

STATE EMPLOYMENT RELATIONS BOARD
STATE OF OHIO

STATE EMPLOYMENT
RELATIONS BOARD

2009 JUN -8 A 10: 02

In the matter of Fact Finding between:)	SERB No. 08-MED-10-1064
)	
THE CITY OF LANCASTER POLICE)	Hearing: May 21, 2009
DEPARTMENT)	at Lancaster, Ohio
)	
and)	Date of Award:
)	June 4, 2009
THE FRATERNAL ORDER OF POLICE,)	
OHIO LABOR COUNCIL, INC.)	

FACT FINDING REPORT

Appearances:

Mitchell B. Goldberg, Appointed Fact Finder

For the City:

Marc Fishel, Esq.,	Attorney
Michael Courtney,	Service Safety Director
Randall Ullom,	Assistant Law Director
David Smith,	Mayor

For the FOP-OLC:

Wes Elson,	Staff Representative
Jim Marchall,	President
Bryan Underwood,	Police Officer

I. Introduction and Background.

The State Employment Relations Board ("SERB") appointed the undersigned as the Fact Finder for this public sector labor dispute on November 26, 2008. The parties agreed to extend the statutory timelines for fact finding until April 30, 2009, and again until May 31, 2009. They agreed to hold a hearing on May 21, 2009, and they agreed at

the hearing that the Report should be issued on June 4, 2009, thereby further extending the timelines.

They timely submitted their pre-hearing statements before the hearing. Each party presented oral testimony and submitted documentary exhibits in support of their respective positions on each unresolved issue.

The parties negotiated in multiple sessions from September 29, 2008 through February 5, 2009. Three issues remained unresolved: (1) Wages – Article 59; (2) Health Insurance – Article 46; and (3) Shift Differential – Article 61. The unit consists of approximately 47 patrol officers and detectives. The unit was voluntarily recognized in 1984.

The Fact Finder considered all of the required factors and standards set forth in the Ohio Revised Code, the Ohio Administrative Code, and the SERB guidelines in issuing the following recommendations on the unresolved issues. All unchanged language from the expired CBA, and all items and issues tentatively agreed upon between the parties before and during the hearing are hereby adopted for purposes of this Report, and are to be considered incorporated herein.

The parties initially reached tentative agreements on the above issues, but both sides, the city council and the FOP membership, rejected the agreements.

II. Economic Evidence.

It is fair to say that both parties recognize and appreciate the present poor economic environment that constitutes the background under which these negotiations for a successor CBA are taking place. This is evident by the fact that both parties are proposing a wage freeze for one year of a proposed CBA.

The unit members are paid from the City's general fund. This fact must be distinguished from the fire department employees, who are paid from the proceeds of a special fire tax levy passed by the citizens in the community. Approximately 75% of the general fund is consumed by payment to the safety forces. The general fund is primarily supported by the city income tax. This revenue decreased significantly due to the economic downturn in 2008. The City does not anticipate a recovery of lost revenues for the foreseeable future. March and April revenue collections are down compared to the same period in 2008.

The remaining sources of income are also declining. Interest income was a little more than \$500,000 in 2008, down from more than \$2.4 million in 2007. The City's allocation from the state funds as a percentage of state revenue is also declining. The State announced that it would be \$1 billion short of its revenue projections due to reduced income tax receipts

The City reacted to this crisis by cutting \$3 million from its general fund budget for 2009. It reduced its budgeted expenditures from \$28.5 million to \$25.5 million. This

was done through personnel cuts; eliminating 5 police department positions, a deputy chief, an IT position, an assistant tax commissioner, a building department position, and a position in the law department. The Fire Department took a wage freeze to avoid staff reductions.

The general fund budget for revenue for 2008 was \$1,150,000 short of actual revenue received, but expenditures were \$1,350,000 more than budget, leaving the City short by \$2.5 million when the budget is compared to actual figures for 2008. It does not predict that revenue will keep pace with expenses based upon past history. Between 2005 and 2008 revenue increased by 14%, but expenses increased by 20.2%. The general fund carryover balance is now only approximately \$1.5 million, which is below historical carryover balances and barely at the standards recommended by the Government Finance Officers' Association. The GFOA recommends keeping 5%-15% -- the City is now at 5.7%. The current carryover balance does not even now represent a full month of expenditures.

The 2010 general fund prospects present further problems. One-time adjustments were implemented in late 2008, early 2009. These savings will no longer be available in 2010. The City will start 2010 with a \$1.2 million hole before any wage increases are implemented. The underlying dynamics affecting the general fund are still worrisome. Unemployment has risen and several employers have announced further layoffs. Between December 2007 and March 2009 unemployment increased by more than 60%. In addition to layoffs by major employers, the largest employer, Fairfield Medical Center

has implemented a wage freeze. All of these factors adversely affect City income tax revenue.

The FOP acknowledges most of these facts. Nevertheless, it believes that the City can manage the relatively low cost increases from its economic proposals. The City has always been overly conservative in its budget projections, over estimating its expenses, and under estimating its revenue. Moreover, it believes that the City is mismanaging the allocation of its resources to the detriment of its police force. It has received substantial cost savings through its reorganization of administrative/supervisory personnel, and it has saved money by not hiring five police officers that were planned for in its budget.

The police department has received a disproportionate amount of funding compared with fire personnel. Between 1998 and 2007, police department employees increased from 83 to 84, while fire department employees increased from 80 to 94. The police personnel include communications technicians who also dispatch for the Fire Department. There is no comparison between the workload of the respective departments. Police calls (involving responses) far outnumber fire calls and are serviced by many fewer employees.

The overstaffing of fire personnel is telling, when the numbers are compared with those in comparative jurisdictions. Usually public employers staff many more police employees than fire/medic employees. For example, this is the case in Reynoldsburg, Grove City, Gahanna and Bexley. Other jurisdictions are at least in a one to one ratio

(Columbus, Delaware, Marysville and Newark). Lancaster, on the other hand is out of line with many more fire personnel than employed police personnel. For its population, it has many more fire personnel than other similar cities with similar populations. Insofar as police staffing is concerned, Lancaster is below the average compared with similar departments.

The City acknowledges this dilemma, but it cannot address this problem due to the peculiar nature of its revenue funding. The police are paid from the general fund, but the fire department receives specialized funding through a tax levy. The City cannot spend these funds for any other purpose. Accordingly, it must spend the funds for fire even when it needs the money in other areas. This accounts for the disparity in incomes between the groups. The FOP points out that a Firefighter/Paramedic (off training) earns \$57,624.31 compared to a top step police officer that earns \$54,246.40.

III. Unresolved Issues.

(1) Wages

The FOP proposes a wage freeze for 2009, a 5.5% increase for 2010 and a 5.5% in 2011. It believes that this proposal is reasonable because the Fire unit will receive a 6% increase in 2010 after taking a freeze in 2009. This will save the City substantial money in 2009, when this proposal is considered together with the FOP concession in agreeing to pay more than double its present health insurance premium contribution.

The City counters, proposing a wage freeze in 2009, a 2% increase in 2010, and a 3% increase in 2011. It believes that this proposal is reasonable considering its present problems, which have actually worsened since the proposal was originally made.

Recommendation: I propose the following across the board wage increases: A freeze (0%) for 2009, a 2% increase for 2010, and a 3% increase for 2011. There shall be a wage re-opener, however, beginning January 1, 2010 limited to the subject of wages and shift differential payments for wage increase amounts above the agreed upon 2%, which shall remain a “floor” wage increase. Another identical re-opener shall occur on January 1, 2011 for wages beyond a 2% across the board increase and shift differential payments, meaning that the floor may be no lower than a 2% across the board increase, notwithstanding that the contractual agreement is for a 3% across the board increase. This subjects the FOP to a possible wage reduction of no more than 1% less than the 2011 contractual rate.

(2) Health Insurance

FOP members currently pay \$100 per month for family coverage and \$40 per month for single coverage. This computes to 7.18% and 7.77% respectively for contributions. The City proposes that employee contributions increase to 10% in 2009, 12% in 2010 and 14% in 2011 to cover its increased costs. This would place FOP members on par with the other City employees, including AFSCME employees in terms of premium contributions. IAFF members have contractual protection for their current contributions until 2011, but they have agreed to re-open negotiations to address their

premium contributions for 2010. The City expects to bring them in line with the other City employees.

The FOP acknowledges the need to address its contribution levels in light of the contributions of other employees and other bargaining unit members. This is a major cost item in the City's budget. It is willing to fall in cycle with AFSCME and the Communications Technicians, but wants to do so in the second year, since it is proposing to accept a wage freeze for 2009. It is proposing an 8% contribution capped at \$114 for family coverage and \$42 for single coverage for 2009, effective upon the signing of a CBA.

Recommendation: I recommend the City proposal as contained in Exhibit "A" attached hereto and made apart hereof.

(3) Shift Differential

The FOP proposes increases in this compensation. First shift employees will be paid a differential of \$.65 per hour, second shift employees will receive \$.75 per hour, and third shift employees will receive \$.85 per hour. The City opposes any increase because of economic concerns. The proposed increases are too expensive - first shift would increase from no differential payment to \$.65 per hour, and the other shifts would increase from \$.45 to \$.75 and \$.85. The FOP, however, asserts that the increases are justified so that the members' large increases in health care costs can be somewhat offset.

Moreover, the current rate of \$.45 for second and third shifts is well below the rates paid in comparable police departments.

Recommendation: I recommend that the \$.45 per hour rate for second and third shifts be increased to \$.55 per hour, and that no shift differential be paid for first shift personnel.

Date of Report: June 4, 2009


Mitchell B. Goldberg, Appointed Fact Finder

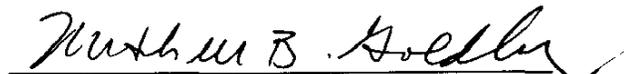
CERTIFICATE OF SERVICE

The following persons were served with this Report by U.S. Mail, First Class on June 4, 2009:

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