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**CONCILIATION REPORT
STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD
November 4, 2011**

**CITY OF OXFORD
AND
OXFORD POLICE SERGEANTS AND LIEUTENANTS, FOP LODGE 38**

SERB CASE NO(s): 10-MED-09-1056

CONCILIATOR: Howard Tolley

APPEARANCES

OXFORD POLICE SERGEANTS AND LIEUTENANTS, FOP LODGE 38

Daniel E. Haughey, Esq. FOP Lodge 38 Attorney

Dan Umbstead, Lieutenant Representative

CITY OF OXFORD

Stephen M. McHugh, Law Director

Doug Elliott, Jr., City Manager

Bob Holzworth, Chief of Police

Amy Blankenship, Assistant Law Director

Donna Heck, Human Relations Director

Introduction

FOP Lodge 38 represents six Sergeants and two full-time Lieutenants. The City of Oxford, with about 21,000 residents, including 16,000 Miami University students, employs about 88 full time unrepresented individuals as well as members of three unions representing police patrol officers, dispatchers, and supervisors.

The parties could not agree on the economic provisions for a new three year agreement for 2011-2013. The city offered no wage increase in 2011. The union accepted the city's offer of a 2% increase in the final two years, and asked SERB fact finder Mitch B. Goldberg to recommend a 2% increase in the first year. In his September 2 report, the fact finder recommended a 2% wage increase for 2011 retroactive to July 1, 2011. The union rejected the fact finder's recommendations and proceeded to conciliation with a final proposal for a 2% increase retroactive to January 1, 2011. The city's final proposal accepted the fact finder's recommendation for a 2% increase retroactive to July 1, 2011 and no other change in benefits.

After appointment of the Conciliator to conduct a hearing and issue a final award, the parties exchanged and submitted pre-hearing position statements including final offers five days prior to the hearing.

Conciliation Hearing: October 31, 2011, Oxford City Building

The conciliation hearing was conducted from 11 a.m. until 12:15 p.m. with presentation of evidence and argument on Article III, Salary and Appendix A.

City Position:

In support of its argument that Oxford had limited ability to pay, the employer's position statement identified significant anticipated lost revenue resulting from elimination of the Ohio Estate Tax in 2013 and a 50% cut in the local government fund. The city noted that the patrol officers had accepted a new three-year contract with a 0% increase for 2011. The dispatchers union received a 2% increase retroactive to May 1, 2011 in a contract with a me-too clause for an additional increase if any other city employees receive more than 1.33% in 2011. Non-union employees also received the 2% increase effective May 1, 2011, after receiving no increase in 2010 when the Sergeants and Lieutenants received a 1.4% increase. Since 2000 the Sergeants and Lieutenants had greater increases than any other Oxford employees – 36.02%, greater than the statewide police increase of 33.07% and the 30.78% for the city's unrepresented employees.

FOP Position:

The union argued that its members' compensation fell below the market mid-point, the average wages paid to comparable employees in six other Butler County police agencies. In prior contracts the parties had used that average to determine wage increases, and doing so for 2011 would have resulted in a 2.79% increase. The FOP noted that Oxford voters had approved a fire levy that significantly improved the city's ability to pay and the city had also generated new monies from diversion and citation programs. Miami University granted its employees a 2% increase for 2011.

Discussion

Prudent budgeting with significant expenditure controls will leave the city with a very healthy projected Ending Fund Balance as a percentage of expenditures of 66%. The conciliator calculated the city's impending loss of Ohio Local Government revenues at \$370,000, 50% of the amount actually received in 2010. From 2009 through 2011 estate tax revenues averaged \$235,000, additional income that will be totally eliminated in 2013. Despite those losses, the city has determined that it can sustain a 2% increase the FOP members' base pay. The union has agreed to accept a 2% increase to base pay even though that would be slightly below the market mid-point, and did not pursue in conciliation other economic proposals rejected by the fact finder.

In its submission to the fact finder the city had proposed not only a 0% increase in 2011, but also sought an increase in the employees' health insurance contributions from ten to fifteen percent effective July 1, 2012. The city's final offer in conciliation dropped the health insurance proposal and accepted the fact finder's compensation recommendation.

The additional cost to the city of making the 2% salary increase retroactive to January 1 rather than July 1 is less than \$9,000. While the city has the ability to pay, the Conciliator, like the fact finder, is required by statute to consider both internal and external comparables. The city has legitimate equity concerns after agreeing to make a 2% increase for unrepresented employees and the dispatchers retroactive to May 1, in conjunction with a me-too clause for the non-sworn police employees. The union agreed to accept a 2% increase as sufficient to keep pace with comparable salaries in other Butler County bargaining units without offering argument and evidence at the hearing to justify retroactivity to January 1, a departure from the fact finder's recommendation accepted by the city.

Conclusion and SUMMARY OF AWARD

On the issue of wages the Proposal of the City of Oxford is awarded – a 2% increase effective July 1, 2011, a 2% wage increase effective January 1, 2012, and a 2% increase effective January 1, 2013 as provided in the following contract language.

ARTICLE III

Salary

The salary rates which shall be effective during the term of this agreement are set forth in Appendix A.

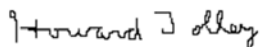
APPENDIX A

Sergeants and Lieutenants will receive a salary increase effective July 1, 2011, a 2% effective January 1, 2012, and a 2% effective January 1, 2013.

LIEUTENANT

~~Lieutenants' pay rate shall be fifteen percent (15%) above the rate paid to Sergeants as set forth above.~~

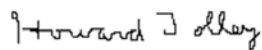
Signed and dated this 4th day of November 2011 at Cincinnati, Ohio.



Howard Tolley, SERB Conciliator

CERTIFICATE OF SERVICE

The undersigned hereby certifies that true copies of this conciliation award were submitted on November 4, 2011, as follows: one copy via electronic mail to Stephen McHugh, mchughs@altickcorwin.com and one copy via electronic mail to Daniel E. Haughey,, haugheyaw@gmail.com one copy via electronic mail to the State Employment Relations Board, MED@serb.state.oh.us.



Howard Tolley, SERB Conciliator