



Meeting Date: December 15, 2016

Agenda Item: 13-B

Report to Town Council

Topic: Hearing on merit pay grievance filed by Firefighter Lieutenant Derek George.

Recommended Motion: None required.

Summary: Please see attached memorandum.

Requested by: Firefighter Lieutenant Derek George

Approved by: Ms. Witt, Town Manager



Town of Ponce Inlet

4300 South Atlantic Avenue
Ponce Inlet, Florida 32127
Phone: (386) 236-2150
Fax: (386) 322-6717
www.ponce-inlet.org

November 21, 2016

Lt. Derek George

Re: Merit Pay Increase Grievance

Dear Lt. George:

I appreciate the opportunity to have met with you regarding your grievance about not receiving a merit pay increase in Fiscal Year 16/17. I have considered the two primary claims that you have made as follows:

Claim #1 - Merit pay increase of 3% is the status quo if Evergreen pay plan study is not implemented.

I find this claim to be without merit, as the status quo is established in the Memorandum of Agreement executed by both Local 4140 and the Town in August 2013 (attached). We have had several previous years that no merit increase was provided, as is the case for FY 16/17. We have also had other pay enhancements that have been subject to collective bargaining as they were related to wages, hours, and/or terms and conditions of employment of the public employees within the bargaining unit. One which was negotiated within this same attached memorandum.

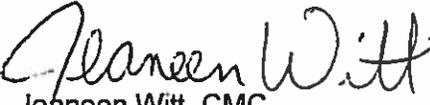
Claim #2 - The Evergreen pay plan study implementation was adopted by the Town Council for all employees and was not meant to be subject to negotiation for Union members.

I find this claim to be without merit as collective bargaining is a legal requirement for all changes related to wages, hours, and/or terms and conditions of employment of the public employees within the bargaining unit. You reference a motion made by Councilmember Paritsky on June 23, 2016 in support of your claim and you state that there was no mention at that meeting of any negotiation process being required. Though the negotiation process is a standing legal requirement that need not be mentioned specifically, the record shows that I did in fact remind the Town Council of this at that same meeting both as it relates to the pay study and the addition of vision coverage.

The Town of Ponce Inlet staff shall be professional, caring, and fair in delivering community excellence while ensuring Ponce Inlet citizens the greatest value for their dollar.

As you are aware, on August 3rd, 2016, the Town initiated collective bargaining with Local 4140 and the Town offered the implementation of the pay plan study conditioned upon Local 4140's acceptance of the policy changes that the fire chief has determined are in the best interest of the department – specifically the policies related to time trades and personal leave and overtime selection. To date, Local 4140 has declined to accept these policy changes and therefore implementation of the pay plan continues to be delayed. Please feel free to contact your union representatives on the status of negotiations. The Town looks forward to resolving this issue to our mutual benefit.

Sincerely,


Jeaneen Witt, CMC
Town Manager

C: Kim Cherbano, Human Resources Director
Jeff Mandel, Town's Labor Attorney
Dan Scales, Fire Chief
John Brooks, Driver/Engineer, IAFF Local 4140 President

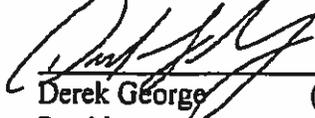
MEMORANDUM OF AGREEMENT

This Memorandum of Agreement is entered into between the Town of Ponce Inlet ("Town") and Ponce Inlet Professional Fire Fighters IAFF Local 4140 ("Local 4140"), and the parties agree as follows:

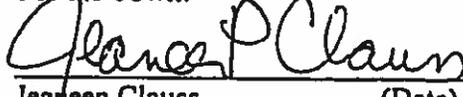
1. The Town shall provide Local 4140 bargaining unit employees with a one-time lump sum bonus (not added to base) of \$1,000 minus applicable deductions, to be paid by September 30, 2013. Additionally, for Fiscal Year 2013-14, Local 4140 bargaining unit employees shall be provided merit pay increases as adopted by the Town Council.
2. Local 4140 agrees that for Fiscal Year 2012-13 and 2013-14, Local 4140 shall not seek to negotiate changes to existing practices in any areas covered by Section 6 of the Town's current Employee Rules and Regulations. This, however, shall not prevent Local 4140 from requesting to bargain over changes proposed by the Town, if any.

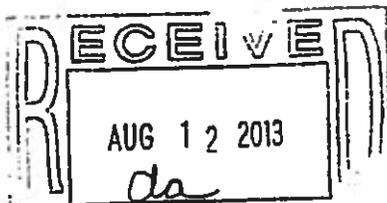
Executed by the Town and Local 4140:

For Local 4140:

 08/12/13
Derek George (Date)
President

For the Town:


Jeanen Clauss (Date)
Town Manager



Cherbano, Kim

From: Scales, Dan
Sent: Tuesday, November 08, 2016 8:06 AM
To: George, Derek
Cc: Jeff Mandel (jmandel@laborlawyers.com); Cherbano, Kim; jbfireball@gmail.com
Subject: RE: Merit Raise

Derek,

In light of Local 4140's authorization, I am formally accepting your grievance under the Town's grievance process.

The essence of your grievance is that you were improperly denied a Fiscal Year 2016-17 merit pay increase on October 1, 2016. I disagree. In August of 2013 the Town and Local 4140 entered into a Memorandum of Agreement that states in pertinent part: "Local 4140 bargaining unit employees shall be provided merit pay increases as adopted by the Town Council." Since that time, Local 4140 bargaining unit employees, such as you, have been provided whatever merit increases were adopted by the Town for the applicable fiscal year. For Fiscal Year 2016-17, the Town Council did not adopt any merit increases. As such, you are not entitled to any merit pay increase for Fiscal Year 2016-17.

For the reason stated above, your grievance is denied.

Daniel Scales
Fire Chief
Ponce Inlet Fire Rescue
4680 South Peninsula Drive
Ponce Inlet, FL 32127
Office (386) 322-6723
Cell (386) 547-9158

"The Town of Ponce Inlet staff shall be professional, caring, and fair in delivering community excellence while ensuring Ponce Inlet citizens obtain the greatest value for their tax dollar."

PLEASE NOTE: Please do not send any personal e-mail to this address. Florida has very broad public records laws. Most written communication to or from Town of Ponce Inlet officials and employees regarding public business are public records available to the public and media upon request. Your e-mail communications may be subject to public disclosure. Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

From: George, Derek
Sent: Wednesday, November 2, 2016 9:01 AM
To: Scales, Dan <dscales@ponce-inlet.org>
Subject: RE: Merit Raise

Chief,

Please accept this email as formal notification that I am filing a pay grievance as a result of your email (posted below). Please let me know what you would like from me before going to the next step?

Respectfully,

Derek

From: Scales, Dan
Sent: Monday, October 31, 2016 9:28 AM
To: George, Derek
Cc: Cherbano, Kim; Jeff Mandel (jmandel@laborlawyers.com)
Subject: RE: Merit Raise

Good morning Derek,

I confirmed that only Council approved merit increases would be implemented for bargaining unit members as part of the status quo.

Since no merit increases were approved by Council for the current fiscal year, you will not be receiving a merit increase this year.

Thanks.

From: George, Derek
Sent: Sunday, October 30, 2016 9:18 PM
To: Scales, Dan
Subject: Merit Raise

Chief,

I just wanted to check in to see if you can provide any additional information regarding my annual raise. As you know, my anniversary date for my merit raise was October 01, 2016. I did not receive any merit pay or the pay that was approved by the council for this fiscal year in my last pay check. During our meeting you indicated that you would be looking into this matter and should be able to provide me with further information. I am just checking in to see if there are any updates?

Thanks

Derek