

STATE EMPLOYMENT RELATIONS BOARD

In the matter of Fact Finding between:) SERB No. 10-MED-07-0920
)
CITY OF MARYSVILLE, OHIO) Hearing: March 1, 2011
) at Marysville City Offices
and)
) Date of Report:
INTERNATIONAL ASSOCIATION OF) March 24, 2011
FIREFIGHTERS, LOCAL 3032)

FACT FINDING REPORT

Appearances:

Mitchell B. Goldberg, SERB Appointed Fact Finder

For the City:

Brian Dostanko, Human Resources Manager

For the Union:

Steven K. Watson, Lieutenant, Representative

STATE EMPLOYMENT
RELATIONS BOARD
2011 MAR 29 A 11:09

I. Introduction and Background.

SERB appointed the undersigned as the Fact Finder for this public employment labor dispute on November 30, 2010. The parties executed an extension agreement permitting the matter to be heard on March 1, 2011. They agreed that the Report would be issued on March 24, 2011. Timely pre-hearing statements were submitted in accordance with SERB Rules and guidelines. The statements set forth the parties' respective positions on all of the unresolved issues in their negotiations for a successor collective bargaining agreement ("CBA").

The City is an Ohio municipality. The IAFF, Local 3032 is the exclusive representative for a unit that consists of all full time firefighters and lieutenants in the department. There are approximately 26 bargaining unit members. The successor CBA is intended to replace the CBA that expired on June 30, 2010.

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

The parties requested and the Fact Finder agreed to attempt to resolve the disputed issues through mediation at the hearing. No agreement was reached on the remaining two unresolved issues, Article 35-Wages and Pension Pickup. The Union's proposal to change Article 31, Hours of Work and Overtime was withdrawn at the hearing and the current language remains unchanged.

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

II. Economic and Financial Evidence.

The parties do not disagree about the present economic state of the City's financial and budgetary problems. The present administration came on board in 2008 facing a \$1Million budget deficit. Expenditures continued to exceed revenue in 2009. A 23

member Citizen Advisory Committee was created to address the chronic problem of insufficient funding for needed services. The Committee recommended an increase in the City's longstanding income tax rate from 1% to 1.5%. The matter was taken to the voters in November 2009 and the issue was narrowly defeated. The major revenue streams continued to decline. Income tax revenue represents 60% of the total revenue that includes investment income and inspection fees.

Substantial budget cuts were made in 2010 to relieve the shortfall. These included the elimination of needed capital projects and the reduction of maintenance expenses and services. Seven full time employment positions were eliminated, including one firefighter and two police positions. Seven part time and 12 seasonal positions were also eliminated. The tax increase was taken to the voters again in May 2010, and with the help of City employees, the .5% income tax levy passed by a minimal margin of votes.

The initial projection was that the tax increase would add an additional \$4.1 million in new revenue. \$2.8 million was allocated toward maintenance and improvements to existing facilities and for new facilities. However, the prolonged economic recession, high unemployment and the poor housing market has caused income tax revenue, property tax revenue and inspection fees to fall short of projections. Moreover, the state's economic problems are expected to reduce payments to the local government fund. The elimination of CAT money and the potential elimination of the inheritance tax or estate tax will cause further funding problems.

One particular anomaly exists relative to the City's general fund reserve balance of \$3.5 million. This is a remarkably high reserve of approximately 27% of the \$13 million annual general fund revenue. Normal expected conservative reserves for this size budget would be expected to be in the 10%-15% range. Keeping a normal reserve would free up over \$2 million in needed money for operations. However, the City is prevented from using more of the reserve for operations because of past actions that involved heavy borrowing. Bonds were issued for large capital projects such as the water treatment plant. Bond covenants require the City to maintain a floor of \$3.5 million in reserves to preserve the existing interest rates. The City has decided that maintaining the present interest rates and payments is necessary because higher rates and increased interest expenses would cost more in the long run than keeping a lower reserve.

III. Unresolved Issues.

Article 34 – Wages

The parties recognize that because of the above budget problems, the non-union employees received no raises in 2010 and 2011, no step increases in 2011, no vacation buy-out in 2009-2011, and no tuition reimbursement. Similar circumstances were not imposed upon the police and fire units because of existing CBA obligations. The City believes that further compensation increases will be frozen for its non-union personnel for sometime in the future until the economy improves and revenue streams improve. Accordingly, the proposals from each side in this matter are for 0% increases in the first two years of a 3-year term. The disagreement is over any wage increase in the third year.

The Union proposes a 3% increase, and the City proposed another 0% for the third year. Mediation at the hearing produced some movement to narrow the gap for the third year, but the parties remained at impasse over the Union's proposal to change the City's pension pickup obligation as set forth below.

Because I am not recommending the Union's proposal on pension-pickup for the reasons set forth below, I recommend that the Union's wage proposal of 0%, 0% and 3% be accepted.

Recommendation: The parties shall execute a 3-year CBA to succeed the expired CBA that provides for a 0% wage increase for all unit members in the first and second years of the CBA. The City shall pay an across-the-board wage increase for all unit members of 3% for the remaining third year of the CBA.

Article 34 – Pension Pickup

Section 2 of the expired CBA provided that each bargaining unit employee shall receive a total of 10% pension pick up in each contract year. The City is willing to keep this language and provide members with the same 10% pension pick up in the new CBA. It provides for similar pension pick-up payments for all of its other employees who are participants and beneficiaries of various state retirement funds.

The Union is proposing a material change in this article that would differentiate its members from the other City employees and the FOP. It proposes a change that

would eliminate the City pension pickup payment that is directly made to the state pension plan on behalf of its members. Instead, the Union proposes that its members receive funds represented by the direct payment to the fund as additional wages, and the members would then make individual contributions. It acknowledges that the change would impose certain additional administrative costs to the City, so in return for the City's agreement, the Union would accept only an 8% payment as additional wages to replace the City's direct pension plan pickup.

The Union's approach is an attempt to protect its members from the effects of the current political drama that is playing out in the statehouse where statutory proposals are being considered to limit collective bargaining rights, reduce employer contribution levels into state retirement plans, and limit wage increases that can be collectively bargained by public sector unions. If the Union's proposal were accepted, the pension pickup money would be converted to wages, and possibly could be bargained for in the future when pension contribution levels may become fixed as a matter of law.

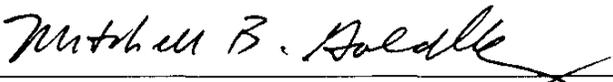
The City opposes this idea for a number of reasons. First, the final provisions of any changes to the present collective bargaining law remain to be seen. Second, the bargaining position could be improved for the City; the law may limit pension contribution levels and wage adjustments could be limited without the need to convert the present pension pickup to wages. The City's taxpayers would object to a situation where the City provided for a wage increase as a substitute for a direct pension pickup when it did not need to provide for an increase because of the changed law. Finally, and more

importantly, no other employee or union member would have this change. The City believes that internal comparables is the most important factor to consider when layoffs, job eliminations and wage freezes are necessary due to the budgetary problems. It believes that all employees should equally share these economic hardships. It believes that external comparables are irrelevant when there is a shortage of money to pay for current wages and benefits.

It remains to be seen whether or to what extent collective bargaining will be curtailed as each day passes. The Governor has changed the existing law and collective bargaining rights have now been curtailed. However, political opposition to the changes is mounting. There are proposals for a referendum and a recall for the governor and state legislators. If no changes are made to limit pension contributions or the right to bargain over pension rights, the Union might prefer the present direct contribution language. It is too early to tell at this point in time where the parties will stand after the resolution of these statewide issues. For this reason, I do not believe it is prudent to recommend the Union's proposal at this time.

Recommendation: No change.

Date of Report: March 24, 2011



Mitchell B. Goldberg, Appointed Fact Finder

CERTIFICATE OF SERVICE

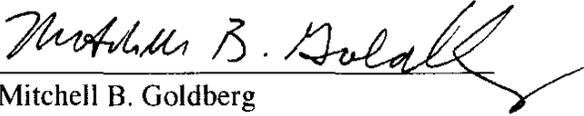
I served the above Report upon the following persons by U.S. Mail, First Class,
on the 24th day of March 2011:

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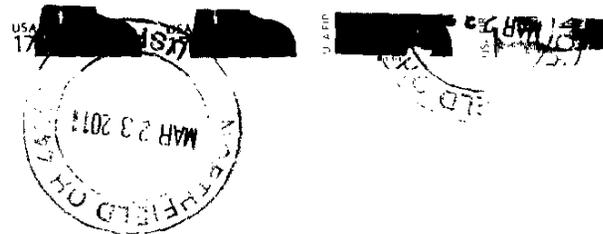
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