

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

2004 JUL -1 A 10: 34

In Regard to the Matter of the Fact-Finding Between:

THE CITY OF DEFIANCE)
)
 -AND-) SERB CASE NO:
) 03-MED-10-1241
)
 INTERNATIONAL ASSOCIATION)
 OF FIREFIGHTERS, LOCAL 918)

APPEARANCES:

For The City:

Tom Grabarczyk Consultant, Labor Relations Manager
Jeff Leonard Administrator
Rebecca Snow Finance Director
Bill Wilkins Fire Chief

For The Union:

Lieutenant Todd Ham Vice President, Local 918
Roy Hollenbacher District Representative
James Schaefer Firefighter, Local 918 Negotiating Team
Steve Johnson Firefighter, Local 918 Negotiating Team

BEFORE ALAN MILES RUBEN, FACT-FINDER

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BACKGROUND:

The Employer, The City of Defiance, exercises statutory and charter authority and responsibility, inter alia, for the provision of fire prevention and suppression and emergency medical transport services for its some 16,768 residents.

The City's twenty-one member Fire Department consisting of fifteen Firefighters (of whom six are Paramedics), three Lieutenants and three Captains, form a Bargaining Unit exclusively represented by Local 918, International Association of Firefighters.

The City and the Association are parties to a Collective Bargaining Unit Agreement entered into as of January 1, 2003 for an initial term expiring on December 31, 2005.

The 2003 Agreement did not provide for increases in wages, but allowed the Association to reopen negotiations over the terms of Article 20, Section 1 (Wages) as well as those of Article 7, Section 2 (Overtime) in both 2004 and 2005. The Association timely invoked the re-opener provision on October 6, 2003.

The parties failed to reach agreement after several bargaining sessions, and declared impasse. In accordance with the statutory procedure the undersigned was appointed Fact-Finder by the State Employment Relations Board on December 11, 2003.

At the direction of the parties, an evidentiary hearing was scheduled for June 1, 2004 at the Defiance Municipal Building.

Timely in advance of the evidentiary hearing, the parties provided the Fact-Finder with the statements required by Ohio Administrative Code Section 4117-9-05(F) and Ohio Revised Code Section 4117.14(C)(3)(a).

At the outset of the hearing the Fact-Finder attempted mediation but was unsuccessful in resolving the issue in dispute.

The Association declined the opportunity to present a proposal to amend Article 7 (Overtime), and limited its demand to a 3.5% "across-the-board" increase in the Wage Schedule set forth in Article 20 (Wages).

The City responded by rejecting any increase in Firefighter or Promoted Officer compensation.

In making his recommendation upon this unresolved issue the Fact-Finder has been guided by the factors set forth in O.R.C. Section 4117.14(C)(4)(e) and Ohio Administrative Code 4117-9-05(K) namely:

"(a). past collectively bargained agreements, if any, between the parties;

"(b). comparison of the issues submitted to final offer settlement relative to the employees in the bargaining unit involved with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;

"(c). the interest and welfare of the public, the ability of the public employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standard of public service;

"(d). the lawful authority of the public employer;

"(e). the stipulation of the parties;

"(f). such other facts, not confined to those listed in this section, which are normally or traditionally taken into consideration in the determination of the issues submitted to final offer settlement through voluntary collective bargaining, mediation, fact-finding, or other impasse resolution proceedings in the public service or private employment."

CONTRACT PROVISION AT ISSUE:

I. Article 20 - Wages

The 2003 Contract:

Article 20, Section 1 of the present Agreement sets forth the following Salary Schedule for Firefighters in all ranks. Firefighters who achieve and maintain active paramedic status receive a 7% supplement, while Lieutenants and Captains are entitled to a 5% premium:

**ARTICLE 20
WAGES**

Section 1: Employees shall be compensated during the term of this agreement in accordance with the wage schedules set out below. In the case of a disagreement involving hourly and biweekly rates of pay, the hourly rate will supersede the biweekly rate.

CLASSIFICATION	EFFECTIVE January 1, 2003	EFFECTIVE January 1, 2004	EFFECTIVE January 1, 2005
Firefighter Entry 0 - 1 Year	\$10.5342 per hour \$1,180 bi-wkly	\$10.5342 per hour \$1,180 bi-wkly	\$10.5342 per hour \$1,180 bi-wkly
Firefighter 1 - 2 Years	\$11.2350 per hour \$1,258 bi-wkly	\$11.2350 per hour \$1,258 bi-wkly	\$11.2350 per hour \$1,258 bi-wkly
Firefighter 2 - 3 Years	\$11.9244 per hour \$1,336 bi-wkly	\$11.9244 per hour \$1,336 bi-wkly	\$11.9244 per hour \$1,336 bi-wkly
Firefighter 3 - 4 Years	\$12.6139 per hour \$1,413 bi-wkly	\$12.6139 per hour \$1,413 bi-wkly	\$12.6139 per hour \$1,413 bi-wkly
Firefighter 4+ Years	\$13.3147 per hour \$1,491 bi-wkly	\$13.3147 per hour \$1,491 bi-wkly	\$13.3147 per hour \$1,491 bi-wkly
Lieutenant I	\$14.0381 per hour \$1,572 bi-wkly	\$14.0381 per hour \$1,572 bi-wkly	\$14.0381 per hour \$1,572 bi-wkly
Lieutenant II	\$14.5467 per hour \$1,629 bi-wkly	\$14.5467 per hour \$1,629 bi-wkly	\$14.5467 per hour \$1,629 bi-wkly
Captain I	\$15.2814 per hour \$1,712 bi-wkly	\$15.2814 per hour \$1,712 bi-wkly	\$15.2814 per hour \$1,712 bi-wkly
Captain II	\$15.7787 per hour \$1,767 bi-wkly	\$15.7787 per hour \$1,767 bi-wkly	\$15.7787 per hour \$1,767 bi-wkly

c:/excel/IAFF99Cont/wagescale

ARTICLE 20

Section 2: Firefighters

New employees shall be compensated at the Entry Rate of the wage schedule and advance annually based on the effective date of their employment as a full-time Firefighter.

Section 3: Lieutenants

Employees who are promoted to Lieutenant shall be compensated at the Lieutenant I rate of the wage schedule, and advance to the Lieutenant II rate after six (6) months based on the effective date of the promotion.

Section 4: Captains

Employees who are promoted to Captain shall be compensated at the Captain I rate of the wage schedule and advance to the Captain II rate after six (6) months based on the effective date of the promotion.

Section 5: Paramedics

The City agrees to pay seven percent (7%) above the regular base pay to members who are in active paramedic status and who fall under the classifications Firefighter Entry 0-1 Year to Firefighter 4+ Years. The City agrees to pay five percent (5%) above the regular base pay to members who are in active paramedic status and who fall under the classifications Lieutenant I through Captain II. The percent increase for active paramedic status will be included in determining the base rate for overtime purposes.

The Association's Proposal:

The Association proposes that each step of the wage scale be increased by 3.5% retroactively effective to January 1, 2004. It contends that the personnel of comparable Departments have received wage increases in both 2003 and 2004, and are paid significantly more than Defiance Firefighters. Not only is the disparity unfair, but the wage freeze has resulted in an erosion of Bargaining Unit members' real income because of increases in consumer prices and members' responsibility for health care costs.

Furthermore, the Association contends that the City is able to pay the increase sought, because its budget plans a \$37,000.00 surplus and it will be receiving \$2,700,000.00 from the sale of municipal property to the County. Indeed, while it was pleading "poverty" to the Association, the City managed to find the funding to provide pay raises for its Administrative personnel and offer health care coverage for City Council members.

The City's Proposal:

The City proposes that the 2003 wage scale be maintained without change. It argues "inability to pay" because, since 2001, its revenues have consistently fallen short of expenditures causing the virtual depletion of its once fiscally sound General Fund Surplus, and raising the spectre of an

impending financial crisis. The City further insists that its Firefighters still receive compensation approximating the average pay of personnel in those Departments it deems comparable.

The Fact-Finder's Analysis and Findings:

A. The "Comparability" Issue:

The Association asserts that Firefighters in all the six of the jurisdictions it deems comparable to Defiance received significant wage increases in both 2003 and 2004, so that the wages of Bargaining Unit members are now below the average rate enjoyed by their peers. Consequently, unless its proposal is adopted the inequity will be perpetuated and the Defiance Firefighters will fall further behind.

The list of Cities selected by the Association along with data on their respective populations, county locations, bargaining unit sizes, top wage rates¹ for 2002 and 2004 and percentages of wage increases is reproduced below:

¹ The top rate was selected because it is represented to the Fact-Finder that all members of the Bargaining Unit will have reached the fifth and final step of the wage progression during the course of the present Contract.

<u>City</u>	<u>Pop.</u>	<u>County</u>	<u>Barg. Unit Size</u>	<u>Top Rate 2002</u>	<u>Top Rate 2004</u>	Cumulative
						<u>Percentage Increase</u>
Perrysburg ²	16,945	Wood	17	\$47,762.	\$50,674.	6.1%
Bowling Gr.	29,636	Wood	46	\$45,859.	\$48,419.	6.0%
Findlay	38,967	Hancock	78	\$44,816.	\$46,204.	3.1%
Lima	40,081	Allen	69	\$41,843.	\$43,987.	5.1%
Sidney	20,211	Shelby	32	\$43,713.	\$46,375.	6.1%
Fremont	17,375	Sandusky	24	\$38,321.	\$40,858.	6.1%
Defiance	16,768	Defiance	20	\$38,766.	\$38,766.	0.0%

The City accepts the Association's designation only of Fremont and Sidney as comparable cities, and, instead of the other four, substitutes the Cities of Fostoria, Bucyrus, Napoleon, Tiffin and Van Wert for consideration by the Fact-Finder:

<u>City</u>	<u>Pop.</u>	<u>County</u>	<u>Bar. Unit Size</u>	<u>Top Rate 2004</u>
Fostoria	13,931	Seneca	19	\$40,476.
Bucyrus	13,224	Crawford	15	\$33,412.
Fremont	17,375	Sandusky	24	\$40,858.
Napoleon	9,318	Henry	06	\$40,528.
Sidney	20,211	Shelby	32	\$46,375.
Tiffin	18,135	Seneca	35	\$37,366.
Van Wert ³	10,690	Van Wert	18	\$38,793.
Defiance	16,768	Defiance	20	\$38,766.

Whether all or any of the eleven Cities identified in the two arrays may be deemed "comparable" to Defiance is questionable. Defiance has 16,768 residents. Only three of the Cities designated by the Association - Fremont, Sidney and

² The rate is for Firefighter-Paramedic. The City requires all Firefighters to maintain Paramedic Certification.

³ The rate is for Firefighter-Paramedic. The City requires all Firefighters to maintain such Certification.

Perrysburg have populations of similar size, between 15,000 and 20,000. Of the five additional communities selected by the City neither Napoleon nor Van Wert fall within these population parameters.

Significant disparities are also evident in the sizes of the Bargaining Units of the eleven communities. While Defiance has twenty-one members, of the six Departments cited by the Association only Fremont (twenty-four), Perrysburg (seventeen) and Fostoria (nineteen) are of the same order of magnitude. Of the five Cities added by Defiance neither Napoleon nor Tiffin has a Department of similar size.

Moreover, the six Cities cited by the Association are scattered over a five County area loosely referred to as "Northwest Ohio". None is located in Defiance County, and only two - Perrysburg and Bowling Green - are located in the same County. The extent to which these Cities fall within the same labor market is unclear.

The same pattern of dispersion is apparent upon inspection of the five Cities selected by Defiance.

Moreover, "comparability" depends on more than population density, geographic propinquity and Bargaining Unit size. Differences in job duties and working conditions obviously must be taken into account. Thus, Defiance does not require that its Firefighters be certified as Emergency Medical Technicians or

Paramedics, and only six of its fifteen Firefighters maintain Paramedic status. On the other hand, all of the Firefighters employed by Van Wert and Perrysburg must be Paramedics.

Of equal significance are differences in work load and performance requirements among the Cities designated by the parties. The relative degree of performance difficulty, stress and risk assumed by the personnel of each Department is linked to the frequency of their respective "call-outs" to extinguish structure, automobile and grass fires. No such quantitative information was made available on the record.

Obviously, "comparability" determinations also involve assessments of the proffered communities' abilities to compensate Firefighters for their services. On this score, it is appropriate to examine each jurisdiction's tax base and tax rates, and other sources of revenue. The relative resources available to, and tapped into by, the communities can then be compared on a per capita or per family basis. Communities which are fortunate to have major commercial and industrial developments, high employment rates, and jobs generating high incomes are able to afford wages which less affluent communities cannot hope to match.

Unfortunately, the necessary financial data to make such comparisons were not presented at the hearing.

Under these circumstances the Fact-Finder is unable to make an informed judgment as to which, if any, of the proffered communities has been appropriately designated as a comparable community. In the absence of such critical evidence the Fact-Finder, as a "least worse" alternative, will consider all of the ten communities suggested by the parties as comparable to Defiance for purpose of testing the Association's contention that Defiance Firefighters receive unfairly low wages in comparison to those enjoyed by their peers.

With exception of Bucyrus and Tiffin, Defiance Firefighters receive the lowest wage of any of the communities - some \$3,192.00 below the average of the top wage rates - \$41,958.00.

The disparity between Defiance Firefighters' compensation and those of the other communities is magnified because Defiance Firefighters work a fifty-six hour week - a total matched only by Van Wert. The median hours of work per week among the eleven communities said to be comparable to Defiance is fifty-two hours.

As shown by the following schedule, Defiance Firefighters who maintain a Paramedic Certification also receive significantly less than the compensation paid to Firefighter-Paramedics in three of the four listed communities which recognize this Certification:

Top	Hours Per	Number of	
<u>Employer</u>	<u>Level</u>	<u>Week</u>	<u>Steps</u>
Van Wert	\$38,793.	56	1
Fostoria	\$42,500.	52	5
Napoleon	\$42,479.	53	4
Perrysburg	\$50,674.	50	8
Defiance	\$41,479.	56	5

No extended analysis is necessary to confirm that Defiance Lieutenants and Captains would be entitled to the same increase if only to maintain the established internal differentials between and among ranks.

The Fact-Finder therefore finds that the Association's proposal for a 3.5% wage increase retroactive to January, 2004 would be justified on the basis of the compensation which is offered to Firefighters in other communities.

The City, however, contends that it lacks the ability to pay any wage increase, and it is that contention which the Fact-Finder must examine.

B. The "Ability-To-Pay" Issue:

Invoking ORC Section 4117.14(G)(7)(C), the City of Defiance maintains that it lacks the ability to finance any increases in Firefighter compensation. In support of its position the City points out that it had to take "drastic measures over the last two (2) years in order to remain solvent. Employees in Police, Fire, and Non-Bargaining [jobs] received no base wage increases last year. The City has abolished its Engineering Department, laying off the employees, frozen any new hiring and

utilized attrition to reduce its work force in all departments. ... The City has done the typical budget transfers it was able to do in 2002 and 2003 [and is unable] to move any resources to operations in an efforts to offset further cutbacks."

Over the past eighteen months, two Fact-Finders have considered the City's contentions that it lacks the resources to provide for pay increases.

The immediately preceding Contract between the parties expired on December 31, 2002. A mediated settlement for the terms of a successor Agreement was reached under the auspices of Fact-Finder Virginia Wallace-Curry, incorporated in a Fact-Finding Report issued on December 18, 2002, and reflected in the text of the current three year Agreement.⁴

In recommending to the parties acceptance of a wage freeze for the first year of the Contract subject to wage re-opener in the second and third years, the Fact-Finder wrote:

"The City presented evidence supporting its contention that it has been deficit spending for the last two

⁴ In addition to wage re-openers in the second and third years of the Contract, the Fact-Finder recommended, and the City agreed to, the Association proposals for the enhancement of vacation benefits, the addition of "one conditional sick leave day, which ... may be taken in six hour increments, and the incorporation of the provisions of a June 18, 2001 Letter of Agreement pursuant to which the City would provide the "necessary training/education and subsequent related costs to obtain paramedic level status," and to pay a "7% premium above regular base pay to Firefighters who maintain active Paramedic status" and a similar 5% premium to Lieutenants and Captains.

years and that reserves were declining at an alarming rate. While there had been hope for a turn around in the economy by mid year 2001, such a recovery never materialized. There were signs of improvement in early 2002, but interest rates continued to be cut and revenue reserves continued to decline. The cash carryover balance declined approximately 66% this year to date over an approximate 40% decline in the previous year. The City is hoping that the financial picture will begin to improve in 2003. Therefore, it was proposed that the parties enter a three year agreement with a wage re-opener in the second and/or third years of the contract.

Impasse was also reached in negotiations for a successor to the Collective Bargaining Agreement with the International Union of Police Associations, Local No. 166, representing the Police Officers Unit, which concurrently expired on December 31, 2002.⁵ A Report issued on January 29, 2003 by Fact-Finder Daniel L. Merritt rejected the Union's request for a 5% increase in wages in each year of the successor three year Contract even though the Officers were found to be earning six percent (6%) less than the average earned by Officers in other communities.

⁵ The City is also a party to a Collective Bargaining Contract with AFSCME which represents Street, Water, Waste Water and Parks Department employees as well as the Police Radio Dispatchers and Custodial employees. This Contract expires in August of 2004. The City has proposed a wage freeze.

Fact-Finder Merritt, as did Fact-Finder Wallace-Curry, concluded that the City was then unable to afford pay increases, and proposed wage re-openers in 2004 and 2005:⁶

"The Fact-Finder after a review of all exhibits concurs with the City that currently it would induce unacceptable financial hardship to fund an increase in wages in 2003. The fact finder agrees that the Union employees deserve an increase but financial prudence is recommended. The Fact-Finder recommends that current wage rates be maintained for one year and that economic re-openers be provided for the second and/or third year of a recommended three year contract."

Fact-Finder Merritt's recommendations were accepted by the parties.

The thought behind the recommendations of both Fact-Finders for wage re-openers was that, while the City's financial position looked bleak as of 2003, its fiscal condition might improve as recovery from the general economic recession gathered strength.

The record before the Fact-Finder, however, does not provide evidence that the hoped for recovery has yet been achieved.

⁶ With the acquiescence of the City, the Fact-Finder did recommend that "employees who have over five hundred (500) of accumulated but unused sick leave may elect to use one (1) additional day of absence with pay, in addition to the two days [presently available]" The Fact-Finder also recommended an increase in the uniform allowance, and the increase in shift differential by \$.50 per hour for the afternoon shift and \$.35 per hour for the midnight shift - an increase which beneficially affects some two-thirds of the Police Force.

As of December 31, 2000 the General Fund - the Fund from which most non-capital expenses must be paid - had a healthy balance of \$2,659,000.00. Expenditures had been limited to some \$7,706,000.00, while revenues spurted to \$8,565,000.00. By years end, 2001, the financial situation had materially changed. First, expenditures had increased to some \$9,060,000.00, 18% over the preceding year, while revenues had declined by some 8% to \$7,955,000.00. In consequence the General Fund balance shrunk to \$1,360,000.00, a reduction of almost 50%.

During calendar year 2002 while revenues increased marginally by \$164,000.00 to \$8,119,000.00, expenses climbed by \$146,000.00 to \$9,400,000.00. The resulting deficit of \$1,281,000.00 brought the General Fund year end balance down to a perilously low \$78,700.00, and caused the City to begin tapping non-General Fund accounts and reserves.

In 2003 the City began an austerity program which reduced expenditures by almost \$1,000,000.00. The reduction in expenditures was accomplished principally through layoffs and hiring freezes. But the outlays still exceeded income so that the City had to continue to transfer funds from other accounts. Even with such transfers the General Fund balance amounted to only \$121,000.00 as of December 31, 2003.

At year end 2003, as a result of a decline in expected revenues, the City still faced a projected budget shortfall of over a million dollars.

Therefore, for the current year, 2004, the City Administration proposed to further curtail expenditures by eliminating a full-time Secretary position, not filling the position of Human Resource Manager, instituting a hiring freeze on Police and Firefighter positions and curtailing the Parks Division's budget.

These measures were projected to be insufficient to balance the budget, and the City transferred to the General Fund \$432,000.00 from other accounts. The City represents that it has exhausted all sources from which additional transfers can be made.

A report issued on May 10, 2004 by an independent firm of Certified Public Accountants retained by the Police Union analyzed the budget projections for 2004 and concluded that both the projected revenue of \$8,753,000.00 and estimated expenses of \$8,716,000.00 were reasonable, and that there was "no evidence of other funds available for wage increases" in 2004 other than the amount by which revenues were projected to exceed budgeted expenditures - some \$37,000.00.

The results for the first five months of 2004 do not hold out any promise of a material increase in forecasted revenues, nor of an unanticipated decline in budgeted expenses.

But, noting the budgeted surplus for 2004, the Association urges that the City can afford the 3.5% increase in wages it seeks since the total annual cost including "roll-ups" (retirement, FICA), would amount to only \$35,648.00.

The Fact-Finder initially observes that the "surplus" is only an expectation, not a fact.

Moreover, the adequacy of Firefighters' salaries and their demand for raises cannot be viewed in isolation. The Police Force, which, like the Firefighters, accepted a wage freeze in 2003 subject to re-opener in 2004, and the City's non-Bargaining Unit employees, who also received no increase in compensation, may be equally or more deserving of wage enhancement, and may compete for these limited resources should the surplus materialize. Indeed, it is likely that any wage increase offered to one group, will, as a practical matter, have to be offered to all.

But there is another reason that militates against utilizing such funds for wage increases.

In an economic environment where interest rates are expected to rise, Defiance's credit rating assumes even greater

significance as the prime determinant of its cost for borrowing funds.

Bond rating agencies caution that a municipality's General Fund should maintain a surplus of at least 5%, and preferably 10%, of expected expenditures. Since Defiance's General Fund balance does not even come close to meeting these criteria, considerations of the City's credit worthiness justify the Administration's decision not to spend any excess of receipts over budgeted expenditures, but rather allow the amount to increase the General Fund surplus.

The Association also urges that Firefighters are more deserving than other employees because the Department's Rescue Squad generates significant amounts of revenue for the City. Since 1999 the amount has steadily increased, and reached \$372,758.00 in 2003. The Association postulates even greater returns in 2004. These receipts, the Association argues, should be used to compensate the Firefighters.

In the first place, the Fact-Finder would point out that Firefighters are not paid on a commission basis, and are no more entitled to the emergency transport fees that are charged and collected by the City for their services than Water and Sewer Department employees are entitled to the meter fees. Moreover, the Fact-Finder notes that the rescue services are not provided by all Firefighters but only by the Paramedics.

Perhaps the most significant objection to "earmarking" and reallocating funds from the Emergency Medical Transport Services to Fire Department salaries is that the funding of other Departments would have to be reduced. That, in turn, would likely translate into additional layoffs or curtailment of City services.

The Association alternatively urges a re-allocation of the monies budgeted for Administrative salaries so as to free-up the funds necessary to support its wage increase proposal. It inveighs against the unfairness of what it interprets as an increase in the compensation of City Executives while unionized employees are subjected to wage freezes. This contention is based on the fact that the City's former Finance Director, who had been paid \$63,500.00 in 2003, was appointed to the post of City Administrator at a salary of \$74,600.00. At the same time, the City's Human Resources Director, whose salary was \$42,000.00, was named to fill the Finance Director office at a salary of \$50,000.00 while concurrently continuing to perform her existing duties.

Neither of these Officers were actually given "raises". They were both promoted to new positions with different duties and received the increased salaries associated with their new positions. Their situations were parallel to Firefighters being promoted to the rank of Lieutenant, and Lieutenants being

promoted to the rank of Captain, and receiving the higher wage rate that accompanies such advancement.

The Association also complains that the City recently hired a new Administrative Secretary at \$17.30 per hour while the Department's highest paid Captain with twenty-three years experience receives \$1.52 less than the Secretary's starting pay.

Comparing the compensation of a Fire Department Captain and a Mayor's Administrative Secretary leads only to a fruitless discussion of the "comparative worth" of different occupations.

The Association did not survey the salaries of Administrative Secretaries to Mayors and City Administrators, and so, has no basis for asserting that the payment to the appointed Administrative Secretary is unnecessarily excessive.

Finally, the Association points to a new development, not previously considered by the previous Fact-Finders, nor in the formulation of the 2004 budget, which, it contends, will permit the City to provide the requested wage increase.

On December 22, 2003 the City contracted to sell Municipal land acquired from the Defiance Hospital to the Commissioners of Defiance County for \$2,700,000.00, payable in installments of \$1.2 million dollars upon "closing", \$750,000.00 one year after the date of closing and the remaining \$750,000.00 payable on the

second anniversary of the closing date. The closing is anticipated to occur this summer.

Some \$203,000.00 of this total has already been paid to the City, but these funds are to be used to defray the cost of demolishing the structures and clearing the land, which functions are the responsibility of the City under the contract with the County.

The allocation of these funds has not yet been determined, and no plan for their application has yet been formulated and submitted to the Mayor and Council. Consideration will undoubtedly be given to retention of some substantial portion as a reserve to serve as a buffer should the City Continued to experience revenue shortfalls and fiscal emergencies, and to improve its credit rating.⁷

The City argues that it is unacceptable to utilize a one-time sale of assets to incur and fund a continuing obligation. Although the City cannot continue indefinitely to maintain wage freezes, the Fact-Finder believes it is premature to deviate from this prudent principle and to recommend commitment of these

⁷ Essential infrastructure repair, maintenance and improvement projects may also have to be undertaken. And, because the City cannot be allowed to stagnate, programs to meet the needs of residents and to promote economic growth may have to be inaugurated or resumed, and furloughed employees recalled.

funds to salary increases. Recourse to the proceeds from a sale of City assets for wage increases should be a last resort.

The City has placed on the ballot this August a proposal to increase its income tax levy by 3/10ths of 1%, which, if successful, will be used to fund salary increases and other operational expenses.

The Fact-Finder finds that the level of taxes and fees paid by Defiance residents is simply too low to permit the City to maintain an adequate level of services. The City cannot persist in balancing its budget by reducing programs, freezing wages and furloughing employees. It is to be hoped that the voters will bite-the-bullet and approve the tax measure.

Should the levy fail, however, and the City's revenues not otherwise significantly increase, the Association may properly renew its demand in the 2005 re-opener that the proceeds from the land sale be resorted to in order to fund deserved wage increases.

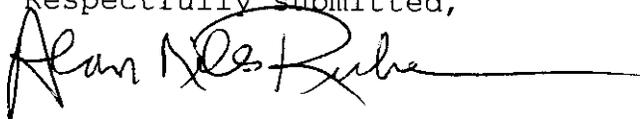
Recommendation:

For the foregoing reasons the Fact-Finder does not find appropriate, and does not recommend, the Association's proposal for a 3.5% increase in wage retroactive to January 1, 2004. Instead, he recommends that consideration of a wage increase be deferred until 2005 when the Association will have its second

opportunity to re-open the issue of wages. By that time the voters' decision on the tax increase proposal will be known, as will the impact of the current economic recovery upon the City's revenues.

Fact-Finding Report signed, dated and issued at Cleveland, Ohio this 30th day of June, 2004.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Alan Miles Ruben", with a long horizontal line extending to the right.

Alan Miles Ruben
Fact-Finder

AMR:ljg