

2064

STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
FACT FINDING

In the Matter of:

CITY OF DEARBORN,

Petitioner (Employer),

-and-

MERC Case No: D04 B-0386

MUNICIPAL WORKERS OF DEARBORN
(Clerical Employees),

Respondent (Union).

APPEARANCES

On Behalf of the Employer:

John A. Entenman, Esq.
Dykema Gossett PLLC
400 Renaissance Center
Detroit, MI 48243-1668

On Behalf of the Union:

Joseph Valenti
Michael R. Landsiedel
Teamsters Local 214
2825 Trumbull Ave.
Detroit, MI 48216

- Petition filed: February 23, 2005
- Fact Finder appointed: June 7, 2005
- Prehearing phone conference: July 13, 2005
- Meeting: July 15, 2005
- Hearing date: August 9, 2005
- Report/Recommendation: August 16, 2005

Fact Finder:

JOHN A. LYONS

STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
FACT FINDING

In the Matter of:

CITY OF DEARBORN,

Petitioner (Employer),

-and-

MERC Case No: D04 B-0386

MUNICIPAL WORKERS OF DEARBORN
(Clerical Employees),

Respondent (Union).

FACT FINDING REPORT AND RECOMMENDATION

BACKGROUND

The parties engaged in several collective bargaining sessions and at least two mediation meetings - September 22, 2004 and November 18, 2004. They could not resolve their differences. The Employer filed a Petition for Fact Finding concerning the unresolved issues. The Petition describes the issues as medical insurance, wages and promotions. The parties were able to reach a number of tentative agreements that are incorporated by their reference into this report and recommendation. The issues have expanded considerably from the Petition.

Further, the Employer provides a statement of the reason why publicizing the facts/recommendations would assist the parties:

1. Third party input could cause change in position(s).
2. Therapy of process itself.

HEARING/EVIDENCE

The Employer presented the testimony of James J. O'Connor, Director of Finance and Treasurer as well as Kimberly Craig, Assistant Corporation Counsel. The Union presented its position through its major exhibit and its argument with regard to the issues on the record.

The following exhibits were admitted:

- J-1 List of tentative agreements to be included in the July 1, 2004 through June 30, 2008 collective bargaining agreement
- J-2 List of Union issues (12)
- J-3 List of City issues (10)
- E-4 Collective bargaining contract for nine bargaining units within the City of Dearborn
 - (a) Police Supervisors
 - (b) Police
 - (c) Fire
 - (d) Dispatch Supervisors
 - (e) Dispatchers
 - (f) Supervisory, technical and professional employees
 - (g) Operative bargaining unit (Teamsters Local 214)
 - (h) Municipal Workers of Dearborn (MWD)
 - (i) 19th District Court employees
- E-5 Salary plan for City's executive/administrative employee group
- E-6 Civil Service Rules
- E-7 Current seniority list for MWD unit
- E-8 Annual report year ending 6/30/2004
- E-9 City of Dearborn general obligation sewer bond prospectus 9/14/2004
- E-10 Executive overview of budget 2005 and proposed 2006 including "key points", general fund revenue category history from 2002, general fund expenditure category history 2002
- E-11 General fund balance utilization
- E-12 Revenue sharing fiscal year 1997-1998, 2005-2006 revenue sharing amounts
- E-13 Employee compensation package history from 1997 through budget 2006
- E-14 2006 Flex-plan enrollment guide
- E-15 2006 Flex-plan enrollment worksheet
- E-16 2006 City Flex-plan worksheet health insurance, vision and dental
- E-17 2005-2006 budget for staffing levels (personnel positions)
- E-18 Consumer Price Index 1995-2005
- E-19 Michigan Municipal League - "community cuts" data
- E-20 Union issues/Employer response
- E-21 Gross W-2 wages for calendar year 2003
- E-22 Gross W-2 wages for calendar year 2004

The Union presented extensive exhibits in a general binder entitled Union #1 with nineteen separate tabbed exhibits:

- Petition for Fact Finding
- Appointment of fact finder
- Union's opening statement
- Union's issues before fact finder
- Management Rights
- Transfers
- Promotions
- Layoffs
- Wages
- Compensation of overtime
- Holiday provisions
- Holiday provisions Library employees only
- Longevity
- Longevity pay
- Health Care
- Vacation
- Bereavement Leave
- Open City proposals
- Act 312 arbitration award (police officers)
- MWD Clerical contract

The parties agreed that the strict requirements of R.423.137(1)(D) would be waived based on time constraints. Therefore, an immediate decision regarding the recommended report is made.

The report is based upon testimony, extensive exhibits and positions made within the documents. The parties presented oral arguments at hearing with regard to the respective issues.

Thus, based on the evidence as submitted the following recommendations are made:

- I. **Tentative Agreements** (Joint Ex. 1) are recommended and should be incorporated into the new collective bargaining agreement (7/1/2004 - 6/30/2008).

II. **Union Issues** (by contract article and section)

- §6.2(H) Right to contract or subcontract-the status quo is recommended.
- §18.2 Transfers. The Union proposal, that the amount of time that a promoted employee voluntarily be returned to their former unit position be limited to two years. This concept should be adopted.
- §19.2(B)(5). The Union has requested that an observer be present during oral exams. The recommendation is status quo, that is, that the current language remain as written.
- §20.7. Layoff. The Union requests the layoff of all non-unit employees prior to affecting the layoff of bargaining unit employees. It is recommended that a modified Union position be adopted. That is, their proposal (A) and (B) can form the basis for a resolution provided unit employees are qualified and can perform the necessary work. This concept is consistent with the majority of the internal comparables, especially the 19th District Court, the operative as well as communication/dispatchers units. Union proposals (C) and (D) are not recommended.
- §21.1 Wages. The Union position is not recommended but the City package offer should be adopted: the pay grid should be adjusted effective 7/1/06 from seven to six steps and on 7/1/07 from six to five steps. An adjusted pay grid is consistent with seven of nine internal comparables submitted (police officers, fire fighters, lieutenants and sergeants, 19th District Court, operative unit, communications/dispatchers unit, and communications supervisors). It should be considered by the parties and is recommended.

- §25.1(D) Compensation for overtime. Library compensatory time. The Union suggestion that each employee, if ordered to work overtime, can elect up to twenty (20) hours per year compensatory time should be adopted.
- §26.2 Holiday provisions. Request for an additional vacation day is not recommended. However, the City should provide a separate accounting for holiday pay.
- §26.5 Library closings. (Joint #3, Item 2). The City proposal should be adopted.
- §27.1 Longevity pay. The schedule at five through nine years should remain at \$1,000.00. All other steps that appear in the Union proposal are recommended. That is, a \$200.00 increase in each of the steps from 10 through 30 years and over.
- §31.7 Health care benefits. (New). The Union proposes that if the City chooses to self insure, notice to the Union will be given. A meet and confer requirement should also be adopted. The Union proposal is recommended.
- §35.4 Vacation (New). The Union requests that seven consecutive vacation days be guaranteed between Memorial Day and Labor Day. It is not recommended that this change be adopted, but rather, that the status quo remain.
- §38.1 Leaves with pay, bereavement leave, subsection B. The Union proposal to define "immediate family" as set forth in Civil Service Rule 16.5(A) is recommended so the definition should be consistent with the Civil Service Rules.

III. City Issues

1. § 21.1 Wages. The City proposal as a complete wage package as set forth in Employer Ex. 20 should be adopted and is recommended. There are some suggested modifications. The parties should modify the pay grid from seven to six steps on July 1, 2006 and from six to five steps on July 1, 2007. An adjusted pay grid is also consistent with seven of nine internal comparables submitted (police officers, fire fighters, lieutenants and sergeants, 19th District Court, operative unit, communications/dispatchers unit, and communications supervisors). It should be considered by the parties and is recommended.

2. § 26.5. Library closure. The City proposal is recommended as set forth in Joint Ex. 2, Item 2.

3. § 31.1. Health Care Benefits. The Union suggested changes in Section 31.7 regarding the Employer's right to self insure subject to notice, and an opportunity to meet and confer should be adopted.

4. § 31.2. Drug Rider Co-payment. The City's proposal effective July 1, 2006, \$15.00 for generic and \$30.00 for brand is recommended and should be adopted.

5. § 31.3. Dental Plan as set forth in Joint Ex. 3, Item 3 reflects the current benefit received by unit employees and should be adopted, and is recommended.

6. § 31.4. Retiree Health Benefits. The City proposal as contained in Joint Ex. 3 should be adopted. It is recommended.

7. § 31.5. Non-participation in health care coverage (opt out). The proposal as contained in Joint Ex. 3 is recommended and should be adopted.

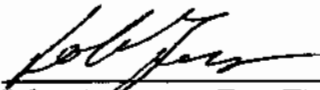
8. § 31.6 should be modified to include the suggested language proposed by the City.

9. Attachment B: Paid Time Off program (PTO). The program is recommended and should be adopted. However, the Employer should inform employees regarding possible lost days. This proposal is tied into the wage package as set forth in Employer Ex. 20

10. Attachment C: Flexible Benefit Plan. The plan as set forth is recommended and should be adopted. The acceptance of this plan is tied into the wage proposal in Employer Ex. 20.

As the parties know, these recommendations are not binding nor mandatory. It is hoped, however, that their direction will assist the parties in resolving these final issues of their dispute.

Respectfully submitted,



John A. Lyons, Fact Finder

Dated: August 16, 2005