

The City is an Ohio municipality. The FOP-OLC is the exclusive representative for three bargaining units, the patrol officers with approximately 24 members, the sergeants' unit with 4 members, and the communications dispatch unit with 6 members. The successor collective bargaining agreement ("CBA") is intended to replace the CBA that expired on December 31, 2010, which covered the wages, terms and conditions of employment for all three units.

All unopened articles and all tentatively agreed upon articles, terms and language completed during negotiations, during mediation, or agreed upon at the hearing are hereby adopted and incorporated into this Report and made apart hereof.

Two issues were agreed upon and resolved at the hearing. The parties agreed to new language in Article 40-Tuition Reimbursement as set forth in Exhibit A, attached hereto and made apart hereof. They also agreed to resolve their dispute over overtime opportunities being first made available to sergeants and then to patrol officers who are serving as officers-in-charge (OIC) on particular shifts. That agreement is reflected in Exhibit B attached hereto and made a part hereof.

The remaining unresolved issues are all economic in nature: (1) Articles 35, 36, 37- Wages; (2) Article 32- Insurance; Article 23, Personal Leave; Article 24-Vacation Leave; Articles 36 and 37- Wages related to shift differentials; Article 36-Wages regarding an additional stipend to patrol officers who are assigned to detective duties; and Article 36-Wages regarding additional hourly payments made to TACs and ATACs.

The following recommendations are made after considering and applying all of the Ohio statutory criteria set forth in Chapter 4117 and contained in SERB Rules and Guidelines.

II. Economic and Financial Evidence.

The City's current financial problems are not in dispute. When the present administration took charge in 2008 there was a budget deficit of \$1 Million. Expenditures continued to outpace revenue in 2009. A 23 member Citizen Advisory Committee was formed to address the chronic problem of insufficient funding for needed services. The Committee recommended an increase in the City's income tax rate from 1% to 1.5%. The voters rejected the ballot issue in November 2009. The major revenue streams were declining; income tax representing 60% of the revenue, investment income, and inspection fees.

Substantial budget cuts were implemented in 2010 related to the elimination of capital projects, maintenance and services. Employment positions were eliminated – 7 full time positions including one firefighter and two police positions. Seven part time and 12 seasonal positions were eliminated. Further spending was reduced relative to existing operations. The voters finally responded in May 2010 with the .5 % income tax increase. The City and Committee projected that \$4.1 million in new revenue would be produced to add to the \$13 million plus existing revenue. But, payments necessary for existing facilities and funds needed for new facilities were expected to consume approximately \$2.8 million of this new money. Moreover, projections now show that the

City will not likely receive the projected \$4.1 million due to recession related problems of high unemployment and lower income tax receipts. A decline is expected in lower property taxes due to foreclosures and reevaluations. There is lower investment income, lower inspection fees, state cuts in the Local Government Fund, elimination of CAT money, and the potential elimination of the Ohio Inheritance Tax or Estate Tax.

One particular anomaly exists relative to the City's general fund reserve balance of \$3.5 million. This represents approximately a 27% reserve balance for a \$13 million annual budget revenue stream. Normal expected reserves for this size budget would be in the 10%-15% range for a city of this size. There are approximately 20,000 residents. Keeping a normal reserve could free up over \$2 million in needed expenditures. However, the City is prevented from using more of the reserve because of past actions that involved heavy investments and borrowing through bonds. The bond documents require the maintenance of a \$3.5 million reserve to preserve the existing interest rates. The City has decided that reducing the reserve would be a self defeating proposition because interest rates would rise dramatically, which in turn would increase its operating expenses.

III. Unresolved Issues.

(1) Articles 35, 36 and 37 – Wages

The parties disagree over which external comparables should apply. The FOP relies upon the wages and benefits paid in Bellefontaine, Delaware, Dublin, Hilliard, Powell, Urbana and Worthington to show that its members are underpaid and that

compensation must be increased. For example, the average top step PO for these cities earned \$31.22 when Marysville's top step PO earned \$28.05 per hour.¹ Similar disparities appear for sergeants and communications personnel. This is the basis for the FOP's proposal of a 3-year contract providing for across the board increases of 2% in each year, notwithstanding the City's existing financial concerns.

The City believes that the FOP's comparables are improperly weighted toward cities that are really suburbs of Columbus where residents are beneficiaries of the more stable Columbus economy with less unemployment and higher tax receipts. More importantly, external comparables should be considered less than existing internal comparables that are influenced by the City's particular economic problems.

I agree with the City that the internal comparables must control the economic decisions for these bargaining units in view of what has occurred with other City employees. These employees received no raises in 2010 and 2011, no step increases in 2011, no vacation buy-out in 2009-2011, and no tuition reimbursement. During the same period the union members received pay increases and step increases in accordance with their CBAs. The City projects, based upon its best judgment, that pay increases and other forms of compensation will be frozen for its other employees in the foreseeable future.

Recommendation: Based upon a review of all the economic and financial evidence and data, I recommend that the parties execute a 3-year contract beginning January 1, 2011

¹ For Worthington, 2009 figures were used.

that provides for a 0% increase in the first and second years, and that the City pay an across the board wage increase for all unit members in the third year (2013) of 3%.

(2) Article 32 – Insurance

The City, in order to curb its ever-increasing health insurance costs, notwithstanding the existing agreement of the FOP to contribute 20% toward premiums, took measures to bring the costs into line. It created a wellness committee and started a high deductible HRA in 2010. This was an option offered as an alternative to the PPO, which costs were increasing at an unacceptable rate. The new HRA lowered the cost increase in 2011 to 7%; half the average increases for the previous three years.

Employees other than the FOP, which is still under the old PPO, have three new options; (1) a modified PPO with less benefits than the old PPO; (2) the HRA; and (3) an HSA. The FOP would have only two options for 2011, the old PPO and the HRA because the open enrollment period expired for 2011, but the City proposes that the FOP join with all the other employees in the present three-option system.

The FOP does not object to having more options, but it wants assurance from the City that its contributions to the HRA and HSA remain at the 80-20 ratios. This assurance, however, cannot be guaranteed relative to the City's proposed contributions because the results may be different depending upon member usage and the amounts that build up over the contract term in the high deductible accounts. It very well may be that certain employees or family members with high, unexpected medical experiences will be forced to pay certain amounts over their account balances that alter the 80-20 ratio.

Nevertheless, all of the other employees and the fire unit have agreed to the new system with the inherent risk of possible further employee contribution requirements.

The FOP will have the benefit of the old PPO with higher premium levels required of the City for 2011, but it is reasonable that it join with all of the other employees in the new system for the remaining two years. Whether the new system will produce acceptable results remains to be seen. Certainly, the City will save premium costs. Employees must now focus upon their usage and claims by managing their high deductible accounts, but the quality of health care services and benefits may or may not equal the past levels. Moreover, the insurance providers will undoubtedly continue to raise their premiums notwithstanding the high deductible accounts.

Recommendation: The City's proposal for health insurance is recommended. The FOP members will have the old PPO and HSA for 2011, but beginning January 1, 2012 and for the remainder of the CBA they shall have the same options and benefits as the fire unit members and the rest of the City employees.

(3) Article 23 – Personal Leave

The FOP proposes an additional compensation benefit of 8 additional personal leave hours, from 32 to 40. This is based upon what it believes is the standard for other comparable units. The City opposes any increase because of the additional costs, and because it believes existing benefits are in line with other comparable police departments.

Recommendation: No change because of the City's present financial problems.

(4) Article 24 – Vacation Leave

The City proposes to leave the vacation accrual language in place, but wants to curtail the present ability of employees to cash out accrued vacation leave hours. The City enacted a change for its non-represented employees in order to save money. The expired FOP contract permitted members to sell half of their accrued hours at their anniversary dates and they could carry forward 1.5 years of accrued hours. The City eliminated this cash-out benefit for its non-union employees, but permitted them to carry forward 2 years instead of 1.5 years. The City saved \$76,000 of needed money. The fire unit has agreed to the change. The City wants the FOP to agree.

The FOP, as can be expected, does not want to give up any benefit it received during prior negotiations, which benefits were accepted in exchange for agreeing to what the City proposed at the time. Nevertheless, this change will produce needed funds for the City, and as can be determined from the evidence, very few members actually take advantage of the cash-out option.

Recommendation: The FOP unit should have the same language as the fire unit on this issue; no cash-out, but an increase in accrual carry forward from 1.5 to 2 years of accrued unused hours.

(5) Articles 36 and 37 – Wages (Shift Differentials)

Presently second shift employees receive 20 cents less per hour than third shift employees. The FOP believes this disparity is not justified because the second shift is the busiest shift for calls, and employees lose more quality family time by working the second shift. The City opposes any increase based upon increased costs.

I believe the evidence supports the FOP position on this issue. I see no justification for the payment disparity between the second and third shift for all the reasons cited by the FOP. The increase cost for this item is minimal.

Recommendation: Both second and third shift employees shall receive an additional \$.50 per hour for all hours worked in 2011, and \$.60 per hour in 2012 and 2013.

(6) Article 36 – Wages (Detective Stipend)

The FOP proposes that patrol officers working as detectives receive an additional stipend of \$.50 per hour for all hours worked as a detective under assignment. This additional compensation is due to the added responsibility and skill necessary to perform the higher paid work. The City opposes any wage increase for cost reasons.

The FOP has shown that more skill and responsibility is necessary to perform these assignments and that detectives are compensated at higher levels. It appears that manpower shortages caused by the City's economic issues require more flexibility from its workforce. It is only fair and reasonable that employees performing higher skilled

work for any material time should be paid for their skills at the higher rate. This should be done regardless of the increased costs.

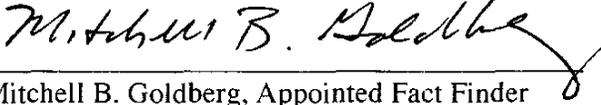
Recommendation: Patrol officers assigned to detective duties and performing detective work shall be paid an additional \$.50 per hour for all hours actually worked as detectives.

(7) Article 36 – Wages (TAC and ATAC)

The FOP, for the same reasons as above, propose that officers working as a TAC or ATAC should be paid additional sums for this extra and more highly skilled training work. I agree that the evidence supports this position. The justification for paying higher rates for higher skilled or more responsible work outweighs the City's higher costs arguments.

Recommendation: Officers working as TACs, with primary responsibility shall be paid an additional \$.50 per hour for all hours actually worked in this position. Assistants or ATACs shall be paid an additional \$.25 per hour for all hours actually worked in this position.

Date of Report: March 24, 2011



Mitchell B. Goldberg, Appointed Fact Finder

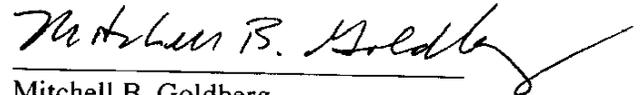
CERTIFICATE OF SERVICE

The above Report was served upon the following persons by U.S. Mail, First Class on the 24th day of March 2011:

J. Russell Keith
General Counsel & Assistant Executive Director
SERB
65 East State St., 12th Fl.
Columbus, OH 43215-4213

Brian Dostanko
Human Resources Manager
City of Marysville
125 East Sixth St.
Marysville, OH 43040

Tara Crawford/ Tracy Rader
FOP-OLC
222 East Town St.
Columbus, OH 43215-4611



Mitchell B. Goldberg

dberg, Esq.
Mediator
i' Road
er, OH 44067



J. Russell Keith
General Counsel & Assistant Executive Director
SERB
65 East State St., 12th Fl.
Columbus, OH 43215-4213