

FEDERAL MEDIATION AND CONCILIATION SERVICE

IN THE MATTER OF INTEREST ARBITRATION

BETWEEN

FRATERNAL BROTHERHOOD OF POLICE, §
Local 2171, §

Union §

and §

FMCS No. 14-51584-1

CITY OF TULSA, §

Employer §

HEARING CALLED TO ORDER AT:

DATE: April 23-24, 2014

ADDRESS: City Hall
City of Tulsa

HEARING CALLED TO ORDER AT:

TIME: 9:00 a.m.

DATE: October 8, 2001

ADDRESS: City Hall
Oklahoma City, OK

APPEARANCES:

For the Union:

JAMES R. MOORE
James R. Moore & Associates, P.C.
Attorneys At Law
301 N.W. 63rd Street, Suite 550
Oklahoma City, OK 73116

For the City:

TONY G. PUCKETT
McAfee & Taft, P.C.
10th Floor, Two Leadership Square
211 North Robinson
Oklahoma City, OK 73

ARBITRATORS

The Neutral Member of the Arbitration Board

DON E. WILLIAMS,
1204 Creekwood Lane
Longview, TX 75602

The Board Member of the City of the Oklahoma, OK

MICHAEL BATES
17011 E. 47th Street
Tulsa, OK 74134

The Board Member of the Union FOB, Local 93

RON BARTMIER
Fraternal Order of Police
Oklahoma State Lodge
7201 S. Ash Place
Broken Arrow, OK 74011

FACTUAL BACKGROUND

PRELIMINARY STATEMENT

The Union and the City were in negotiation for the 2013-2014, Agreement Terms, which reached in an impasse of the COLLECTIVE BARGAINING AGREEMENT BETWEEN CITY OF TULSA, OKLAHOMA AND LODGE #93 FRATERNAL ORDER OF POLICE, for the year of 2013-2014, referred to as the "CBA, under the terms of the Oklahoma Fire and Police Arbitration Act, Section 51-108.

FACTUAL EVIDENCE

The cities of Oklahoma are governed by the Oklahoma Fire and Police Arbitration Act, called the "FPAA." The parties originally drafted the provisions, which contained the issues to change and not change. The decision was drafted so as to included new provisions proposed, which included the deleted provisions and included the unchanged provisions. This decision considered the City's deleted, or omitted provision to delete the entire ARTICLE 21 - WAGES. The major issue is created as a result of the decline in sales tax collected by the City, which is the primary source of funds for the revenue to pay wages to police employees. The Mayor said there is a hiring freeze foreseen for next year. The parties may only have a one year contract, which runs from 2013 to 2014 to be debt free. For the fiscal year 2013-2014, the Union proposed a 3% increase as satisfactory performance increase, called "SPI," and the City proposed no increase because as the City stated there was a gap of expenditures or dedicated funds in access of revenue. The SPI represents intermediate steps between the entry level pay and the maximum salary for that position.

The FPAA provided for the City and Union to select an arbitration board, which was Don E. Williams, the neutral, Michael Bates, for the City, and Ron Bartmier, for the Union. The parties called witnesses, who under oath testified to the facts of this dispute. The City of Tulsa produced Jim Twombly, referred as "Twombly, the City Manager, Erica Felix-Warwick, referred as "Warwick," the Personnel Director, and

Patrick Connelly, a Retired Budget Director, referred to as "Connelly. The Union called Jeff Downs, Chair of the Bargaining Committee for the Union, called "Downs," Clay Ballenger, President of the Lodge, referred to as "Ballenger," Jerad Lindsey, a Board Member, referred to as "Lindsey," and Jacob Johnston, a Board Member, referred to as "Johnston." The parties met from March to October 2013, with the City bargaining committee. The parties called their witnesses with the Rule of Sequestration involved and enforced. Both parties exchanged their last best offers and both refused to accept the other.

The City called the financial director to explain the "funding gap" between the revenue received and the funds needed to pay all the cash needs, caused a projected amount to a \$7 million gap. The City took measures to reduce the gap by reducing street, a hiring freeze, and reduces fuel costs by the police. In terms of the gross figures the City budget proposal cost for police is about \$579,000 and the Union is \$507,000, with the Union about \$70,000.00 cheaper. The Union's proposal is to fulfill the promise to the officers working their way through the steps, depending on the performance of the officer. The City's proposal is to maintain a budget in face of the economic downturn.

The City has reserved funds, which are contingent for specific use, such as \$2 Million for Reserve for Tulsa Transportation Authority, called "MTTA." There were other reserves for health coverage for retirees, Reserve for Operation, which are for the funds to balance the budget. However, there is no need to project drawing those down because the proposal by the Union is equal to the proposal by the City. The statute provides for other factors as comparable cities wages

DISCUSSION

FACTORS CONSIDERED

This process is an interest arbitration affected by constitutional and statutory mandates included with the factors found in § 51-109. There is no definitive authority that one factor be required or given weight over another. The only factor considered in this dispute was the Wages factor.

ISSUES STATED

The Parties' proposals that their last best offer was for the CBA in the ARTICLE 21 - WAGES. The City proposed a one lump sum payment while the Union proposed the gradual increased payments for the step

payments commencing January 1, 2014, based on the evaluation on performance.

STATUTORY CONSIDERATIONS

Pursuant to the provisions of OKLA. STAT. tit. 11, § 51-101 *et seq.*, the parties negotiated the terms of the CBA for the years 2013-2014. OKLA. STAT. tit. 11, § 51-108 contains the procedure for the parties to follow in settling this dispute. It also states that “the criteria to be used by the board in determining which offer to select shall be limited to paragraphs 1 through 5 of Section 51-109 of this title.” OKLA. STAT. tit. 11, § 51-109 provides the factors to be given weight by the arbitrators in this case but the the parties only left unresolved to considered only one factor, which is the factor found in the CBA, ARTICLE 21 - WAGES.

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The most intriguing issue is raised by the Municipal Budget Act, which states you can not spend ninety-percent (90 %) of appropriations until you receive ninety-percent (90%) of the revenues. These reserves are needed in case of disaster until Federal funds, i.e. FEMA, come into replace those funds.

SELECTION

As simply stated the two (2) proposals are identical in cost to the City leaving little to dispute. The wage factor as stated refers to the interest and welfare of the public and the revenue available for the municipality to pay. In the past, the City as allowed by GASB definitions, gave the committed funds a stronger statement for emergency operating funds as stated by the Finance Officers Association recommendations. But, these are recommendations, and as based on the discussion and reasoning above, the Union’s selected budget maintained what is referred to as the “Steps Proposal.” and does not “cost” more than does the City’s proposal. The effective date is January 1, 2014, which may end up with the City having more or less funds available

than anticipated at this time. There are several issues, such as pension plans, which are effected by the base salary of police officers but the cost to the City is the same. However, the most reasonable of the selections is to commence the SPI on January 1, 2014, as stated by Robert Newbrough, referred to as "Newbrough" a college professor in accounting and business, and having testified numerous occasions, testified both offers are essentially equal in cost, and the FOP proposal is selected. The most persuasive argument by the City is that the impact of the selection of SPI is increased as it is moved forward without paying the current expenses, which will amount to an increase in the cost of payments. However, this a situation that is not presented here but for a future decision in the 2014-2015 budget..

DATED the latest date signed at 1:20 p.m. on 19th day of May 2014.

/s/ /Don E. Williams
Neural Arbitrator

MICHAEL S. BATES
City's Interest Arbitrator

RON BARTMIER
Union's Interest Arbitrator