

**STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD**

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RELATIONS BOARD

**CITY OF ENGLEWOOD
EMPLOYER**

2007 JUL 30 P 1: 2

and

**OHIO PATROLMEN'S BENEVOLENT ASSOCIATION
EMPLOYEE ORGANIZATION**

In the Matter of: FULL TIME POLICE OFFICERS

06-MED-09-1140

CONCILIATOR'S AWARD

CONCILIATOR:

Philip H. Sheridan, Jr.
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FOR THE UNION:

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FOR THE CITY:

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CONCILIATION AWARD

STATEMENT OF CASE: The parties, the City of Englewood, represented by Dwight A. Washington, Esq., and the bargaining unit, including 13 Full-time Police Officers of the City, represented by Joseph M. Hegedus, Attorney for the Ohio Patrolmen's Benevolent Association (OPBA), have entered into negotiations for a contract between the parties to take effect January 1, 2007, and to expire December 31, 2009.

The parties have engaged in previous contract negotiations that have included fact finding and conciliation under Chapter 4117. 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 three issues of the contract. The parties submitted the issues to fact-finding on February 27, 2007, which led to a fact-finding and recommendation which 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 June 8, 2007, the parties outlined their position on the remaining issues. The issue involving holidays is moot because the bargaining unit did not make a final offer and the City proposed no change in the previous contract language. The remaining issues are Article XIV-Wages, and Article XXI-Health Insurance.

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

The parties agreed to a conciliation hearing on June 8, 2007, and the meeting was convened at 10:00 a.m. at the Englewood Administration Building. In addition to the Mr. Washington,

Barbara McCormick, Personnel Director and Mark B. Brownfield, Director of Police, appeared for the City. In addition to their representative, David D. Hacker, Police Officer, 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 the fact-finding award, 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).

Article XIV-Wages.

The issue for determination is the amount of increase in wages.

POSITION OF THE PARTIES

THE CITY'S POSITION:

The Employer's final offer is a 2.75% increase across the board effective January 1, 2007 (the parties entered into an agreement November 11, 2006 in which the City agreed to waive the limitation of the Conciliator's authority to make a retroactive pay award); a 2.9% increase across the board effective January 1, 2008, and a 3.0% increase across the board effective January 1, 2009.

The City admits it has the ability to finance and administer an increase in pay over the term of the contract. It supports its position by pointing out the relatively small size of the City and argues that its offer is reasonable because it exceeds the Consumer Price Index for 2006. The majority of the bargaining unit is at the top part of the pay scale. The City has managed to maintain

its police workforce as shown by the obvious seniority of the bargaining unit. The City has not had difficulties with attracting new police officers when hiring has been necessary.

The City claims it has achieved market competitiveness and that its proposed increases are within the range of increases found in the fourteen cities in Montgomery County that the City used for wage comparison. The City suggests that the generous increases that the bargaining unit received from 2001 through 2006 support its position that it is unnecessary to offer wage increases in the 3.5% range and that the City must consider fiscal accountability as well.

THE OPBA POSITION:

The bargaining unit's final offer is the recommendation of the Fact Finder, who adopted the position of the bargaining unit at fact finding for a 3.5% increase across the board effective January 1, 2007; a 3.5% increase across the board effective January 1, 2008, and a 3.0% increase across the board effective January 1, 2009.

The bargaining unit specifically adopted the analysis and recommendation and submitted basically the same documentation it submitted to the fact finder.

AWARD

Chapter 4117 requires the conciliator to consider the past collective bargaining agreements between the parties. The fact finder determined that police officers have averaged 3.88% in yearly wage increases over the past sixteen years. He further determined that the City's 2005 Audited Financial Statement indicated that the City's net assets have increased by 1.5 million dollars; "general fund revenues grew faster than expenses; and the police fund increased \$244,000 in 2005. In addition, the general fund revenues were reported to be 7.8 million dollars and expenditures to be 1.9 million dollars." (Fact finder report, p. 4) He also found that the "City's unreserved and

unencumbered fund balance far exceeds the recommended unencumbered fund balance for a municipality such as the City of Englewood.” (Fact finder recommendation, p. 4)

The fact finder determined that the City has the ability to pay the OPBA’s wage proposal, and that the collective bargaining history of the parties indicates that increases above 3.5% have been agreed to or imposed upon the City over a long history of collective bargaining. The OPBA’s increases were within the range of comparables within the County.

I independently consider the statutory criteria in making this award. The City has not argued that the fact finder relied on information that was incorrect or misleading, and I believe that the fact finder’s recommendation is entitled to a presumption of regularity without a showing of error or mistake. I find nothing in the fact-finding that is out of the ordinary, arbitrary, or unreasonable.

I award the final offer of the bargaining unit, and adopt by reference its proposed language for Article XIV, Wages.

Article XXI-Health Insurance.

The two issues for determination concern the amount the bargaining unit members will contribute toward the health insurance cost, and whether the City should retain discretion in choice of provider and whether the City is required to continue to negotiate with the bargaining unit over coverage changes.

POSITION OF THE PARTIES

THE CITY’S POSITION:

The City’s final offer on Health Insurance, Article XXI, Section 1, is that the bargaining unit members continue to pay 10% of the premium for insurance from January 1, 2007 through

December 31, 2007; 12% of the premium for insurance from January 1, 2008 through December 31, 2008; and 15% of the premium for insurance from January 1, 2009 through December 31, 2008. The City also proposes to remove any necessity to bargain with the union over any change in coverage as stated in Section 4.

The City proposes the increases in premium payment from the bargaining unit members both as an encouragement to the members to economically use their benefits and as a method of allowing the City to better manage health insurance expenses. The health insurance rates have increased almost every year except the most recent contract for 2007.

The City argues that removal of the necessity of bargaining with the union is necessary because of the current nature of the health insurance business. The industry forces the City to seek one-year contracts for coverage even though the contract with the OPBA is for three years. The City proposes notifying the union of any changes in coverage at least 30 days before they take effect. The time frame available to the City for decisions on health insurance just does not allow meaningful negotiation with the union. The City provides exactly the same health insurance coverage for all of its employees, not just the bargaining unit. The arbitration award against the City on this issue clearly shows the problem that arises where the City has discretion to choose carriers, but also has to negotiate with the union over coverage. The City asserts that the increased discretion is necessary to provide the additional controls for the City to insure financial responsibility.

THE OPBA POSITION:

The bargaining unit's last best offer is no change in Article XXI on either of the issues raised by the City. The fact finder recommended the OPBA's position on both health insurance

issues, the bargaining unit submits the same documentation it submitted at fact finding, and the bargaining unit adopts the fact finder's analysis and recommendation.

AWARD

The fact finder determined that although the City had shown that over the last six years increases in insurance premiums had averaged 8%, the City had not provided a "compelling reason to increase the employee premium contribution level during this round of negotiations. Therefore, the recommendation is to maintain the status quo." (Fact finder recommendation, p. 10) The fact finder supported this position by finding that the bargaining unit was currently within the range of percentage of employee contribution as shown in the SERB Annual Report on the Cost of Healthcare Insurance from 2005, and the actual family coverage contribution was very close to the average for cities the size of Englewood.

The fact finder also determined that the City is not free to alter coverage without negotiating with the OPBA over the proposed changes. The parties bargain for certain benefits for a term of three years. The fact finder found that "maintaining the employee's ability to influence the decision that affects the value of the medical benefits bargained for warrants maintaining the status quo with respect to Article XXI, Section 4." (Fact finder recommendation, p. 12)

I have independently examined all of the information provided to me concerning these issues. With respect to Section 1, the fact finder's award is not arbitrary, erroneous or unreasonable, so I see no need to substitute my judgment for his. With respect to Section 4, I respect the fact finder's recommendation. It would be improper to remove a bargained for provision where, as here, we are dealing with negotiation over what are clearly "terms and

conditions of employment.” Each of the decisions maintains the status quo where the parties did not negotiate changes.

I award the final offer of the bargaining unit, and adopt by reference its proposed language for Article XXI, Sections 1 and 4.

CONCLUSION

The parties provided substantial information in a courteous and professional manner for my consideration. In addition to the awards above, I hereby include all unopened articles and all tentatively agreed articles in the successor agreement. The effective beginning date of the agreement is January 1, 2007. The parties shall take the actions necessary to implement the agreement.

Respectfully submitted,


PHILIP H. SHERIDAN, JR.

July 26, 2007

CERTIFICATE OF SERVICE

I hereby certify that I mailed a copy of this Conciliation Award to the parties' representatives at the addresses listed on the cover page to this award, and to the State Employment Relations Board, 65 E. State St., 12th Floor, Columbus, Ohio 43215, by ordinary U.S. mail, postage prepaid, this 26th day of July, 2007.


PHILIP H. SHERIDAN, JR.