

Received Electronically @ SERB Feb 27, 2012 9:06am
STATE EMPLOYMENT RELATIONS BOARD
STATE OF OHIO

In the matter of Fact Finding between:	)	Case Numbers:
	)	11-MED-10-1570
FRATERNAL ORDER OF POLICE,	)	(Patrolmen)
BEAVERCREEK LODGE NO. 160,	)	11-MED-10-1571
	)	(Supervisors)
Employee Organization,	)	11-MED-10-1572
	)	(Civilians)
and)	
)	
CITY OF BEAVERCREEK, OHIO,	)	Hearing: February 2, 2012
	)	at Beavercreek, Ohio
Public Employer.)	
	)	Date of Report:
	)	February 27, 2012

FACT FINDING REPORT

Before Mitchell B. Goldberg, SERB appointed Fact Finder:

Appearances:

For the FOP:

Sorrell Logothetis,	Attorney
Chris Williams,	Lodge 160 President
Chad Lindsey,	Lodge 160 Vice President
Scott Molnar,	Lodge 160 Past President
Brad Piasecki,	Patrol Representative

For the City:

Beverly Meyer,	Attorney
Bill Kucera,	Financial and Administrative Services Director
Jill Bissinger,	Human Resources Manager
Dennis Evers,	Police Chief
Michael Thonnerieux,	Park Superintendent
Doyle Wright,	Police Captain

I. Introduction and Background.

The Ohio State Employment Relations Board (“SERB”) appointed the undersigned as the Fact Finder of this public employment labor dispute on December 14, 2011. The parties entered into an agreement extending the date for the issuance of this report to February 27, 2012. Timely pre-hearing statements were filed with the Fact Finder in accordance with SERB Rules and Guidelines. A hearing was conducted on February 2, 2012 at the City's administrative offices in Beavercreek, Ohio. The parties presented opening statements, evidence, including documentary exhibits and closing arguments on their respective positions on the unresolved issues. Mediation was attempted at the request of the parties after all of the evidence was received. While some progress was made toward a mediated compromise, the following issues remained unresolved.

There are three separate police bargaining agreements: (1) patrol officers; (2) sergeants and lieutenants (none at present); and civilian employees including a Records Clerk, Property and Resources Clerk, and Community Relations/Crime Prevention Specialist. There are 37 patrol officers, 7 sergeants and 15 civilian employees. The Supervisors' CBA and the Civilian employees' CBA were settled prior to fact finding. This Report applies to the remaining patrol officers' CBA. The public employer is a municipal corporation with over 45,000 residents in southwestern Ohio.

The unresolved issues arose as the result of provisions in the CBA that provide for a re-opener of the wages and insurance sections on the third year of the CBA that began on January 1, 2010. The unresolved issues for the third year involve proposed wage increases and adjustments to the employee premium contributions to the medical and dental group insurance plans that are provided to all City employees.

The following recommendations take into consideration the criteria set forth in Section 4117.14 (C)(4)(e) of the Ohio Revised Code, Section 4117-9-05 (K) of the Ohio Administrative Code and SERB Guidelines.

II. Economic and Financial Evidence. The present CBA, that expires on December 31, 2012 was agreed upon after the parties received recommendations from Fact Finder Richard J. Colvin. He recommended and the parties agreed to a group PPO plan with a Health Savings Plan option applicable to all City employees. The CBA provided for a 10% employee premium contribution and a dental insurance plan with no employee premium contribution for the first two contract years. The Fact Finder recommended and the parties agreed to a 3% wage increase on the base for year one, and a 3% wage increase on the base for year two. He recommended and the parties agreed to a re-opener for year three for wages (Article 20) and medical insurance (Article 18) because of the economic uncertainties facing the nation, the state and the local area that included high unemployment, the collapse of the housing market and the resulting state and local budgetary problems due to lower tax revenues. While the national picture is showing a slow recovery from the recession and improving employment, the state budget cuts have resulted in decreased funding for local governmental units, including Beavercreek. At the same time, Beavercreek has continued to weather the economic downturn without experiencing the severe employee layoffs and service reductions that occurred throughout the state, region and its neighboring communities. These factors and others must be re-visited for purposes of deciding the outstanding disputes over wages and insurance premium contributions in the last contract year in order to close out the present CBA.

The City has experienced remarkable economic growth over the past ten years, a period in which the country, state and region experienced some of the worst economic years in the country's history. Beavercreek is the fastest growing communities in the Miami Valley Region with an 18.4% increase in population and a 31.7% increase in the number of housing units. A major factor has been the expansion of nearby WPAFB, the largest employer in Ohio. This government spending has kick started an expansion of related defense contractor businesses, which in turn spawned other business development including retail developments, new educational and hospital facilities and the expansion

of existing educational institutions such as Wright State University. The commercial development activity has a valuation of \$68.8 million, far surpassing activity levels in other parts of the county and region.

Home values not surprisingly have declined in the past several years, but they have held up for the most part, which is an important economic indicator for the City that depends upon real estate taxes for substantial revenue. In fact, City property tax revenues have increased in 2012, based upon new tax levies.

A police tax levy was passed by the citizens in May 2011, replacing the existing 3.3 mill levy with a 3.7 mill levy. This is a three-year levy that accounts for over 50% of the police department's annual budget. In addition, the City receives federal, state and county financial assistance. The revenue from the other governmental units decreased from 2009 to 2010 by nearly \$150,000. This revenue was closer to the 2009 figure for 2011, with a budget of nearly \$1.5 million. The proposed budgeted change for 2012 shows a decrease back to the 2010 level. This is primarily due to the reduction of state funding as part of the comprehensive state budget cuts to local governments. However, total City revenues are budgeted for an increase in 2012 over 2011, while expenses have been managed to stay relatively even. This will leave an ending balance of over \$1.7 million at the end of 2012 in the police budget, with a fund balance percentage to projected expenditures of 21.79%. These are very healthy figures compared to nearby cities and townships within the county, and with adjoining counties.

Nevertheless, the City has legitimate concerns about the reductions that have taken place in its revenue streams. These reductions are expected to continue and are reflected in its budgets. The State has shifted its revenue generation burden onto local jurisdictions by reducing its funding. The local funding has been reduced together with the acceleration of the phase out period of the personal

property and utilities deregulation taxes. The City expects to lose \$840,000 from these sources in

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2012. It has addressed these concerns by not filling employment vacancies, including two police officer and two civilian police positions. It did not budget for any cost of living wage increase for its employees in 2012. It intended to increase insurance contribution payments for all employees. Capital projects have been delayed, amounting to a decline in planned services for its citizens.

The City has not entirely avoided the consequences of the existing poor economy that is now showing some signs of improvement. Single and Multi-Family home building permits have substantially declined from 2008 levels. This is due in part to the fact that unlike the surrounding township, the City land has been nearly fully developed.

The City has accounted for the above circumstances in its future budget projections so that its longstanding conservative approach will continue to keep expenditures in line with expected revenue, and keep what it believes is a reasonable ending cash reserve balance in the 15% range.

III. Unresolved Issues.

1. Wages

The FOP is proposing a 3.5% across the board wage increase for all three bargaining units for 2012, the last year of the current CBA. The City proposes no increase on the base wages, but instead, a 2% increase in the form of a lump sum bonus (signing bonus) that is not added to the base. The unit members would receive their step increases from 2011 to 2012.

Internal Comparisons

The City has recently concluded negotiations for a three-year CBA with CWA, its other represented bargaining unit. For 2012, its members will receive a 0% increase on base wages. There will be a \$300 lump sum signing bonus. In 2013, there will be a 2% wage increase in the form of another lump sum payment not added to the base. In 2014, there will be another lump sum wage

increase not on the base, that is calculated based upon each employee's overtime compensation. There will also be a re-opener for wage payments in 2014. Non-bargaining unit employees, including

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management employees and administrative employees will receive a 0% increase for 2012, and a 2% lump sum payment in 2013 similar to that to be received by CWA members.

Internal economic payments to other employees are considered by Fact Finders as one of the factors for consideration in reviewing proposals. The fact that the City has taken a hard line against wage increases on the wage base for its other employees for the next few years is evidence that its budgetary concerns are legitimate, and that it is not asking the police units to sacrifice more than its other employees, some of whom are paid at levels similar to the highest compensation levels for police employees.

The FOP argues, however, that the work of many of its members is dangerous and unique, requiring compensation that is commensurate with compensation paid to others performing such similar work. The City has acknowledged and accepted this premise over the years by paying its members fair, but regular wage increases on the base and cost of living increases. During good economic times, the City has recognized the value of its members by paying 5% increases and 5% cost of living increases. From 1996-2009, 3.5% increases were regularly paid on the base. The last contract provided for 3% increases to patrol officers, with 2.75% paid to the other units. These payments were somewhat higher than those to other City employees, but were not considered excessive or disproportionate. They were always considered reasonable considering the nature of the services that are provided.

The FOP further believes its proposal of 3.5% for 2012 is reasonable, based upon the increase cost of living for its members. The cost of living has been recognized by the federal government as

evidenced by the increase in Social Security payments and other COLA statistics.

Staffing Issue

Moreover, the FOP believes that higher compensation is justified because of the department's low staffing levels. The City's force has remained at 46 since 2007, notwithstanding that its population

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has grown by 5,000 residents. The full-time officers per 1,000 population has remained at 1.02, the lowest of 37 departments in the region. These include communities such as Fairborn, Monroe,

Vandalia, Greenville, Eaton, Centerville, Troy, Piqua, Kettering, Springboro and Huber Heights, none of which have a reputation as being high crime areas.

The City acknowledges some staffing concerns, and plans to add two full-time positions in its budget. However, it believes that more officers than the two are not needed due to the decline in service calls in 2011 from 2010. It recognizes the excellent service from its police employees and that they should be fairly compensated for their hard work, but it nevertheless must keep its expenses in line with projected revenues that are declining from diminishing revenue sources, coupled with its inability to obtain new revenue from its citizens, who have rejected any more real estate tax increases. This is evidenced by the recent failures to pass proposed school tax levies.

External Comparisons

Comparing wages paid to police employees with like police departments is one of the criteria used for purposes of determining whether a department is paying the approximate market wages, or the wages at levels being paid to police employees competing for similar work. The City and the FOP do not agree as to all of the departments that are within the applicable competitive market for police services, but they do agree upon many of the same departments for comparison purposes. For example, the FOP cites departments receiving increases in 2012 such as Englewood at 3%, Piqua at 3%, Troy at 2%, Vandalia at 2.25%, and Xenia at 1%. Top level police officers in Beavercreek earn

nearly \$67,000 annually compared with \$67,500 at Englewood (2012), \$62,500 at Fairborn (2011), \$66,000 in Huber Heights (2012), \$73,000 at Kettering (2011), \$63,300 at Miamisburg (2010), \$62,300 at Piqua (2011), \$58,600 in Springboro (2010), \$59,000 at Trotwood (2010), \$61,700 at Troy (2009), \$67,200 at Vandalia (2011), and \$61,000 at Xenia (2011).¹

The City's list of comparable departments include other departments such as Middletown, West Carrollton, Bellbrook, Riverside, Dayton, Green County Sheriff, Sidney, Springfield and Sugarcreek Twp. Using its list, Beaver Creek officers are paid 7.04% higher than the average. The City emphasizes that a number of comparable departments are receiving 0% increases for 2012. These include Fairborn, Huber Heights, Springboro, and Dayton. Others are receiving small increases ranging from 1%-2.25%, with only three departments receiving 3% increases.

The reasonable conclusion to be drawn from these statistics is that Beaver Creek is paying market wages to the unit members. I believe the following recommendations on the outstanding compensation issues retains the status quo in terms of Beaver Creek wage payments compared to the other comparable departments.

2. Insurance

The present premium contribution level for the unit members is 10% of the monthly premium for health/medical/hospitalization insurance under the existing PPO. The City proposes to increase the contribution in 2012 from 10% to 12.5%. The members presently pay no contribution for the dental insurance plan. The City proposes instituting a contribution of 12.5% of this monthly premium. The FOP wants to maintain the current contribution level of 10% of the monthly health insurance premium and 0% for the monthly dental insurance premium.

¹These are approximate figures based upon a SERB report dated January 25, 2012..

The FOP's main argument for no increase in these premium contributions is the fact that the entire premium cost increase in 2012 over 2011 was only 1.63%. This is an increase that the City can easily afford with no additional burden from the police employees. The City believes that the small increase for 2012 is merely an anomaly. Annual increases were as much as 20% in the past. Accordingly, it has budgeted for large increases that are more in line with past experience. The parties agree that the existing PPO is a very rich plan with excellent benefits and a very reasonable total out of pocket expense of \$1,400 per person. It is unrealistic to believe that future increases will be as low as

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that received in 2012. It believes that the police units should share the same burden as all of the other employees, many of whom earn less than police employees.

The FOP believes that its members are already at the highest level for insurance premium contributions. The statewide average for the percentage of monthly premium cost for employees in cities of populations in the range of 25,000-99,000 is 8.7% for single/8.1% for family. Contribution percentages on cities in the region vary greatly. Some are at the 15% level, and some still provide for employer 100% payments with 0% contributions from employees.

The City points out that the most recent SERB report shows that employee contributions for health plans with prescription drug coverage rose 5.2% for family plans and 2.8% for single coverage from 2010 to 2011. The 2011 percentage premium contributions in the Dayton region shows 11.2% for family and 9.8% for single coverage. The percentages statewide for employers with 1,000 or more employees in 2011 was 12.5% for family and 11.4% for single. The Dayton region average for those employers who require employees to contribute in 2011 is 13% single/13% family. This average does

not factor in those employers who require no employee contribution.² This shows an overall increase in employee contribution levels and reflects Ohio public employers' efforts to reduce their overall expenditures to keep within budgets by requiring all of its employees to contribute more towards the rising premiums, or accept less benefits or other alternatives such as health savings plans.

Insofar as dental insurance premium contributions are concerned, the City is proposing a substantial increase from these unit members; 0% to 12.5% of monthly premium costs. While the dental insurance premium is much lower than the medical premium, when added together, the requested employee insurance contribution increases are material. Nevertheless, all of the other City employees have agreed to these percentage increases as the representative culture within the entire City

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workforce.

Regardless of what may come about in the next round of contract negotiations that begin soon, an increase for 2012 to 12.5% from 10% for monthly medical insurance premium contributions, and from 0% to 12.5% for dental insurance premium contributions must be recognized for what it is – a material employee compensation reduction. This reality is recognized and considered when making the following recommendations on these related compensation issues. The wage recommendation includes a \$100 signing bonus or lump sum payment not added to the base. This is recommended so that members can better absorb the increased dental insurance premium contribution for 2012.

IV. Recommendations.

Wages

The bargaining unit members shall receive for 2012, the last year of the present CBA, an

²Kettering is an anomaly. It provides for no employee contribution, but the employer contributes less than 100% of the employee's annual health savings account contribution. Dispatchers pay 17% of the medical plan monthly insurance premium.

across-the-board pay increase on the base of 2.25%. Also, each member shall receive a \$100 signing bonus or lump sum payment that is not added to the base wages. These payments shall be made retroactively to January 1, 2012.

Insurance

All members, beginning January 1, 2012 and for the remainder of the contract year, shall contribute 12.5% of the monthly premiums for the group health/medical/hospitalization insurance plans, and 12.5% of the monthly premium for the group dental plan.

Date of Report: February 27, 2012.

/s/ _____
Mitchell B. Goldberg, Fact Finder

CERTIFICATE OF SERVICE

The within Report was served upon the following persons by electronic mail on the 27th day of February, 2012:

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/s/ _____
Mitchell B. Goldberg, Fact Finder