

# SERB

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December 3, 2015

Todd Burwinkel  
1000 Market Street  
Reading, OH 45215  
tburwinkel@readingohio.org

Patrick Ross  
1000 Market Street  
Reading, OH 45215  
pross@readingohio.org

RE: Case No(s). 2015-MED-01-0003  
Reading Career Firefighters, IAFF, Local 3717 and City of Reading

Dear Messrs. Burwinkel and Ross:

The fact-finding report in the referenced case was issued on October 29, 2015.

On November 2 the Reading Career Firefighters, IAFF, Local 3717 delivered to the SERB certification of the results of its vote on the fact-finding report. The Reading Career Firefighters, IAFF, Local 3717 voted to accept the report.

The fact-finding report is deemed accepted by City of Reading in that it has not voted upon the report or has failed to communicate the vote to the SERB in accordance with Ohio Administrative Code Rule 4117-9-05(M). Accordingly, we view the negotiations as settled and will begin closing the case file.

I provide this notice as an administrative function of the Bureau of Mediation. The notice does not represent a Board determination. That decision may be sought through the unfair labor practice proceedings of Section 4117.11 of the Ohio Revised Code or the motion procedures outlined in Ohio Administrative Code Rule 4117-1-04.

Please notify [Tjohnson@serb.state.oh.us](mailto:Tjohnson@serb.state.oh.us) in the Research and Training Section when you have completed negotiations. The Research and Training section will send you Clearinghouse reports to help you fill out the **required** Contract Data Summary sheet that is to be filed with the signed collective bargaining agreement in accordance with OAC 4117-9-07.

Sincerely,

Donald M. Collins  
General Counsel  
DMC:mel  
cc:Jared D. Simmer

12-03-15

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\*Received after business hours on 11/24/15, processed next business day\*

## FACT-FINDING REPORT

READING CAREER FIREFIGHTERS  
ASSOCIATION (RCFA Local 3717)

(UNION)

- and -

CITY OF READING

(EMPLOYER)

SERB Case No: 2015-MED-01-0003

**October 29, 2015**

Proceedings before Jared D. Simmer in the role of Fact-Finder in the above-captioned case. Pursuant to the provisions of Section 4117-9-05 of the Ohio Revised Code, the Fact-Finder was officially appointed to hear this case by the State Employee Relations Board of Ohio (SERB).

### **I. APPEARANCES**

#### Union

Todd Burwinkel, Union President, Local 3717

Ryan Androne, Vice President, Local 3717

Eric Fischesser, Vice President, Local 3717

#### City of Reading

Patrick Ross, Safety Service Director

### **II. BACKGROUND**

This proceeding involves collective bargaining negotiations between the Reading Career Firefighter's Association (hereinafter "Union" or "RCFA"), and City of Reading, Ohio (hereinafter "City").

The City of Reading, Ohio, located north of Cincinnati, has a population of approximately 10,000 residents. Its firefighter local, members of IAFF Local 3717, is comprised of twelve full-time firefighters/paramedics - nine firefighters and three lieutenants.

The parties are in the midst of a three year contract running from April 1, 2014 through March 3, 2016. In the first year of the contract the firefighters received a \$500 year-end bonus in lieu of a wage increase, with the parties agreeing to wage reopeners in April 2015 and 2016. This fact-finding hearing involved the parties' inability to agree on wages under the 2015 reopener.

At the hearing, the parties reported that they had met for three negotiating sessions but were unable to reach agreement, and on August 26, 2015 called in a federal mediator to assist. However, the parties remained unable to resolve their impasse, and this fact-finding hearing was requested.

The one day hearing was held on September 24, 2015 in the administrative offices of the City of Reading. Both parties filed pre-hearing briefs, and introduced additional supporting background information at the hearing. It should be noted that all these submissions were reviewed and given due consideration by the Fact-finder in the writing of this Report.

At the conclusion of the hearing, the Fact-finder suggested, and the parties agreed, to allow the Fact-finder to help the parties mediate the impasse. It was agreed that should a potential settlement be reached in mediation, the Fact-finder would withhold issuing his Report until it could be seen if the parties' respective constituencies would ratify the tentative agreement.

In mediation, the parties agreed on a wage adjustment for 2015, as well as a proposed agreement on wages for 2016 which would eliminate the need for that reopener. To wit, for 2015, the mediated T.A. would have provided the union with a 3% general wage increase,

retroactive to April 1, 2015, and in 2016 the same wage adjustment agreed to by the Reading FOP, retroactive to April 1, 2016.

While the Union membership tentatively concurred with the proposed settlement, City Council did not and instead proposed a counter offer which the Union membership subsequently rejected. This lack of a settlement led to the need to issue the present Report.

That said, consistent with this Fact-finder's statutory obligations, the following Report and Recommendation is based on my consideration of the overall record made by the parties.

### **PARTY'S POSITIONS**

#### **Article 17 – Wages**

##### **Union's Proposal:**

The Union proposed a wage increases of 5.5% for the 2015 contract reopener. In support, it points out the fact that unlike other City employees it has agreed to five consecutive years of wage freezes, delayed the last raise it negotiated at the City's request, is underpaid relative to comparable public safety departments, and works more hours on an annual basis than other City employees.

And, it concludes with a request that said increase be granted retroactively.

##### **City's Proposal:**

In its prehearing statement, the City proposed a wage freeze in 2015 based on, among other things, an inability to pay given the uncertain condition of its budget in large part due to the loss of a major employer, a rise in the amount of unpaid bills, cuts in local government funds, a shrinking workforce due to attrition, a declining fund balance, Earnings Tax revenues coming in behind budget, and insufficient reserves.

### **DISCUSSION**

Fact-finders in Ohio are charged with convening a hearing, considering the evidence submitted by the parties, and making impartial recommendations to settle the terms and conditions that remain at impasse under a public sector collective bargaining agreement. When said impasse involves wages, the fact-finder must take into consideration the employer's ability to pay, which involves both the employer's current finances, as well as its capacity to afford the recommendations in future years. Because the fiscal health of a city is affected by a number of different factors, including the condition of the national and state economies, macroeconomic factors are part of the ability to pay equation.

On the national level, the recovery in the U.S. economy remains fragile. While the stock market hovers near all-time highs, unemployment is less than 6% and falling, there is mild consumer price-inflation, and so it would appear that we are on track to a slow, but eventual recovery from the Great Recession. However, many challenges abound, including historically low labor market participation rates, a rising trade imbalance, and the impending end to quantitative easing with a corresponding rise in interest rates, among others, that leads many economists to conclude that the current recovery in the economy is remains uncertain. This tenuous state of affairs is by and large indicative of Ohio's budget as well; recovering, but uncertain going forward. These macro economic conditions, of course, are of great interest to cities as they try to anticipate future economic conditions when setting their budgets.

At the local level, Reading posits that it cannot afford to give this Union a wage increase in 2015. In the past two years it has spent considerably more than it has brought in in revenue, ended each of the prior three fiscal years with a large amount of unpaid bills, seen its property tax evaluation decrease, had one of its ten largest employers depart, and avoided layoffs only because, fortuitously, a

number of its employees have resigned or retired. And, it asserts that it expects this fiscal uncertainty to continue into 2016.

This Fact-finder takes notice of Council's attempts to be a prudent steward of the City's finances which, of course, is its statutory obligation. To do otherwise, such as granting overly generous wage increases that it is not able to afford, would be a violation of that responsibility and lead to the possibility of higher taxes, layoffs, and/or a reduction in essential services.

For these reasons, while considerable weight must be given an employer's determination of what its budget can afford, at the same time, another, equally important reference point are the wage increases it has given its other employees during the same time period. In this case, the Fact-finder notes that while the City takes the position that it cannot afford to grant a wage increase in 2015, its police local received a 2% raise.

Further, over the prior four years the firefighters' wages have also substantially lagged behind those of the police local both as to the magnitude of the cumulative wage increases received, as well as in the number of years increases were received:

	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>Over 4 years</b>	<b>Average</b>
Police★	9	0	0	0	9	2.25
Fire-fighters★★	0	0	0	0	TBD	TBD, but 0% to date

★ In 2015 Reading police received a 2% wage increase, for a total increase of 11% over five years (2011-2015), or an average annual increase of 2.2%; on the other hand, the firefighters have received no increase during this time.

★★ While the Firefighters received a negotiated wage increase in April 2010, implementation was delayed until June at the request of the City.

And, the police were not alone in receiving raises: the firefighters reported that the Public Works local (AFSCME) received 4.5% raises over the life of their most recent contract as well.

In addition to the disparity vis a vis other Reading unions, the following chart, referencing data posted on the SERB website, shows that the frequency and magnitude of the raises Reading firefighters have received does not compare favorably relative to other Ohio public sector employees over the past four years:

<b>Ohio Public Sector Average Contract Wage Settlements</b>						
<b>Contract Group</b>	<b>% increase 2011</b>	<b>% increase 2012</b>	<b>% increase 2013</b>	<b>% increase 2014</b>	<b>Total % increase over 4 years</b>	<b>Avg. yearly % increase</b>
Ohio statewide	.73	1.0	1.47	1.77	4.97	1.24
Cincinnati	.49	1.14	1.12	1.68	4.43	1.11
Cities	.93	1.18	1.61	1.92	5.64	1.41
Second year of contract	.83	1.07	1.48	1.78	5.16	1.29
Reading firefighters	0	0	0	0	0	0

Further, exhibits introduced by the Union at the hearing supported its contention this local also doesn't fare well relative to lieutenants/captains fared even worse - their average hourly rate of pay also ranked last, and their average annual salary next to last.

<b>2014 External Comparables</b>				
<b>Department</b>	<b>Firefighter/Paramedic</b>		<b>Lieutenant/Captain</b>	
	Hourly rate	Annual salary	Hourly rate	Annual salary
Anderson Twp.	25.25	73,172.42	27.78	80,489.68
Blue Ash	27.46	75,679.76	30.94	85,270.64
Colerain Twp.	26.35	72,615.92	28.38	78,206.89
Delhi Twp.	23.83	65,680.00	28.34	78,095.00
Evendale	27.03	74,494.00	32.92	90,727.00
Green Twp.	25.33	68,484.00	27.60	74,648.00
Montgomery	25.96	70,195.84	30.09	81,363.36
Reading	23.22	63,990.51	26.01	71,683.56

Sharonville	27.80	78,785.20	30.17	85,502.04
St. Bernard	25.48	66,254.34	28.06	74,348.35
Springfield Twp.	24.69	61,626.24	26.56	73,199.36
Sycamore Twp.	23.64	59,005.44	27.40	68,390.40

### **FACT-FINDER'S FINDINGS AND RECOMMENDATIONS**

While this Fact-finder doesn't overlook the City's stated concerns over the current and anticipated budgetary conditions it says limits its ability to afford a wage increase in 2015, its recent granting of increases to its police and AFSMCE locals would seem inconsistent with this conclusion. And, there is no economic evidence on the record that would support the notion that sole among the City's union employees the firefighters alone deserve to bear the brunt of a continued wage freeze.

In fact-finding, it is difficult to accept a plea of poverty where an employer can apparently secure the financial wherewithal to grant pay increases to only certain employees, but deny them to others in the same calendar year. When this happens, an inability to pay argument loses much of its potency.

Given that this is the situation in this case, it is therefore unnecessary to go into detail to address the various budgetary impediments the City raised to justify continuing to freeze the firefighters pay.

In addition to the internal equity disparities just referenced, the record also supports the conclusion that this local fares poorly on externals equity measurements as well, both as to public sector employees in general, and comparable public safety departments in particular.

In addition, this Fact-finder can find no valid justification to support the conclusion that the Reading firefighter's local should receive experience another wage freeze in 2015, all the more so since with the 2016 reopener a four short months away, should the City's financial circumstances deteriorate in the short term, the issue of affordability of wage increases for this and other employee groups will be revisited soon enough.

So, in conclusion, the Fact-finder takes note of the fact that because this local has experienced a wage freeze for four consecutive years, has received less wage increases than the City's police and AFSCME locals during this period of time, and fares relatively poorly relative to comparable public safety departments, that it is deserving of a wage adjustment for 2015.

That said, **it is recommended that a 2.75% general wage increase, retroactive back to the April 1, 2015 date of the reopener, is appropriate under the circumstances.** It is noted that this increase constitutes a middle of the road recommendation: it is more than the City's position in prehearing (0%) as well as its position at the hearing (2%), but less than both the increase the parties tentatively agreed to during mediation (3%), and the 5.5% the Union requested during fact-finding. And, while it is somewhat more than recent one year statewide average increases, not only do they not reflect wage freezes in prior years, but even with this recommended increase, the Reading this unit will still trail the average annual salaries of almost all of the comparable departments it referenced as comparables.

#### **Post Script**

While wage reopeners certainly have a time and place, and allow parties to respond quickly to changing economic conditions, they can be overused, as well. Frequent reopeners cause the parties to face never-ending negotiations, can unnecessarily complicate the relationship, remove the ability to trade concessions in subsequent

contract negotiations, make future budget predications less certain, and impact contract negotiations with other represented employee groups.

So, although this Fact-finder clearly lacks the authority to deal with contract issues outside of the parties' 2015 contract reopener, he strongly recommends that the parties strive to work out a mutually acceptable accommodation now that would render entering into negotiations for the 2016 reopener unnecessary. It is suggested that perhaps some of the proposals floated during mediation could provide a starting point for these discussions.

### **CONCLUSION**

While this Fact-Finder realizes that neither party may be fully satisfied with this recommendation, he believes that this Report is consistent with his statutory obligations, flows logically from the evidence of record, is affordable to the City in the short run, and provides a workable and mutually equitable solution to the current contract impasse.

Issued: October 29, 2015

Respectfully submitted,  
*Jared D. Simmer, Esq.*  
Fact-Finder

**CERTIFICATE OF SERVICE**

I, Jared D. Simmer, Esq., hereby certify that the above Fact-Finding Report was served upon the following parties, to wit, the Reading Career Firefighters Association (RCFA Local 3717) via its representative, Todd M. Burwinkel, and the City of Reading, Ohio via its representative, Patrick Ross, by both electronic and first class mail this 29<sup>th</sup> day of October 2015, and similarly upon the Ohio SERB via electronic mail this same day.

*Jared D. Simmer, Esq.*

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Jared D. Simmer, Esq.