties attached a copy of the expired collective bargaining agreement.

The parties met and bargained in good faith, and were able to agree on all but six sections of the contract. The parties submitted the issues to fact-finding on December 18, 2002, which led to a fact-finding and recommendation that was rejected by the City. I was chosen to serve as conciliator and issue a binding conciliation award pursuant to R.C. 4117.14(G). At the conciliation hearing on March 18, 2003, the parties outlined their position on the remaining issues.

Pursuant to R.C. § 4117.14 and Admin.R. 4117-9-05, Philip H. Sheridan, Jr., 915 South High Street, Columbus, Ohio, was chosen by the parties as conciliator.

The parties agreed to a conciliation hearing on March 18, 2002, and the meeting was convened at 10:00 a.m. at the Zanesville Administration Building. In addition to the Mr. Raines, Interim Fire Chief David A. Lacy appeared for the City. In addition to their representative, Martin L. Mercer, Danny L. Shipley, Jeffrey J. Jadwin, Andy Gardner, and Steven A. Embry, members of the local, appeared on behalf of the bargaining unit. The matter was submitted upon statements and arguments presented to the conciliator.

According to the provisions of R.C. Chapter 4117, the parties provided me with a copy of the current contract, the issues which have been resolved, the unresolved issues, and each party's final offer on the unresolved issues.

In issuing this conciliation report, I have given consideration to the provisions of R.C. Chapter 4117, and in particular, the criteria contained within R.C. § 4117.14(G)(7)(a)-(f).

### **ISSUES AT IMPASSE**

**ARTICLE 12, SECTION 12.11. HOLIDAY PAY**

**ARTICLE 20 (E). PHYSICAL EXAMINATION**

**APPENDICES 1-111. WAGES**

### **POSITION OF THE PARTIES**

#### **HOLIDAY PAY**

#### **THE CITY'S POSITION:**

The Employer's final offer is a new section that provides for payment of one and one half of a firefighter's normal rate of pay to all firefighters required to work on six specified holidays.

#### **Section 12.11 Holiday Pay**

**In recognition that bargaining unit employees are required to work on national holidays, the vacation schedule specified in Section 12.1 of this Article includes vacation accrual at an accelerated rate as compensation. In addition, employees required to work on certain national holidays shall be paid at one and a half their normal rate of pay. The following holidays shall apply: New Year's Day, Memorial Day, Independence Day, Veterans' Day, Thanksgiving Day and Christmas Day.**

The City argues that the fact-finder misunderstood the parties' position on this issue and mistakenly granted something neither party requested. The error complained of was that neither party proposed any payment to those employees who are not scheduled to work on the holiday, but the fact-finder awarded holiday pay to all of the members of the bargaining unit for 6 holidays where no holiday pay had been paid in previous contracts.

The City requests internal consistency and states that it reached agreement with the Police Officers, Sergeants and Lieutenants on the same language as proposed above. The City also alleged that the cost of the first year for payment of 6 holidays to all firefighters not working would be \$73,000.00. The City also pointed out that the accelerated accrual of vacation leave offsets the holiday pay some other municipalities might provide.

#### **THE FIREFIGHTERS' POSITION:**

The bargaining unit accepted the decision of the Fact Finder, who recommended the following:

##### **Section 12.1 (sic) Holiday Pay**

**The following days shall be recognized as paid holidays: New Year's Day, Memorial Day, Independence Day, Veteran's Day, Thanksgiving Day, and Christmas Day.**

**Employees who work these days shall be compensated at 2 times their normal rate of pay.**

**Employees who do not work these days shall be paid at their daily base rate pay. In addition, such time and pay shall be applied to the accelerated rate of compensation of vacation computation set forth in Section 12.1.**

The bargaining unit argued that the fact-finder awarded holiday pay to all employees as a method of giving the bargaining unit the type of increase in overall compensation that they should

receive. The City is able to pay, and the bargaining unit works on a schedule that includes over 880 hours of additional time on the job as compared to a 40 hour a week employee, without the benefit of a “Kelly” day.

### **AWARD**

Although I agree with the bargaining unit that the fact-finder intended to do what he did, and the recommendation was not a mistake, I choose the City’s last best offer. Calculated at \$13.00 per hour, the top rate, 6 holiday pays at straight time would be \$1872. Based on that same annual salary, a 1 percent raise would amount to around \$400. So the 6 holidays would amount to an annual increase of over 4.6 percent in addition to the wage increase. I am not convinced that the bargaining unit has shown such extraordinary circumstances to justify the increase they now propose.

### **PHYSICAL EXAMINATION**

#### **THE CITY’S POSITION:**

The City proposes the following addition to Article 20(E) as proposed by the fact-finder:  
**“The City shall not be obligated to pay for the aforementioned if coverage is provided by worker’s compensation.”**

The City believes the language is necessary to clarify that the changes regarding responsibility for payment for preventative shots, and testing and treatment for exposure to infectious or hazardous materials were clearly in addition to the benefits provided by workers’ compensation.

#### **THE FIREFIGHTERS’ POSITION:**

The bargaining unit proposes the language as proposed by the fact-finder:

**(E) In the event that a Fire Fighter is exposed to an infectious, contaminated, or hazardous material during the course of duties, the City agrees to pay one hundred (100) percent of the cost of any required treatment in order to prevent illness or disability from such exposure.**

The bargaining unit sees no need for the additional language proposed by the City. There have been no incidents where workers' compensation has not covered the incurred expenses.

### **AWARD**

I choose the City's proposed language added onto the above quoted Section (E). The parties appear to agree that workers' compensation is the first provider of recouping expenses from on-the-job exposure to hazard that requires treatment. If for some reason the expense is not covered by workers' compensation then the City will pay.

### **WAGES**

#### **THE CITY'S POSITION:**

The City offers the attached Appendix I-III, which amounts to a 4 percent increase in each of the three years of the contract, effective January 1, 2003 in the first year of the contract. The City offers more than the amount recommended by the fact-finder because it wanted to highlight its strong opposition to the bargaining unit's position on holiday pay. The offer is above the rate of inflation, it exceeds the increases negotiated with A.F.S.C.M.E., and the amount granted to unaffiliated employees, and it is the same as the contract offered to the police officers. The City also argues that the SERB Benchmark amounts are deceptive because the bargaining unit took increases in pension pick-up rather than raises in several contract years and taking that increase into account the comparables favor the City's position.

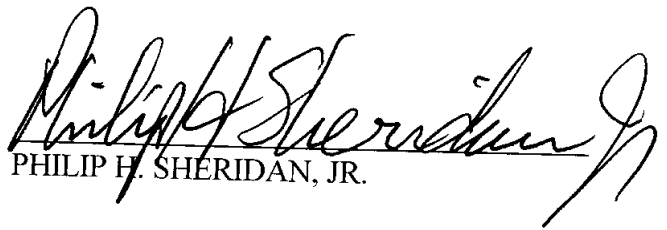
**THE FIREFIGHTERS' POSITION:**

The bargaining unit offers the wage increases recommended by the fact-finder. The fact-finder recommended 3.5 percent increase in 2003, 3.5 percent increase in 2004, and 4 percent increase in 2005. The bargaining unit takes the position that Zanesville is capable of paying its firefighters an increase that, coupled with the holiday pay the fact-finder recommended, would provide them with a significant raise in total compensation that would place them nearer to the middle of the comparables provided by the City. The City should not be grouped in the depressed area of the State because it has significant growth and income potential.

**AWARD**

I choose the City's proposal with respect to wages. Having not awarded the holiday pay proposal of the bargaining unit, I accept the City's increase of 4 percent in each of the years of the contract, rather than the bargaining unit's lower proposal.

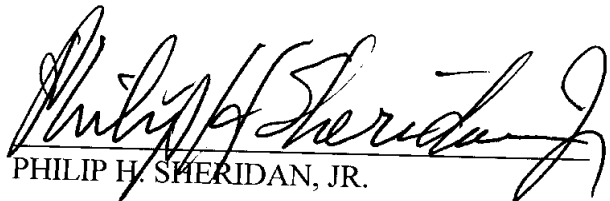
Respectfully submitted,

  
PHILIP H. SHERIDAN, JR.

May 20, 2003

**CERTIFICATE OF SERVICE**

I hereby certify that I mailed a copy of this Conciliation Award to the parties by ordinary U.S. mail, postage prepaid, this 20th day of May, 2003.

  
PHILIP H. SHERIDAN, JR.

**Appendices I-III    Wages**

Appendix I, II and III will set the wage rates for bargaining unit employees, effective the first full pay period of each year of the contract. The wage rates proposed by the City are as follows:

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**APPENDIX I  
WAGES EFFECTIVE JANUARY, 2003**

<u>Step</u>	<u>Hourly Rate</u>
<b>B</b>	<b>\$ 9.97</b>
<b>C</b>	<b>10.43</b>
<b>D</b>	<b>10.84</b>
<b>E</b>	<b>11.53</b>
<b>F</b>	<b>12.94</b>

**APPENDIX II  
WAGES EFFECTIVE JANUARY, 2004**

<u>Step</u>	<u>Hourly Rate</u>
<b>B</b>	<b>\$ 10.37</b>
<b>C</b>	<b>10.85</b>
<b>D</b>	<b>11.27</b>
<b>E</b>	<b>11.99</b>
<b>F</b>	<b>13.46</b>



**APPENDIX III  
WAGES EFFECTIVE JANUARY, 2005**

<b><u>Step</u></b>	<b><u>Hourly Rate</u></b>
<b>B</b>	<b>\$ 10.78</b>
<b>C</b>	<b>11.28</b>
<b>D</b>	<b>11.72</b>
<b>E</b>	<b>12.47</b>
<b>F</b>	<b>14.00</b>

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**PHILIP H. SHERIDAN, JR.**

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915 SOUTH HIGH STREET  
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STATE EMPLOYMENT  
RELATIONS BOARD

2003 MAY 21 A 10: 32

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May 20, 2003


Dale Zimmer, Administrator  
Bureau of Mediation  
State Employment Relations Board  
65 East State Street, 12<sup>th</sup> Floor  
Columbus, Ohio 43215-4213

Re: *SERB Case No. 02-MED-07-0669  
Zanesville professional Firefighters Local  
#88 I.A.F.F>. And  
City of Zanesville, Ohio*

Dear Mr. Zimmer:

Enclosed please find the Conciliation Award in the above referenced Conciliation, dated May 20, 2003. Please do not hesitate to let me know if I can be of assistance to you in any way.

Very truly yours,

  
Philip H. Sheridan, Jr.

PHS/cas  
Enclosure