

STATE EMPLOYMENT
RELATIONS BOARD

2003 MAR 21 A 10:40

Conciliation Decision and Award

In the Matter of Conciliation

Between

The City of Marietta

And

International Association of Firefighters Local 442

SERB Case No: 02-MED-08-0742

MARCUS HART SANDVER, Ph.D.
Conciliator

Date of Hearing: March 7, 2003

Date of Award: March 21, 2003

Representing the City:

Mr. Gregory B. Scott
Scott, Scriven and Wahoff L.L.P.
50 West Broad St.
Columbus, OH 43215

Representing the Union

Mr. Dennis Haines
Green, Haines, Sgambati, Co. L.P.A.
P.O. Box 849
4th Floor National City Bank Building
Youngstown, OH 44501-0849

I. Introduction

This case arises out of a collective bargaining dispute between the City of Marietta (the employer) and International Association of Firefighters Local 442 (the union). The parties met numerous times during the late summer and fall of 2002. The existing collective bargaining agreement expired on October 31, 2002. The dispute was submitted to factfinding. The factfinder, Steven Ball, issued his report on December 30, 2002. The factfinder's report was not accepted by the parties. The case was submitted to conciliation and a hearing was scheduled for March 7, 2003.

II. The Hearing

The hearing was convened by the conciliator at 9:00 a.m. on March 7, 2003 in the Health Department conference room.

A. Attendees

In attendance at the hearing for the union were:

1. Dennis Haines Attorney and Chief Spokesperson
2. Pat Moldron Firefighter
3. Larry Nicholson II Firefighter
4. Kyle Talbot Firefighter
5. Tim Casto Firefighter
6. Jack Hanis Lt. Firefighter
7. Richard Stewart Fire Inspector
8. Bruce Weckbacher Capt. Firefighter
9. Jim Wiblin Firefighter

In attendance for the City were:

1. Greg Scott Attorney and Chief Spokesperson
2. Ed Ostrowski Attorney

3. Bob Boersmar City Safety and Service Director
4. Ted Baker Fire Chief

B. Exhibits

The parties submitted the following exhibits into the record.

Union Exhibits

1. Union Exhibit #1 City of Marietta General Fund Accounts for 1998, 1999, 2000, 2001, and 2002
2. Union Exhibit #2 General Fund History
3. Union Exhibit #3 Letter from Michelle Shaffer IAFF Labor Issues and Collecting Bargaining Department to Mr. Patrick Molden, President IAFF Local 442. Dated September 18, 2002
4. Union Exhibit #4 Brief overview of S.B 108 Dated Dec. 9, 2002
5. Union Exhibit #5 City of Marietta Estate Tax received February 1998 – August 2002
6. Union Exhibit #6 City of Marietta General Fund 1999-2001
7. Union Exhibit #7 City of Marietta Municipal Code 141.06. Fire Department Contracts with Individuals Firms. (1998)
8. Union Exhibit #8 City of Marietta Fire Contracts 2003
9. Union Exhibit #9 The Community Leader. March 5, 2003
10. Union Exhibit #10 IAFF Death and Injury Survey 1992-2000
11. Union Exhibit #11 “Cancer Afflicts Firefighters More than General Population” OHIO Professional Fire Fighter. Autumn 1988 p. 22& 23

12. Union Exhibit #12 Memorandum from Ted Baker, Chief, to all Personnel. Dated 12/29/1999
13. Union Exhibit #13 Vacation Days Comparison. Marietta Firefighters and Marietta Police
14. Union Exhibit #14 Marietta Firefighters Compared to Other Southeastern Ohio Cities Using City's Evaluation Method
15. Union Exhibit #15 "Mayor Hopes Marietta's Progress Continues" The Parkersburg News and Sentinel and Marietta A.M. March 7, 2000 p. 10
16. Union Exhibit #16 Marietta Patrolmen Compensation
17. Union Exhibit #17 Wage Rates by Classification – Position
18. Union Exhibit #18 Memorandum from Joe A. Matthews, Mayor, to Tom Stacy, Employee Relations Committee Chairman. Dated January 21, 1997
19. Union Exhibit #19 Conciliation Decision and Award. Marcus Hart Sandver, Conciliator. Dated December 31, 1990
20. Union Exhibit #20 Computation of Hourly Wages over 3 years @ 4.6 percent
21. Union Exhibit #21 Computation of Total Compensation using City Position @3.5 percent
22. Union Exhibit #22 Computation of Hourly Wages over 3 years @ 3.5 percent
23. Union Exhibit #23 Computation of Total Compensation using Union Position @ 4.6 percent

24. Union Exhibit #24 Initial Training Required for Marietta Fire
Department

The following were submitted as City Exhibits:

1. City Exhibit #1 Multitabbed Conciliation Brief
2. City Exhibit #2 Factfinder's Report. Dated February 25, 2003
Robert Stein, Factfinder

C. The Criteria

The parties were instructed by the Conciliator that the hearing would be conducted in conformity with the rules for Conciliation as found in O.R.C. 4117 and associated administration rules as promulgated by S.E.R.B. The parties were further informed that the following criteria, as found in O.R.C. 4117.14 G (7)(a-f) would be used by the Conciliator in crafting his award. The criteria are:

1. Past collective bargaining agreements
2. Comparisons
3. The interests and welfare of the public and the ability of the employer to finance the settlement
4. The lawful authority of the employer
5. Any stipulations of the parties
6. Any other factors, not itemized above, which are normally or traditionally used in disputes of this nature.

III. The Issues

A. Wages

1. Union Position

The union position on this issue is for an annual increase in the existing firefighter wage schedule of 4.6 percent per year for 3 years.

2. City Position

The City position on this issue is for an annual increase in the existing firefighters wage schedule of 3.5 percent per year for 3 years.

3. Discussion

Discussion of this issue consumed 90 percent of the time spent in the hearing (over 8 hours). The parties presented multiple exhibits, computed costs, calculated wage data for comparable cities and attempted to estimate city revenues and expenditures for the next three years.

In employing the criteria listed in O.R.C. 4117.14 the City and the Union agreed that the most recent collective bargaining agreement between the parties provided for a 4 percent annual raise over the past three years. The external comparables showed that compared to some cities (e.g., Athens, Chillicothe, and Lancaster) base wage rates for 6 year firefighters in Marietta lagged the average. Compared to other cities such as Cambridge, Portsmouth and Zanesville, however, the base wage rates lead the average of this group. If we were to take all 6 of the comparable cities cited by the union and calculate an average base wage rate for 6 year firefighters (\$14.58) we would find that only Athens and Lancaster exceeds this figure. The cities of Cambridge, Chillicothe, Portsmouth and Zanesville would be below "average." The base wage rate of firefighters using this type of comparison would place Marietta above Cambridge, Zanesville and Portsmouth. In other words, Marietta firefighters at the 6th year level are paid more base wage rates than firefighters in some cities and less than others. Of course, the issue now becomes a question of what cities are really comparable, what role do benefits play in the calculations, how many hours do the firefighters work per year, what is the run volume per department and so on and so on.

These are also internal comparability standards, wage raises negotiated by other employee groups in the city. The testimony of the city representative was that the Marietta

Police received a 3.5 percent annual raise, the IBT received the same and that the nonunion employees received the same 3.5 percent per annum. The factfinder's report recommended a 3.5 percent raise, although it was expressed in cents per hour amounts of 48 cents per hour in year 1, 50 cents per hour in year 2 and 52 cents per hour in year 3.

The financial data submitted by the Union and the City shows that at least at present levels of economic activity and tax collections, the City is able to generate a surplus in the budget. This seems to indicate an ability to fund pay raises. The City at no point in the hearing claimed an inability to fund the 3.5 percent increase they proposed.

4. Award

Based on the evidence and testimony presented at the hearing I award the City position on this issue. That is, a 3.5 percent increase in the current schedule every year for the next 3 years.

B. Vacation

1. Union Position

The Union position on this issue is that the vacation schedule be "accelerated" from the present system of accrual such that firefighters would receive 3 weeks of vacation after 5 years of service, 4 weeks after 10 years, 5 weeks after 15 years of service. The proposal would add an additional day for each full year over 20 years to a maximum of 5 additional days. In support of its position the union submitted exhibit 13 which shows that the proposed vacation schedule is the same as that recently negotiated between the city and two of the FOP Units (uniformed officers).

2. City Position

The City position on this issue is to maintain the current vacation schedule. The City directed the conciliator's attention to Tab A in its exhibit #1 to show vacation comparability with other Ohio municipalities to support its position. In addition, the

City pointed out to the Conciliator that the IBT unit, the nonunion unit and two of the FOP Units (dispatchers and records) have the same vacation schedule as the firefighters now have.

3. Discussion

In a way it is mildly paradoxical to consider the arguments of the parties on this issue. The City argues that the IAFF should be treated like the other employees in the City on the wage issue; then argues the IAFF should not be awarded the vacation package negotiated by the FOP. The union argues that it should be treated differently than the FOP on wages and be given larger increases, then argues that it should be treated the same as the FOP Uniformed Units on vacations. The City submitted its exhibit #2 and directed the Conciliator's attention to the decision of Robert Stein in the New Philadelphia Firefighters factfinding pointing special attention to the discussion on page 6 emphasizing the "utmost importance" of patterned bargaining in police and fire units.

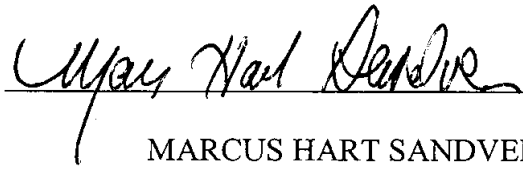
I can certainly see the importance of keeping these two units on some sort of rough comparability through the establishment of an internal economic standard. I understand the firefighter's arguments, and agree that if the FOP settlement on wages be recommended for the firefighters by the Conciliator in the interests of fairness, then the FOP settlement on vacations should be recommended as well.

D. Award

The IAFF position is awarded on this issue.

V. Certification

The decision and award is based upon evidence testimony and prehearing briefs presented to me at a Conciliation hearing I convened on March 7, 2003 in Marietta, Ohio.



MARCUS HART SANDVER

Conciliator

Dublin, OH

March 21, 2003