

Consultant; Jeff Leonard, City Administrator; John Lehner, Finance Director; Tracey Schroeder, Human Resource Manager, and Jeffrey Mack, Assistant Police Chief.

The hearing was conducted in accordance with SERB rules and procedures. The Fact Finder has thoroughly evaluated the proposals and evidence submitted by the parties. His recommendations for resolving each issue are fully explained in the Recommendations Section of this Report, infra. In making his recommendations, the Fact Finder has given consideration to the following criteria prescribed by the Ohio Collective Bargaining Law and listed in SERB Rule 4117-09-05:

- (1) Past collective bargaining agreements, if any, between the parties.
- (2) Comparison of the unresolved issues relative to the employees in the bargaining unit with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved.
- (3) 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.
- (4) The lawful authority of the public employer.
- (5) Any stipulations of the parties.
- (6) Such other factors, not confined to those listed above, which are normally or traditionally taken into consideration in determination of issues submitted to mutually agreed-upon dispute settlement procedures in the public service or in private employment.

“Other factors” noted in the sixth criteria include the desirability of equitable treatment among the various groups of the public employer's employees, especially those with similar job functions.

BACKGROUND

A. The City and Its Workforce

Defiance is the county seat of Defiance County in Northwestern Ohio. Its population is approximately 16,500 and has been stable for the last decade. Median household income 2006-2010 was \$39,585, somewhat below the state average of \$47,358. Nineteen percent (19%) of the city's population is below the poverty level, compared to 14.2% of the Ohio population. Defiance serves as the commercial center for a predominantly agricultural five-county area. The principal employers of its residents are Johns Mansville, General Motors, Defiance College, Defiance City Schools, Defiance Metal Products, Wal Mart, Defiance County, Defiance Regional Medical Center, Fauster-Cameron, and Meijer.

In 2011 the City had 168.8 full-time-equivalent employees, a drop from 200 FTE's a decade ago. Of these, 62.3 were in security (police and fire), 38.3 central government, 44.9 utility services, 11.1 streets, 1.6 building inspection, and 10.6 parks and recreation and cemetery. Firefighters are represented by the IAFF, and hourly service workers by AFSCME.

B. Negotiation of 2012 Labor Agreements

AFSCME is in the last year of a three-year labor agreement, which provided a 3.25% increase in 2010, a 0% increase in 2011, and 0% again in 2012. From 2009-2011, the IAFF and police bargaining units both worked under three-year contracts which provided a 3.00% wage increase in 2009, a 3.25% increase in 2010, and a 0% increase in 2011. The IAFF recently agreed to a new three-year contract (2012-2014), which provided a \$500 cash bonus at the outset, 0% wage rate increases in 2012 and 2013, and a wage reopener for 2014. Unrepresented employees also were awarded a \$500 bonus but

no wage increase for 2012.

DPOA Local 166 was offered the same wage package as the IAFF, and the Local 166 negotiation team recommended it to the membership. The sergeants and lieutenants unit approved, but the patrol officers unit voted it down and opted for fact finding. Because the two units are bound together by a multi-unit bargaining agreement, the wages for both are at issue in this fact-finding proceeding.

C. The City's Finances

In 2000 the City appeared to be in a comfortable financial position. Its beginning general fund balance significantly exceeded two months of operating expenditures, a level considered prudent by financial ratings agencies and by a Municipal Finance Officers Association “best practices” publication. However, in 2001 and 2002, the economy took a recessionary turn and expenses significantly exceeded incoming revenues. The City responded by freezing wages and reducing employment levels from 200 in 2000 to 160 in 2005. In addition, in 2005 voters approved an income tax increase. As a result, from 2005 – 2008, the City's revenues exceeded expenses, and the City again enjoyed comfortable general fund balances. The City was able to restore some positions, increasing employment to 182 in 2008, and it shared the prosperity with its employees: Police got a “catch-up” eight percent increase in 2006, followed by increases of 3.25%, 3.25%, 3.0% and 3.25% in 2007-2010.

However, by 2009 the City again was spending more than it was taking in. The City responded by reducing employment levels (to 168.8 FTE in 2011), and union represented employees, including police, accepted a 2011 wage freeze in settlement of their third-year contract reopeners.

Initially these financial problems were caused by a sharp economic downturn

which began in late 2008, and caused significant decreases in interest income, property tax collections, and local income tax receipts. (Local income tax collections for 2007 were \$6,636,039. For 2011, they were \$5,334,329, a drop of about \$1.3 million.) If, as many believe, the economy is now starting to recover, the local income tax picture may gradually begin to improve. However, the City still believes its own financial problems will continue, primarily because of significant cuts in support from the state. Revenue from state levied and shared taxes (including the estate tax) was \$848,705 in 2011. It is projected to drop to \$637,500 in 2012 and, with abolition of the estate tax, to \$289,500 in 2013. Projected year-end general fund balances for 2012 and 2013 are materially below the targeted two-month expenditure level. The City states that it cannot address this situation by seeking voter approval for another tax increase. Instead, it is looking for potential expense reductions, such as might be obtained by regionalizing some functions. It also is asking for forbearance on wage increases in the foreseeable future.

ANALYSIS AND RECOMMENDATIONS

Positions of the Parties: The Employer proposes a two-year wage freeze for 2012-2013, and a wage reopener for 2014. The Union proposes a 1.5% wage increase effective January 1, 2012, a 2.0% increase effective January 1, 2013, and another 2.0% increase effective January 1, 2014.

RECOMMENDATION: Wage freeze for 2012 and 2013, subject to a wage reopener for wage rates to be effective on or after January 1, 2014. \$500 bonus (not rolled into the base wage) payable to each unit member on or before July 14, 2012. Language of new Section 43.3 and revised Sections 51.1 (A) & (B) to state:

Section 43.2: 2012 Bonus

On or before July 14, 2014, the City shall pay a \$500 lump sum bonus to each member of the bargaining units. This is a one-time payment and it shall not be rolled into the base wage.

Section 51.1:

A. This Agreement shall be effective as of 12:01 a.m., January 1, 2012 and shall remain in full force and effect until 12:00 midnight, December 31, 2014, except that there may be an Article 43 Wages re-opener at the second year anniversary of this Agreement, provided, however, that it shall be renewed automatically on its termination date for another year in the form in which it has been written unless one party gives written notice to the other party.

B. If either party desires to re-open Article 42 Wages, modify or amend this Agreement, it shall give written notice of such intent no earlier than one hundred twenty (120) calendar days prior to the second yearly anniversary date or the expiration date, no later than ninety (90) calendar days prior to the re-opener or expiration date of this Agreement. The parties shall commence negotiations within four (4) calendar weeks upon receiving notice of intent.

Discussion and Rationale: In reaching this recommendation, the Fact Finder has been guided by the second, third and sixth statutory criteria: comparability (factor no. 2), ability to pay and maintain the usual standard of public service (factor no. 3), and equity and parity among the various groups of the City's employees, which is one of the "other factors ... traditionally taken into consideration" to which the sixth statutory criterion refers.

Comparability data is inconclusive. On one hand, the Union correctly notes that SERB wage reports show "most cities" listed in the 14,000 – 18,000 population range gave at least some wage increase to employees in their last reported negotiations. Also, Fremont, which the Union considers comparable, increased its police wages by 2% in 2011 and 2012. However, the Union's proffered comparables also include several cities (Marietta, Tallmadge, North Canton) which settled for 0% and a reopener. See also New

Philadelphia (1%/0%/reopener) and Fairview Park (0%/1%/reopener). Also, a fact-finding report awarded Sheriff's employees in neighboring Fulton County a 0%/0%/reopener for a three year contract (2011-2013). More generally, it can be said that many safety employees in Ohio have had one-to-three wage freezes since the commencement of the most recent recession in late 2008.

Regarding "ability to pay," the City does not have an immediate financial crises. However, its expenses are exceeding revenue through no fault of its own. The \$1.3 million drop in income tax collection 2007-2011 is significant, and reduction in state support and elimination of the estate tax will aggravate financial problems in 2012 and 2013. The City already has downsized, and neither party wants further cutbacks in police services. Therefore, the "ability to pay" criterion is consistent with a wage freeze recommendation.

Finally, the desirability of maintaining internal parity further supports the recommendation. All other employee groups in the City already have agreed to 0% for 2012. The situation for 2013 is not as clear, as the AFSCME contract will be open for negotiation and unrepresented employees' wages are not determined a year in advance. However, the firefighters already have settled for a three-year contract with a \$500 lump sum payment, a two-year wage freeze 2012-2013, and a reopener for 2014. Historically, Defiance police and fire departments shave received similar wage packages, and there is no evidence to justify deviating from this pattern now.

For these reasons, the Fact Finder is recommending a two-year wage freeze through December 31, 2013, an Article 43 wage reopener for 2014, and payment of a lump sum \$500 bonus within thirty days of issuance of this Report.

INCORPORATION OF AGREEMENTS

The Fact-Finder incorporates by reference unchanged language in the parties' 2009-2011 Agreement, and agreements signed by the parties in negotiations (detoxives on call, longevity and uniform side letter). The Fact Finder recommends that these agreements, and unchanged language from the 2009-2011 Agreement, be included in the new Agreement.

ISSUANCE OF AWARD

This Award is issued this 14th day of June, 2012.

s/John T. Meredith
John T. Meredith, Fact Finder

Shaker Heights, Ohio

CERTIFICATE OF SERVICE

This is to certify that the foregoing Report was electronically filed with the State Employment Relations Board and electronically served upon the parties by e-mailing it to their representatives, listed below, this 14th day of June, 2012:

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s/John T. Meredith
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