

Conciliation Decision and Award

STATE EMPLOYMENT
RELATIONS BOARD

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In the Matter of Conciliation

Between

The Pleasant Valley Joint Fire District

and

The International Association of Fire Fighters Local 3475

SERB Case No.: 03-MED-05-0630

Marcus Hart Sandver, Ph.D.
Conciliator

Hearing Date: January 7, 2004

Award Issued: January 16, 2004

Representing the District:

Mr. Robert A. Harris, Attorney at Law
Vorys, Sater, Seymour and Pease, LLP
52 East Gay Street, Box 1008
Columbus, Ohio 43216

Representing the IAFF:

Mr. Russell E. Carnahan, Attorney at Law
Hunter, Carnahan, Shoub and Byard
3360 Tremont Road, 2nd Floor
Columbus, Ohio 43221

I. BACKGROUND

This case arises out of a collective bargaining dispute between the Pleasant Valley Joint Fire District (the District) and the International Association of Fire-Fighters Local 3475 (the Union). The parties were functioning under a collective bargaining agreement that expired on December 31, 2002. The parties negotiated a six-month successor agreement, which expired on June 30, 2003. On September 30, 2003, the parties participated in a factfinding hearing before Factfinder Charles Kohler, Esq. The factfinder issued his report and recommendations on October 10, 2003. The Union rejected the factfinder's recommendations on October 16, 2003. Subject to the rules of O.R.C. 4117, the dispute was submitted to conciliation. Marcus Hart Sandver, Ph.D. was chosen as the conciliator.

II. THE HEARING

By mutual consent of the parties, the hearing was held on 10:00 AM at the conference room of the Pleasant Valley Joint Fire District Headquarters located at 650 West Main Street in Plain City, Ohio. In attendance at the hearing were:

For the IAFF:

1. Russ Carnahan Attorney, Chief Spokesperson
2. Bob Leonhard Firefighter
3. Robert Drummond Firefighter
4. Mark Lundy Ohio Association of Professional Firefighters
5. Douglas Mauger Firefighter

For the City:

1. Robert Harris Attorney and Chief Spokesperson
2. Don Whitmer Chairman, Board of Trustees
3. Toni Stevens Clerk Treasurer

The parties were asked to place exhibits into the record. The following were marked as IAFF exhibits.

1. IAFF Exhibit # 1 Union pre-hearing statement
Dated January 5, 2004.
2. IAFF Exhibit # 2 Pleasant Valley Joint Fire District Revenue Estimated and
Actual 2001, 2002, 2003
3. IAFF Exhibit # 3 2004 Vacation Overtime cost
4. IAFF Exhibit # 4 Proposal of Local 3475 – Cost comparison
5. IAFF Exhibit # 5 Paramedic wages 2003
6. IAFF Exhibit # 6 Estimated 2004 budget
7. IAFF Exhibit # 7 SERB Clearinghouse Wage Increase Report

The following were marked as District exhibits:

1. District Exhibit # 1 Pre-hearing statement of the District – Multi-tabbed
Document dated January 5, 2004.

2. District Exhibit # 2 Memo from CTL Engineering to Ms. Toni Stevens in regards to roof evaluation 650 West Main Street, Plain City, Ohio.
3. District Exhibit # 3 Memo from Webster Walker Plain City Auto to whom it may concern in regards to Maintenance of Fire Fleet, no date.
4. District Exhibit # 4 Memo from Jim Williamson, Madison County Auditor to Financial Officers of all Madison County Jurisdictions in regards to Excessive Carry-Over Balances, dated November 20, 2001.
5. District Exhibit # 5 Cost of 4% wage increase, no date.

The conciliator opened the hearing by informing the parties that the hearing would be conducted in conformity with the procedures for conciliation as found in O.R.C. 4117.14 and associated administrative rules as promulgated by SERB. The conciliator invited the parties to make presentations on the single issue in dispute, Article 15 Annual Pay Scale. The other two articles in dispute at factfinding, Article 19 Overtime/Compensation Time and Article 26 Health Benefits, have been resolved.

III. THE ISSUE. Article 15 Annual Pay Scale

A. Union Position

The Union position on this issue is for an 8 percent wage increase for 2004. The Union supports its position with the following arguments.

1. At the time of the factfinding hearing the District, the Union and the factfinder all shared a good faith belief that the cost of health premiums for the District for 2004 would increase 30% over the levels for 2003. In point of fact, the health care premiums for 2004 increased only 7% over 2003 levels resulting in substantial savings to the District.
2. The estimated roof repairs of \$47,000 to the fire district facility at 650 W. Main Street will not need to be paid out of the 2004 budget.
3. Concessions in contract language in the 2003 CBA make it possible for the Chief at his discretion to use part-time firefighters instead of full-time firefighters in many instances to fill overtime vacancies resulting in potential substantial monetary savings to the District.
4. Property tax revenue is stable revenue and shows steady increases year after year.
5. Last year (2003) the members of the IAFF Local 3475 received no increase to their base wage. They received a \$500 one-time bonus.

6. Last year (2003) the members of the IAFF Local 3475 agreed to begin paying a portion of the premium of their health insurance beginning in 2004.
7. The comparability data compiled by the Union shows the Pleasant Valley firefighters to be the next to the lowest paid firefighters in all of the 14 districts surveyed.

B. The District Position

The District position is for a 4 percent increase in 2004. In support of its position, the District makes the following points.

1. The County Auditor requires a 3 month (25%) carry over in the budget. With a \$1.6 million budget, this would be approximately \$400,000. The District currently has a \$200,000 carryover.
2. In the 2001-2002 CBA, there was a 10% increase in the pension pick up provided by the District to the firefighters. In the 2003 CBA, the firefighters received a \$500 bonus, equivalent to a 1-½% increase and did not have to make any contribution to their health insurance premium until 2004.
3. The firefighters 8% pay raise request is really a ruse for a 4% increase in 2003 and a 4% increase in 2004. A 4% increase in 2003 is not appropriate for a hearing held in 2004.

4. The anticipated health insurance cost increases cited by the factfinder in his report are not relevant to a conciliation hearing held in 2004.
5. The roof issue is still very much alive in 2004. The repairs have not been completed. The District has held back \$26,000 from the contractor. Replacement costs for the roof could go as high as \$188,000.
6. An 8% raise would put the tax levy in jeopardy and would be politically unacceptable to the citizens of the Pleasant Valley Fire District.
7. Substantial deferred maintenance expenses will soon come due for the pumper truck and for the EMS vehicle.
8. Administrative salaries will rise apace if the firefighter's salaries rise.
9. There is a chance that the Homestead Rollback could be reduced as much as 50% in coming years resulting in substantial losses of revenue to the District.
10. If the District's expenses increase due to an increase in wages for the firefighters, the District's bonding authority in New York City may decrease the District's bond rating thus increasing the interest rate the District pays on its bonds.
11. The Cities and Townships the IAFF uses in its wage comparisons are not comparable to Plain City. The one jurisdiction that is somewhat comparable is Jerome Township.

C. Discussion

The statutory criteria for conciliation are found in O.R.C. 4117.14 g.7 a-f. To paraphrase.

1. Past Collective Bargaining Agreements
2. Comparability
3. Ability to Pay
4. The Lawful Authority of the Employer
5. Stipulations of the parties
6. Other factors

Typically Past Collective Bargaining Agreements, Comparability, and Ability to Pay are the criteria that are used most frequently by this Conciliator, and others in making their decisions.

1. Past Collective Bargaining Agreements

I notice from looking over District Exhibit # 1 and from the testimony in the hearing, that the firefighters received a 5% pension pick up in 2001, a 5% pension pick up in 2002 and a \$500 cash bonus in 2003. This means the members of the IAFF 3475 have not had an increase in their base pay since 2000. Pensions are based on base pay. A 4% increase in the base in four years seems like a pretty small increase. An increase of eight percent over four years seems more reasonable.

2. Ability to Pay

I realize that the District would like to have a \$400,000 carryover. I don't see that Mr. Williamson's memo requires this. In fact, District Exhibit # 4 actually addresses the issue of excess carryovers. Will the Homestead rollback be reduced? There is no evidence to support this. Will the roof need to be replaced? I would imagine that this question will be answered by a judge in a courtroom somewhere, probably years from now, after countless engineering studies have been conducted producing conflicting assessments. The issue of deferred maintenance on the vehicles is hardly a surprise – surely the Chief with all his experience has been planning for this. Thank goodness for the EMS fund to replace the EMS vehicle.

The District's budget does seem to grow every year. Whether, and how much, the 2004 estimated budget will expand as the year goes on is a matter of conjecture. But as any administrator knows, budgeting is a matter of priorities. Can the District pay for an 8% pay raise out of its 2004 budget? The answer is yes. Will some other items have to be reduced from projected levels? The answer is again yes. Will this cause a clear and present danger to the citizens of the District? I think not. Will this seriously compromise the District's ability to deliver fire services to the citizens? Again, I think not.

3. Comparables

A look at the comparables shows Pleasant Valley to be considerably below all other districts, with the exception of London. The closest comparable, which the District agrees is comparable, is Jerome Township

which was about \$1,709 above Pleasant Valley in 2003 and is scheduled to receive a 5% raise in 2004 and 2005.

Interestingly, the District does not have any comparability data of its own. At one point in the hearing, Mr. Holmes commented “the comparability data is all the Union has to go on”. I would disagree with this, but would agree that the comparability data is quite persuasive, all the more so considering the fact that the District has nothing to counter it.

4. Other Factors

I notice from reading the factfinding report that in factfinding the Union was asking for a 4 percent increase in 2003 and a 6% increase in 2004. The District was offering a 3 percent raise in 2004. I want both parties to note that I read and re-read the factfinder’s report carefully and that I gave it great weight in my decision. I have a great deal of respect for Mr. Kohler and deviate from his recommendation with reluctance. I do feel that he was operating under a different set of facts than I was -- especially as regards the 30% expected increase in health care benefits.

In theory, the threat of final offer arbitration (or conciliation as it is called in Ohio) is supposed to push the parties closer to a settlement following factfinding¹. This has happened in this instance. The Union modified its position down from 10 percent to 8 percent. The District pushed its position up from 3 percent to 4 percent.

I am forced, by statute, to pick one of the two final offers. I am not allowed to compromise. I hope when the tax levy comes up for a vote in

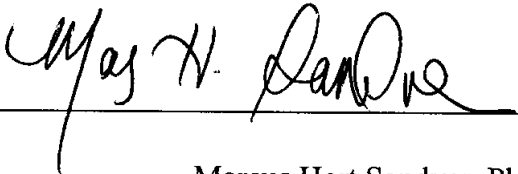
the Fall of 2004, the “blame” for the 8 percent increase will be placed squarely on my shoulders. The District was well represented at the hearing and the arguments were logical and sound. I deliberated for hours over this decision. The arguments were strong on both sides.

IV. AWARD

The Unions position is awarded. Article 15 shall read, “Wages shall increase 8 percent effective January 1, 2004.”

V. CERTIFICATION

This conciliation decision and award is based upon evidence and testimony presented to me on January 7, 2004 at a conciliation hearing conducted by me at 650 W. Main Street, Plain City, Ohio.



Marcus Hart Sandver, PhD

Columbus, Ohio

January 16, 2004

¹ See Marcus Hart Sandver, “Labor Relations Process and Outcomes”. Little Brown and Co. 1987 p. 405-406