

STATE EMPLOYMENT RELATIONS BOARD  
STATE OF OHIO

STATE EMPLOYMENT  
RELATIONS BOARD  
2012 MAY 29 P 12:34

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In the Matter of ) CASE NO.  
Fact Finding Between: ) 11-MED-09-1330  
)  
CITY OF PIQUA, OHIO )  
and )  
AFSCME OHIO COUNCIL 8 )  
LOCAL 984 CLERICAL AND )  
BLUE COLLAR WORKERS' )  
UNION )

FACT FINDING REPORT

FACT FINDER: M. James Abernathy

HEARING DATE: February 10, 2012

LOCATION: Piqua, Ohio

IN ATTENDANCE:

CITY:

Stacy Wall, Law Director  
Elaine Barton, Human Resources Director  
Gary Huff, City Manager  
Cindy Holtzapfle, Assistant City Manager,  
Finance Director

UNION:

Dwaine Ward, Vice President  
Chris Werst, Chief Stewart  
Mike Thomason, Chapter Chair  
Nicole Bevington - Executive Board  
Kirt J. Huemmer, President  
David McIntosh, AFSCME 8

POST HEARING BRIEFS: Yes

DATE OF REPORT: 5-4-2012

1 I. BACKGROUND

2 The current collective bargaining agreement  
3 is a result of fact finding and covers the time  
4 span of 10-1-2009 through 9-30-2012. The contract  
5 calls for a wage and insurance re-opener in this  
6 the third and last year of the contract.

7  
8 On wages, the City is offering 0% for the  
9 third year and the Union is requesting 3.25%  
10 increase effective 12-1-2011. The Union seeks  
11 parity with wage increases negotiated with the  
12 Fire union of 3.25% and 3.00% with the Police  
13 union. These increases in wages were effective  
14 1-1-2012.

15  
16 On health insurance, the Union again requests  
17 parity with the Police and Fire unions. Union  
18 members currently pay 15% contributions for  
19 insurance premiums as opposed to 13%  
20 contributions by the Police and Fire unions.  
21 Therefore, the Union is requesting a reduction in  
22 medical premiums to 13%.

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1    II.   CRITERIA

2           Pursuant to the Ohio Revised Code, Section  
3   4117.14(G)(7), and the Ohio Administrative Code,  
4   Section 4117-95-05(J), the Fact Finder considered  
5   the following criteria in making the  
6   recommendations contained in this Report.

- 7           1)    Past collectively bargained  
8                    agreements between the parties;
- 9           2)    Comparison of unresolved issues  
10                   relative to the employees in the  
11                   bargaining unit with those issues  
12                   related to other public and private  
13                   employers in comparable work, given  
14                   consideration to factors peculiar  
15                   to the area and the classifications  
16                   involved;
- 17           3)    The interest and welfare of the  
18                   public, the ability of the public  
19                   employer to finance and administer  
20                   the issues proposed, and the effect  
21                   on the normal standards of public  
22                   service;
- 23           4)    Lawful authority of the public  
24                   employer;
- 25           5)    Stipulations of the parties; and,
- 6)    Such factors as not confined to  
                  those above which are normally and  
                  traditionally taken into  
                  consideration.

## 1 III. ISSUES

## 2 WAGES

3 Union's Position:

4 The Union is negotiating a wage increase  
5 of 3.25% effective 12-1-2011. The Union  
6 seeks parity with the wage increase  
7 negotiated a year ago with the Fire union  
8 whose wage increase was effective January 1,  
9 2012.

10 The Union offers the following rationale  
11 to support its request.

- 12 1. There have been no layoffs, but  
13 attrition of job positions has happened,  
thereby decreasing personnel costs.
- 14 2. Wages are under market compared to  
15 other cities.
- 16 3. In recent negotiations, the Fire  
17 Department got 3.25% and the F.O.P. got  
3%.
- 18 4. City offered Union 0%.
- 19 5. Union wants same treatment as Fire  
20 Department and F.O.P.
- 21 6. Union seeks parity with Fire Department  
22 and F.O.P.
- 23 7. General fund level is at \$3.7  
24 million.
- 25 8. City's credit rating is a -1 as of 2009.
9. Cost of 3.25% rate is in excess of  
\$100,000.

(WAGES - Union's Position continued)

10. The City's income tax revenues have increased from 7.5 million in 2010 to 8.2 million in 2011.
11. The "actual" beginning general fund balance has increased every year from 2008 through 2011, from 3.1 million to 4.0 million.
12. Personnel costs have decreased 9.7% since 2010 because of attrition of bargaining unit positions and an increase in health insurance pay-in by employers to fund their own health savings accounts.
13. Other than golf, enterprise funds all ended 2011 with surpluses.
14. The financial health of the City is better now than in 2009. In the 2009 Fact Finding Report, a 2% wage increase was recommended but never enacted.
15. The City tends to overexaggerate its yearly expenditures and underestimate its revenue. In the 2009 Fact Finder's Report, many capital improvements the City proposed as having to be completed during 2009 through 2011 and included as expenses were never implemented. These items are relisted on this year's capital improvement plan. This skews the actual "budgeted expenses" to be much higher than actual expenses are likely to be.
16. Last year the Electric Department enterprise funds ended the year with a surplus. The Water Department ended with a surplus. The Waste Department ended with a surplus. The Wastewater Department ended with a surplus.

1 (WAGES - Union's Position continued)

2 17. Every City of Piqua department has  
3 contains AFSCME bargaining unit members,  
4 with the exception of golf, has had an  
increase in revenue, budget surpluses  
and reduced personnel costs in 2011.

5 18. This made it possible for the City to  
6 grant wage increases to the F.O.P. of  
7 3.0% and to the Fire Department  
8 of 3.25%.

9 City's Position:

- 10 1. The City does not have balances to give  
11 the Union a raise.
- 12 2. Recommended three years of 0% wage  
13 increases for all unions and recommended  
14 same for AFSCME Local 984 Union.
- 15 3. Enterprise balances keep going down.
- 16 4. In 2013, city will receive no estate  
17 tax revenue.
- 18 5. City must have plans to replace fund  
19 balances.
- 20 6. The cost of a base wage rate increase of  
21 3.25% to the City would cost in excess  
22 of \$125,000 to \$175,000 plus.
- 23 7. All Union contracts were negotiated with  
24 the premise that the City was seeking  
25 three years of 0% wage increases.
8. All Police and Fire unions have received  
at least three years of 0% wage  
increase. Some have received four years  
of 0% wage increase.
9. Department heads have received five  
years of no increase and non-Union has  
received four years of no increase.

(WAGES - City's Position continued)

10. The Union received 0% increase in year one, had a "me-too" clause tied to the F.O.P. contract in year two and a reopener in year three. The F.O.P. received a 0% raise in year two of the AFSCME contract and, therefore, AFSCME also received 0% wage increase.

11. A majority of employees are paid by enterprise funds. These funds are revenue-producing funds that must cover expenses. The City maintains that the enterprise funds are not supporting themselves or have minimal fund balances and either have to be subsidized by the general fund or are in danger of not being able to support many of the mandates that have been imposed upon the City by the Environmental Protection Agency (EPA).

The City points out that streets, golf and parks are supported in part by the general fund. Of the 17 employees of the clerical unit, eight of those employees are supported by the general fund. The remaining employees are allocated to the enterprise funds due to their job duties.

12. The City points out that it is in danger of losing fund balances in City utilities in 2012. Power expenses are projected to exceed revenue. The water budget 2012 expenses are projected to exceed revenues by \$2.2 million. The current fund balance is \$1.2 million. The City has been ordered by the EPA to find a new water source.

(WAGES - City's Position continued)

13. Wastewater and Refuse project that revenues and expenses will balance.
14. The City has delayed capital projects, reduced staff and has old infrastructure facing EPA mandates in the millions of dollars while having to maintain 100 miles of streets.
15. Local government fund revenues are down by \$500,000, estate tax is down by \$200,000, and property tax collection is down by \$100,00 due to lower property values.
16. The general fund revenue has not grown and is at the level it was in 2003.
17. The City has been able to sustain the minimal balances it has at this time due to peaks in 2008 and 2009 which were due to one-time, non-repeating events. There was a lottery winning and an extremely large estate tax collection. Estate tax collection is expected to be phased out in 2013.
18. Piqua has a high income tax rate (1.75%) for the area, but yet is only collecting that which was collected in 2004 and 2005.
19. The City points out that the Union maintains its ability to receive step increases.
20. There is no ability to pay, and external and internal comparisons establish such.

1 III. ISSUES (continued)

2 HEALTH INSURANCE

3 City's Position:

4 Health insurance currently is at 75/15  
5 split and the City offers to continue at  
6 that level. The City paid a 75%  
7 contribution to the employee's HSA or  
8 HRA account, meaning \$3,000 on a family plan  
9 and \$2,000 for an individual plan. The  
10 employee paid a 15% contribution.

11 The City also offers a wellness  
12 Reimbursement Plan based on employee  
13 participation where the employee can earn up  
14 to \$400 on a family plan and \$200 on an  
15 individual plan. Reimbursement monies are to  
16 the HSA or HRA account.

17  
18 Union's Position:

19 The Union seeks parity with the Police  
20 and Fire unions on premium pay-in and Health  
21 Savings Account contributions. These unions  
22 (Fire and Police) pay a premium of 13% while  
23 the AFSCME bargaining unit members pay 15%.  
24 The Union requests that the medical insurance  
25 be reduced to 13%.

1 IV. DISCUSSION

2 WAGES

3 The City and the Union presented an abundance  
4 of financial data detailing the City's financial  
5 condition. These included:

6 For the year ending December 31, 2010:  
7 \* Assets and liabilities  
8 \* Financial highlights  
9 \* Quality rating of bonds  
10 \* Property taxes  
11 \* Income taxes  
12 \* General fund balance  
13 \* Enterprise funds balances  
14 \* Capital assets  
15 \* Liabilities  
16 \* Revenues  
17 \* Expenditures  
18 \* Independent auditor's Report dated  
19 May 27, 2011 for the year ended  
20 December 31, 2010.

21 These items, plus others, were all  
22 encompassed within the Comprehensive Annual  
23 Financial Report (CAFR) prepared by the City for  
24 the year ending 12-31-2010.

25 In the Auditor's opinion, "The financial  
statements fairly represent the financial position  
of the governmental activities, business type  
activities, each major fund, and the remaining  
aggregate fund information of the City of Piqua,  
Ohio, as of December 31, 2010."

The Union is asking for a wage increase of  
3.25%, effective 12-1-2011. The City previously

1 offered a 1% equity adjustment to the 18 power  
2 distribution employees only. This was to adjust  
3 wages in relation to the private sector. The  
4 Union turned down the 1% equity adjustment for the  
5 power distribution employees.

6 The City in the case at bar is offering a 0%  
7 increase in the base wage rate. The Union points  
8 out that the current collective bargaining dated  
9 10-1-2009 through 9-30-2012 was negotiated at fact  
10 finding. That report dated 9-14-2009 recommended  
11 a 2% increase in the wage rate, effective May 1,  
12 2009 and a re-opener of wage rates for changes to  
13 be effective on May 1, 2010.

14 The City did not follow the recommendation  
15 and no wage increase was given. In the re-opener  
16 at bar, the Union is asking for parity with the  
17 Police and Fire unions as they were afforded  
18 recent raises of 3% and 3.25% respectively,  
19 proving in the Union's mind that the City has the  
20 ability to pay for a raise increase.

21 The City also presented PowerPoint  
22 illustrations of actual 2011 fiscal activity and  
23 budgeted (forecast) 2012 of enterprise funds and  
24 the general fund.

25

1           Enterprise funds are business-type funds  
2 where the intent is that the cost of providing  
3 goods and services to the general public on a  
4 continuing basis be financed or recovered  
5 primarily by user fees or charges. The major  
6 enterprise funds are:

7           Electric, water, wastewater, storm water,  
8 golf, Fort Piqua Plaza and municipal pool.

9           These funds must, according to the City,  
10 support themselves from its revenues. The Union  
11 employees are mostly from the enterprise funds and  
12 not the general fund. It must be noted that the  
13 firemen and policemen are supported by the general  
14 fund only and some general funds may be used to  
15 support enterprise funds when there are  
16 shortfalls.

17           Fee services may include collection of  
18 garbage, electricity, sewer and water, license  
19 plate fees and income from a property tax levy  
20 specified for street improvement and street  
21 maintenance. General funds have been used to  
22 subsidize activities of the parks, golf course and  
23 pool.

24           Department heads have received five (5) years  
25 of no increase and non-Union has received four (4)

1 years of no increase. The Union has only received  
2 two (2) years of a 0% increase. Union employees  
3 continue to receive their step increases. A  
4 majority of the employees are paid by enterprise  
5 funds, but the fund balances have decreased and  
6 operations are costing more than revenues.

7 The Union has provided no credible evidence  
8 that the financial figures and projections put  
9 forth by the City are flawed or incorrect. The  
10 Union in asking for parity in wages with the Fire  
11 and Police Department have presented no credible  
12 evidence that there was parity or similarity of  
13 job duties, work conditions, work hours, safety of  
14 job, training or license requirements as well as  
15 education requirements.

16 The City in the grand scheme of things is  
17 attempting to stay ahead of the curve as relates  
18 to the economic recession, the economic bottom or  
19 the economic recovery. The attempts to keep fund  
20 balances up and to sustain fund surpluses is to be  
21 in a position to withstand economic surprises,  
22 such as a decline in property and estate taxes as  
23 well as decreased state funding.

24 The Fact Finder, after having scrutinized all  
25 of the data, including the internal and external

1 comparables, the audited financial statements of  
2 the City, the unaudited data proffered by the City  
3 for 2011, as well as budgeted (forecast) items for  
4 2012, believe the City to be in stable financial  
5 condition.

6       However, the City reports that it is facing  
7 many financial challenges:

- 8           \* General revenue overall at 2003 level.
- 9           \* Decreasing property values making  
10           property tax collection down.
- 11           \* Aging infrastructure and Environmental  
12           Protection mandates which are costly.
- 13           \* Unstable revenues leading to lower  
14           income tax collection.
- 15           \* Local economic condition lags national  
16           and state.
- 17           \* Elimination of estate tax by 2013.
- 18           \* Rising wage and healthcare costs.
- 19           \* How to maintain expenses and further  
20           reductions.
- 21           \* The City income tax at 1.75% is high  
22           among surrounding communities yet  
23           collections are back to 2004-2005  
24           levels.
- 25           \* Through February 3, 2012, income tax  
            collections are down 16.41% from 2011.
- \* General fund projected revenue and  
            expense net of transfers is projected  
            to be stable for 2012, cut in half for  
            2013, and in deficit for 2014.

1           The City projects that the departments under  
2 the enterprise funds will have increased non-labor  
3 expenses during the next three years while  
4 revenues are declining. For example, the City  
5 reports that it has delayed capital projects,  
6 reduced staff and has EPA mandates in the millions  
7 of dollars. The City also has 100 miles of  
8 streets to maintain.

9           The City's reasoning for a 0% wage increase  
10 for the Union is that all Union contracts were  
11 negotiated with the premise that the City was  
12 seeking three years of 0% wage increases. All  
13 Police and Fire Unions have received at least  
14 three years of 0% increase while some have  
15 received four years of a 0% increase.

16           The Union has stated that it does not believe  
17 the City when it presents figures showing that  
18 fund balances have significantly decreased while  
19 operations are costing more than revenues  
20 received.

21           However, beyond making that statement, the  
22 Union has failed to support its argument with  
23 corroborative credible evidence to the contrary.  
24 It is probably correct and honorable to assert  
25 that the clerical and blue collar workers are just

1 as indispensable as the police and firemen and,  
2 therefore, just as deserving of a wage increase as  
3 those units. However, without evidence to prove  
4 that the figures presented by the City are  
5 incorrect or in error, there can be no  
6 justification for the Fact Finder to dispute the  
7 financial information proffered by the City.

8       Therefore, the Union has failed to meet its  
9 burden of proof that the city's finances (income)  
10 are not decreasing commensurate with its expenses  
11 and, therefore, justification for the City's  
12 position of three years of 0% wage increase for  
13 all bargaining units as well as non-bargaining  
14 units. Based upon the history of Union and  
15 non-Union employees enduring at least three years  
16 of 0% base wage increases, fairness would dictate  
17 that the Union also should endure a third year of  
18 0% base wage increase. Therefore, the Fact Finder  
19 recommends a 0% increase in the base wage rate for  
20 year three of the contract.

21       However, the Union members are due some  
22 relief from increased cost of living, such as  
23 food, clothing, shelter, cost of gasoline and  
24 rising healthcare costs. Therefore, the Fact  
25 Finder recommends for year three a one-time only

1 lump sum payment of \$1,200, not added to the base  
2 wage rate, payable to each Union member.

3

4 HEALTH INSURANCE

5 The Fact Finder sees no valid reason  
6 presented by the Union that its members should not  
7 continue to pay a 15% contribution for health  
8 insurance premiums. This was a negotiated  
9 agreement between the City and the Union in the  
10 2009 contract. The trend for shared health  
11 insurance premiums is upward not downward.

12 Therefore, the Fact Finder recommends that  
13 health insurance premiums remain at 2011 plan year  
14 levels for 2012 in the amount of 75/15 split.

15 In addition, the City is to offer a health  
16 activity reimbursement plan which will allow the  
17 employees to earn additional dollars to be  
18 deposited in the HSA or HRA account. The employee  
19 can earn up to \$400 on a family plan and \$200 on  
20 an individual plan.

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