



**STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD**

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2006 MAR 10 A 11:32

THE CITY OF LIMA, :
EMPLOYER, :
and : **CASE NOS. 05-MED-04-0384, 0385, 0386**
FRATERNAL ORDER OF POLICE, :
OHIO LABOR COUNCIL, INC., :
EMPLOYEE ORGANIZATION. :

CONCILIATOR'S AWARD

CONCILIATOR:

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

FOR THE UNION:

Dennis Sterling, Staff Representative
Fraternal Order of Police,
Ohio Labor Council, Inc.
222 East Town Street
Columbus, Ohio 43215

FOR THE CITY:

Donald J. Binkley, Regional Manager
Clemons, Nelson & Associates, Inc.
6500 Emerald Pkwy, Suite 100
Dublin, Ohio 43106-6235

Award:
March 8, 2006

CONCILIATION AWARD

STATEMENT OF CASE: The parties, the City of Lima, represented by Donald J. Binkley, Regional Manager, Clemans-Nelson & Associates, Inc., and the bargaining units, Fraternal Order of Police, Ohio Labor Council, Inc., Unit B, including 67 Patrol Officers, Detectives, and ID Officers of the City, Unit C, including 10 Communications Operators and a Technology Coordinator, and Unit D, including 3 Corrections Officers, represented by Dennis Sterling, Staff Representative, F.O.P.-O.L.C., have entered into negotiations for a contract between the parties to take effect January 1, 2006, and to expire December 31, 2008.

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 four issues in two articles of the contract. The parties submitted the issues to fact-finding on October 13, 2005, which led to a fact-finding and recommendation issued November 9, 2005, which was rejected.

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. At the conciliation hearing on January 17, 2006, the parties outlined their position on the remaining issues.

The parties agreed to a conciliation hearing on January 17, 2006, and the meeting was convened at 10:00 a.m. at the Allen County Regional Transit Authority office in Lima. In addition to Mr. Binkley, Chief of Police Greg Garlock, Director of Human Resources Vince Ozier, Finance Director Steven Cleaves, and Consultant Fred Cord appeared for the City. In addition to Mr. Sterling, Tech Coordinator Rebecca DeVelbiss, Detective Joseph A. Nolan, 1st Shift Patrol Officer Billy Thompson, and 2nd Shift Patrol Officer Steve Stechschulte, appeared on behalf of the

bargaining units. The matter was submitted upon statements, documentary evidence and arguments presented to the conciliator.

According to the provisions of R.C. Chapter 4117, the parties provided statements and a copy of the current contract, a list of 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).

The Fact finder's Report.

The fact finder recommended that that all tentatively agreed upon items and all unchanged contract provisions be adopted. He then addressed the issues presented by the parties and recommended an across-the-board pay increase of 3.0 percent effective January 1, 2006 in Article 18, Wages, Section 18.1A. In Article 25, Insurances, the fact-finder adopted the City's position and recommended that the City contribute up to \$371.10 per month for the Single Plan and \$853.31 per month for the Family Plan. If the annual actual cost of premiums increases 10 percent or less the parties share that increase with the City paying 80 percent and the bargaining unit member paying 20 percent. The City would also pay the premium for any increase of more than 10 percent. In Article 30, Duration of Agreement, the fact finder recommended a one-year contract from January 1, 2006 through December 31, 2006.

POSITION OF THE PARTIES

Article 18, Wages.

The City's Position:

The City's final offer is a 3.0 percent increase in pay across-the-board effective January 1, 2006; a 2.50 percent increase in pay across-the-board effective January 1, 2007, and a 2.50 percent increase in pay across-the-board effective January 1, 2008.

The City's position mirrors the fact finder's report in the first year of the contract, and is the same as that agreed to by the supervisor unit of the F.O.P. The City claims that the precarious and unpredictable state of the City's finances prevents it from paying more. The conciliator imposed the City's position in the last contract, which amounted to across-the-board increases in pay of 2.75, 3.0, and 3.25 percent in the three years of the expired contract.

The Finance Director testified that the City's income is largely stagnant, and its expenses are increasing at a higher rate than the income, especially the approximate 80 percent of the budget that encompasses wages and benefits. The City's safety forces constitute about 80 percent of the City's total personnel costs. The City should have a larger cash balance. Since the voters did not support a tax increase the City has not filled positions that have become vacant by attrition, has not had new positions established, and has not established a capital expenditure budget. The only reason the City has a \$3.5 million carryover balance is that the City under spent the 2005 budget by 5 percent. The major source of increased revenue for the City is from new construction, and although there are plans for development, little is guaranteed.

The Fraternal Order Of Police, Ohio Labor Council Position:

The bargaining units also took the position of the fact finder in proposing a final settlement offer of 3.0 percent increase in pay across-the-board effective January 1, 2006. As with the City, the bargaining units propose a three-year contract, but they propose a 3.0 percent increase in pay across-the-board effective January 1, 2007, and a 3.0 percent increase in pay across-the-board effective January 1, 2008.

The bargaining units argue that 3.0 percent is the same as the Cost of Living Allowance, and that its submissions establish that comparable cities are providing increases to their police units in that same range. The City is able to pay the increases. The bargaining units argue that the wages requested would bring the bargaining unit members closer to their counterparts in other Ohio cities of similar size.

AWARD

The fact finder determined that the parties should have a one-year contract, and both sides proposed 3 percent pay increases in that year and three-year contracts, so I am considering the pay issue de novo for the second and third years of the contract.

I adopt the position of the City, and adopt by reference its proposed language for Article 18, Wages. It appeared to me that either party's proposed settlement would be reasonable. However, after a review of the information provided on the statutory factors, I was persuaded by the City's proof that the City's personnel costs were increasing more quickly than its revenue, that the increase in the carry over balance noted by the bargaining units was as a result of a conscious management decision that reduced spending in 2005 below the budgeted amount, and that the City has reduced its manpower by 20 percent in the last 10 years (520 to 401 from 1995 to 2005).

Article 25, Health Insurance.

The City's Position:

The issue for determination is whether the bargaining units should continue to have a set employee contribution to the total cost of health insurance coverage or whether the amount should fluctuate according to a formula that takes into consideration the amount the total cost of the health insurance coverage has increased. The City's final settlement offer is the same as its position at fact-finding, which was that the amount could fluctuate, and the fact finder recommended the City's position. The City has a self-insured health insurance plan administered by a third-party provider that it applies equally to all of the employees of the City. There is no proposed change in the actual coverage or the way in which the coverage is administered. The City has obtained agreements that accepted the same employee contribution plan from the fire fighters bargaining unit, the AFSCME unit, two other FOP-OLC bargaining units, and City Counsel imposed the same employee contribution plan on the non-bargaining employees of the City. The risk is limited to the first 10 percent of increase in insurance premiums after the City's set amount of premium contribution is reached. The City will pay 80 percent of that increase and the bargaining units will pay 20 percent of that increase. Any increase over 10 percent will be borne solely by the City. The City argues that the bargaining units must "accept the same risk as the City and all other bargaining and non-bargaining employees do in the rising cost of health care." The City also argues that once everyone is on the same premium schedule it will be easier for the Health Care Cost Committee to reach unanimous agreement on changes that could reduce health care costs.

The Fraternal Order Of Police, Ohio Labor Council Position:

The bargaining units have proposed increases to the monthly premium amounts paid by bargaining unit members in set amounts in each of the years of the contract. In 2006, the bargaining units' final settlement offer was a payment of a \$15 premium for single coverage and \$35 for family coverage; in 2007 a \$20 premium for single coverage and \$40 for family coverage; and in 2008 a \$25 premium for single coverage and \$45 for family coverage. They point out that the last settlement offers of both the City and the bargaining units were the same set amounts at conciliation in the last contract negotiation. The bargaining units want to have certainty in the amount of premium they must pay. Three years ago the set premium payments were satisfactory to the City as a method to impress upon the bargaining units that they should share in health insurance costs, and the bargaining units have proposed increases in the premiums paid by them in each of the years of the contract.

AWARD

The fact finder recommended the City's position on Health Insurance without any explanation. As a general rule I believe a conciliator should give deference to the fact finder's recommendation, but in this case I adopt the bargaining units' position and adopt by reference the bargaining units' Counter Proposal # 2 as their proposed language for Article 25. The bargaining units propose increases in their premium participation in each of the years of the contract in the same manner in which they participated in the last agreement. I am not persuaded that administrative convenience in collecting premiums is sufficient to support a change opposed by the bargaining units, and the suggestion that the bargaining units would not have their representatives to the Health Care Cost Committee vote in favor of some cost saving proposal because of the

premium structure did not provide me with specific, concrete examples of the alleged problems caused by the way in which these bargaining units paid different premium amounts from those paid by all other employees of the City. The bargaining units will be able to determine whether they made the right choice based on the amounts the other employees pay under the City's proposal.

Conclusion

The parties have impliedly tentatively agreed to a three-year duration of the agreement beginning January 1, 2006 and concluding December 31, 2008. I direct that this article as well as all articles tentatively agreed to or left unopened by the parties are to be included in the successor agreement, and that the effective date of the agreement is January 1, 2006. The parties shall take such actions as are necessary to implement this award.

Respectfully submitted,


PHILIP H. SHERIDAN, JR.

March 8, 2006

CERTIFICATE OF SERVICE

I hereby certify that I mailed a copy of this Conciliation Award to the representatives of the parties at the addresses listed on the first page of this award and to the State Employment Relations Board, 65 E. State St., Columbus, OH 43215, by ordinary U.S. mail, postage prepaid, this 8th day of March, 2006.


PHILIP H. SHERIDAN, JR.