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STATE OF OHIO
STATE EMPLOYEE RELATIONS BOARD

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IN THE MATTER OF THE FACT-FINDING)	BEFORE FACT-FINDER:
)	JAMES E. RIMMEL
Between)	
)	SERB CASE: 12-MED-04-0440
THE FRATERNAL ORDER OF POLICE)	
OHIO LABOR COUNCIL, INC.)	HEARD: 13 SEPTEMBER 2012
)	ELYRIA, OHIO
and)	
)	ISSUED: 9 OCTOBER 2012 ¹
CITY OF MANSFIELD, OHIO)	
)	FILE NO.: 12.07167
.....)	

APPEARANCES

FOR THE FOP:

Mark E. Drum
Staff Representative

FOR THE CITY:

David L. Remy
Human Resources Director

BACKGROUND

This matter comes on for fact-finding under a wage rate re-opener cause under the 2011/2013 Agreement (Agreement)² between the City of Mansfield, Ohio (City) and Fraternal Order of Police, Ohio Labor Council, Inc. Patrol Officers (FOP or Blue Unit). It is at Article 17, Section 17.1.B that the parties explicitly provided for a wage rate re-opener, said proviso reading:

¹ By agreement of the parties, the issuance date of this report was extended so as to allow the matter to come before City Council at a regularly scheduled meeting.

² The current collective bargaining agreement had an initial term of 1 September 2009 through 31 August 2012. It was in 2011 that the agreement was mutually extended/revised in providing for a 31 July 2013 termination date.

The parties will meet on or prior to May 1, 2012 for the purpose of negotiating wages for the second year of the agreement. The parties acknowledge that, exclusively for this wage re-opener, the dispute resolution procedures contained in Chapter 4117 of the Ohio Revised Code on The Effective Date of this Agreement, are available if impasse is reached. The parties mutually agree that any wage increases shall become effective on June 1, 2012. [Underscoring and **Bold** in original].

It was on 13 April 2012 that the FOP filed a notice/request to negotiate with the City on the matter of wages, as such was provided for under the afore-quoted proviso. The parties did meet twice (31 May and 14 June 2012), sessions that failed to yield any agreement to change the existing Blue Unit wage schedule or provide any other form(s) of additional compensation. Several weeks after the later session, the parties declared impasse.³

Now, the City of Mansfield is the county seat and largest city within Richland County, Ohio, a county located in the central part of the state. For years, this area was, among other businesses, home to a number of manufacturing enterprises which provided job opportunities for its citizens and tax revenue for local governmental bodies. These conditions, however, changed over the last decade or so, with many Employers either shutting down totally or reducing local operating/employee levels. This ever-continuing decline in job opportunities and available tax revenues has called into question the continuing viability of this community. Put simply, the financial soundness of the various governmental bodies in this area has been raised, especially in the case of the City of Mansfield. In any event, it was in mid-December 2009 that the Auditor for the Ohio State, Mary Taylor, declared the City of Mansfield under “fiscal watch,” (FW) her 15 December 2009 certification reading as follows:

The Auditor of State performed a fiscal analysis of the City of Mansfield pursuant to Section 118.022 of the Ohio Revised Code. The analysis took the form of a review of financial conditions at December 31, 2008 and the examination of a financial forecast of the general fund for the year ending December 31, 2009. Based on the examination of the financial forecast of the general fund of the

³ While my appointment by SERB is dated 3 July 2012 with a notice calling for my report to be issued “no later than 7/17/2013,” the parties entered into an extension Agreement under Section 4117.14(G) (11) of the O.R.C.

City of Mansfield, the Auditor of State does hereby certify a deficit in the general fund of \$2,915,000 for the year ending December 31, 2009.

On the basis of the certified deficit, it is hereby declared that a fiscal watch exists at the City of Mansfield as defined in Section 118.022(a) (4) of the Ohio Revised Code.

Accordingly, this report is hereby submitted and filed with Donald R. Culliver, Mayor of the City of Mansfield, and the Richland County Budget Commission.

In arriving at this determination, Ms. Taylor succinctly sets forth in her report what was done by her office and its resulting findings, relevant excerpts reading:

In response to a request from Mayor Donald R. Culliver, as provided for in Section 118.021 of the Ohio Revised Code, the Auditor of State performed an analysis of the City of Mansfield, Richland County.

A City is placed in fiscal watch if any one of the four conditions described in Section 118.022 of the Ohio Revised Code exists as of December 31. The four conditions are: 1) significant past due accounts payable; 2) substantial deficit balances in City funds; 3) a sizeable deficiency in the City's treasury when the balance is compared to the positive cash balances of the City's funds; and 4) a forecasted general fund deficit at the end of the current year that exceeds one twelfth of the general fund revenue from the preceding year.

This report identifies the procedures performed and the conclusions reached with respect to the first three conditions as of December 31, 2008, and the forecast of the general fund for the year ending December 31, 2009.

	<u>Amounts at December 31, 2008</u>
Motor Pool	\$713,501
Water Operations	2,578,446
Sewer Operations	7,734,700
Airport Operations	29,519

Repair Garage	24,892
Information Technology	62,241
Utility Collections	32,954
Workers Compensation	48,783
Sub-Division	38,443
Unclaimed Monies	44,316
Adopt-A-Park	3,769
Safety- Town	6,377
Shade Tree	7
Sewer and Street Opening	17,542
Building Security	60,902
Transient Occupancy	11,593
Board and Buildings Standards	486
Utility Deposits	<u>1,050</u>
Total Positive Balances	<u>18,185,075</u>
Treasury Balance	<u>0</u>

Conclusion: Schedule II indicates that a fiscal watch condition does not exist under Section 118.022(A)(3) of the Ohio Revised Code as of December 31, 2008. The treasury balance equaled the cash balances.

Condition Four - Financial Forecast

Section 1 18.022(A)(4) of the Ohio Revised Code defines a fiscal watch condition as:

Based on an examination of the financial forecast approved by the legislative authority of a municipal corporation, county, or township, the auditor of state certifies that the general fund deficit at the end of the current fiscal year will exceed one-twelfth of the general fund revenue from the preceding fiscal year.

The Mansfield City Council, in Resolution Number 09-130,

approved a financial forecast of the general fund for the year ending December 31, 2009. The Auditor of State examined the forecast and issued a report dated November 30, 2009 (see Appendix A). The financial forecast anticipates a deficit in the general fund of \$2,915,000, which exceeds one-twelfth of the general fund revenue from the prior year by \$2,037,000.

Conclusion: The financial forecast of the general fund for the year ending December 31, 2009, indicates that a fiscal watch does exist under Section 18.022(A)(4) of the Ohio Revised Code. The forecast of the general fund for the year ending December 31, 2009, anticipates a deficit that exceeds one-twelfth of the general fund revenue from the preceding fiscal year.

Summary

We have performed the procedures necessary to determine whether any of the four conditions for fiscal watch set forth in Section 11S.021 of the Ohio Revised Code existed as of December 31, 2008, at the City of Mansfield, Richland County. The results of our analysis indicate that a fiscal watch exists at the City of Mansfield as defined in Section 11S.022 (A)(4) of the Ohio Revised Code.

Because the preceding procedures were not sufficient to constitute an audit made in accordance with generally accepted auditing standards, we do not express an opinion on any of the specific accounts and fund balances referred to above. Had we performed additional procedures or had we made an audit of the financial statements in accordance with generally accepted auditing standards, other matters might have come to our attention that would have been reported herein.

Appended to her declaration, Ms. Taylor included a Financial Forecast Report setting out a “Summary of Significant Accounting Policies and Forecast Assumption” and while it is quite relevant here, the following excerpt found at A.14 of the report is most noteworthy:

In 2009, income tax revenues are expected to decrease due to decreased wages of individuals working or living in the city. In addition, there have been several major employers within the city who have temporarily or permanently laid-off workers during 2009. The majority of income tax revenues received by the city are distributed to the safety fund.

In any event, it was under notice dated 19 August 2010 that State Auditor Taylor issued a second

notice declaring the City of Mansfield under a “Fiscal Emergency” (FE), said notice reading:

The Auditor of State performed a fiscal analysis of the City of Mansfield pursuant to Section 118.03 of the Ohio Revised Code. This analysis indicates and it is hereby declared that a fiscal emergency exists at the City of Mansfield as defined by Section 118.03(A)(5) and 118.03(B) of the Ohio Revised Code.

Accordingly, on behalf of the Auditor of State, this report is hereby submitted and filed with Donald R. Culliver, Mayor of the City of Mansfield, Phillip Scott, President of Council for the City of Mansfield; Ted Strickland, Governor; Jennifer Brunner, Secretary of State; Kevin L. Boyce, Treasurer of State; J. Pari Sabety, Director of the Office of Budget and Management and Patrick W. Dropsey, Secretary of the Richland County Budget Commission.

In her analysis in support of this declaration, Ms. Taylor notes the following relevant facts:

Introduction

As provided by Section 118.04(A) of the Ohio Revised Code, Mayor Donald R. Culliver requested that a fiscal analysis be performed by the Auditor of State for the City of Mansfield, Richland County (the City). The purpose of the analysis is to determine if the financial condition of the City justifies the declaration of a fiscal emergency.

A City is placed in fiscal emergency if anyone of the six conditions described in Section 118.03 of the Ohio Revised Code exists. The six conditions are: 1) default on a debt obligation; 2) failure to make payment of all payroll; 3) an increase in the minimum levy of the city which results in the reduction in the minimum levy of another subdivision; 4) significant past due accounts payable; 5) substantial deficit balances in city funds; and 6) a sizeable deficiency when the city's treasury balance is compared to the positive cash balances of the city's funds.

The year-end conditions described under Conditions four, five, and six do not constitute a fiscal emergency if the City clearly demonstrates to the satisfaction of the Auditor of State prior to the time of the Auditor of State's determination that the conditions no longer exist at the time of the determination. This report identifies the procedures performed and the conclusions reached with respect to each condition as of December 31, 2009, and April 30, 2010, the date of determination.

Conclusion: The financial forecast of the general fund for the year ending December 31, 2009, anticipates a deficit that exceeds one-twelfth of the [sic] does exist under Section 118.022(A)(4) of the Ohio Revised Code. The forecast of the general fund for the year ending December 31, 2009 anticipates a deficit that exceeds one-twelfth of the general fund revenue from the preceding fiscal year.

Summary

We have performed the procedures necessary to determine whether any of the four conditions for fiscal watch set forth in Section 118.021 of the Ohio Revised Code existed as of December 31, 2008, at the City of Mansfield, Richland County. The results of our analysis indicate that a fiscal watch exists at the City of Mansfield as defined in Section 118.022(A)(4) of the Ohio Revised Code.

Because the preceding procedures were not sufficient to constitute an audit made in accordance with generally accepted auditing standards, we do not express an opinion on any of the specific accounts and fund balances referred to above. Had we performed additional procedures or had we made an audit of the financial statements in accordance with generally accepted auditing standards, other matters might have come to our attention that would have been reported herein.

Condition Five - Deficit Fund Balances

Section 118.03(A) (5), of the Ohio Revised Code defines a fiscal emergency condition as:

The existence of a condition in which the aggregate of deficit amounts of all deficit funds at the end of its preceding fiscal year, less the total of any year-end balance in the general fund and in any special fund that may be transferred as provided in Section 5705.14 of the Revised Code to meet such deficit, exceeded one-sixth of the total of the general fund budget for that year and the receipts to those deficit funds during that year other than from transfers from the general fund.

We computed the adjusted aggregate sum of all deficit funds as of December 31, 2009, by subtracting all accounts payable and encumbrances from the year-end cash fund balance of each fund.

We then determined if the aggregate deficit fund balance exceeded one-sixth of the general fund budget and the receipts of those deficit funds. We then identified funds that may be transferred, as provided in Section 5705.14 of the Ohio Revised Code, to meet such deficits to arrive at the unprovided portion of the aggregate deficit.

Schedule IV

Deficit Fund Balances
Ohio Revised Code Section 118.03(A)(5)
As of December 31, 2009

Funds	Cash Fund Balances	Less Accounts Payable and Encumbrances	Adjusted Aggregate Sum of Funds With Deficit Balances	One-Sixth General Fund Budget/ Fund Receipts	Provided (Unprovided) Portion of Aggregate (Deficit)
General	(\$2,217,825)	\$280,252	(\$2,498,077)	\$1,925,986	(\$572,091)
Safety Services	45,341	59,596	(14,255)	3,250,538	0
Grant	548,093	870,933	(322,840)	277,321	(45,519)
Airport Operations	900	3,743	(2,843)	73,716	0
Utility Collections	16,407	19,651	(3,244)	275,272	0
Health Insurance	19,401	44,450	(25,049)	1,190,830	0
Ohio Municipal League Self Insurance	0	28,767	(28,767)	80,695	0
Workers Compensation	23,950	354,259	(330,309)	141,820	(188,489)
Benefits	0	169,763	(169,763)	459,663	0
Ohio State Penitentiary Fines	4,022	9,136	(5,114)	10,301	0
Transient Occupancy	12,493	19,409	(6,916)	31,395	0
	<u>(\$1,547,218)</u>	<u>\$1,859,959</u>	<u>(\$3,407,177)</u>	<u>\$7,717,537</u>	<u>(806,099)</u>
Funds available for transfer					0
Total Unprovided Portion of Aggregate Deficit Funds					<u>(\$806,099)</u>

Section 118.03(B), Ohio Revised Code, provides in part:

Any year-end condition described in division (A)(5) of this section shall not constitute a fiscal emergency condition if the municipal corporation, county, or township clearly demonstrates to the satisfaction of the Auditor of State prior to the time of the Auditor of State's determination that such condition no longer exists at the time of the determination pursuant to Section 118.04 of the Revised Code. For the purpose of such demonstration, there shall be taken into account all deficit amounts of deficit funds, as at the time of such demonstration, rather than at the end of the fiscal year, and there shall be taken into account the moneys and marketable securities in the treasury of the municipal corporation, county, or township at the time of such demonstration that are, in the case of division (A)(5) of this section, held for the general fund or any special fund that may be transferred as provided in section 5705.14 of the Revised Code, to meet such deficit, provided that changes from the year-end condition resulting from transfers not authorized pursuant to Chapter 5705 of the Revised Code, borrowings or advances between funds, shall not be taken into account to demonstrate improvement in any fiscal emergency condition.

We computed the adjusted aggregate sum of all deficit funds as of April 30, 2010, all accounts payable and encumbrances from the year-end cash fund balance of each fund. We then determined if the aggregate deficit fund balance exceeded one-sixth of the revenues available to those deficit funds. We then identified funds that may be transferred, as in Section 5705.14 of the Ohio Revised Code, to meet such deficits, to arrive at the unprovided of the aggregate deficit.

Deficit Fund Balances
Ohio Revised Code Section' 118.03(B)
As of April 30, 2010 .

Funds	Cash Fund Balances	Less Accounts Payable and Encumbrances	Aggregate Sum of Funds With Deficit Balances	One-Sixth of the Fund Receipts	Unprovided Portion of Aggregate Deficit
General	\$267,974	\$944,021	(\$676,047)	\$1,664,511	\$0
Street Construction Maintenance and Repair	(78,357)	113,739	(192,096)	317,311	0
Safety Services	(1,877,501)	2,143,415	(4,020,916)	2,993,606	(1,027,310)
Grant Fund	139,415	723,073	(583,658)	471,106	(112,552)
Reid Industrial Park/Miller Farm	(442,029)	14,500	(456,529)	345,594	(110,935)
Airport Operations	50	56,639	(56,589)	80,235	0
Repair Garage	0	61,345	(61,345)	223,137	0
Information Technology	0	321,242	(321,242)	123,042	(198,200)
Utility Collections	150	405,753	(405,603)	340,634	(64,969)
Health Insurance	0	52,559	(52,559)	1,190,765	0
Workers Compensation	45,092	787,242	(742,150)	141,170	(600,980)
Benefits	0	2,179,685	(2,179,685)	453,581	(1,726,104)
Transient Occupancy	0	6,408	(6,408)	33,333	0
	<u>(\$1,945,206)</u>	<u>\$7,809,621</u>	<u>(\$9,754,827)</u>	<u>\$8,378,025</u>	<u>(3,841,050)</u>
Funds available for transfer from the General Fund					<u>0</u>
Total Unprovided Portion of Aggregate Deficit					<u>(\$3,841,050)</u>

Conclusion: Schedules IV and V indicate that a fiscal emergency condition exists under Sections 118.03(A)(5) and 118.03(B) of the Ohio Revised Code as of December 31, 2009, and April 30, 2010. The total unprovided portion of aggregate deficit funds as of December 31, 2009, and April 30, 2010, are \$806,099 and \$3,841,050, respectively.

Conclusion: Schedules IV and V indicate that a fiscal emergency condition exists under Sections 118.03(A)(5) and 118.03(B) of the Ohio Revised Code as of December 31, 2009, and April 30, 2010. The total unprovided portion of aggregate deficit funds as of

December 31, 2009, and April 30, 2010, are \$806,099 and \$3,841,050, respectively.

Now, in reviewing these data it is obvious that the City is in dire financial condition. It is also obvious that all those employed by the City, including the officers within the Blue Unit, have been (are) working hard to turn things around while providing those who live in Mansfield the best service possible. And, while others may have addressed the current problem differently, there is nothing of record indicating that relevant cost saving/revenue generating measures have been overlooked or ignored. Given the existence of the oversight commission that is in place, it is highly unlikely such an omission has occurred here. In any event,, as noted earlier, all, including the members of the Blue Unit, have signed on to the task of getting the City of Mansfield removed from the State's FE list and thus restore confidence for those considering living in this community or starting a business there. While this effort has already spanned more than three (3) years when one considers both FW and FE status, the City's objective remains clear even in light of the difficulties being encountered at most every juncture.

Given these realities, it would appear that certain of the criteria set out under the Administrative Code may not be controlling in this instance. Normally, a Fact-Finder is to consider past contracts for the involved bargaining unit, relevant comparables, both internal and external, the three (3) elements of public concern, i.e., general public welfare, ability of the governmental body to pay for the requested contractual change and the effects of any adopted change(s) upon the standards of services given to the public. Issues of the governmental body's "lawful authority" may likewise be applicable in some cases. More on these areas of Fact-Finder consideration under existing Code provisions later.

To iterate, over the last three (3) plus years, there has been a considerable effort by all to address the City's dire financial condition. To a major extent, these efforts are reflected in the City's Revised Financial Recovery Plan dated 17 October 2011 reading:

City of Mansfield
Financial Plan

6th

*Need to
Goal*

Please find significant assumptions in the following plan which is based on the actions that are to be taken by the City, legal authority and the *approximate* dates of the commencement and completion as indicated:

Action:	Begin	Completion
Expenditure Reduction Actions:		
DEPARTMENT OF PUBLIC SAFETY		
FOP Contract Concessions: reducing Holiday Pay by \$76,000.00 in 2010 and \$85,000.00 in 2011 and forfeiting Sick Leave Bonus saving \$22,000.00 in 2010 and \$30,000.00 in 2011	1st Quarter 2012	X Ongoing Annual savings in current labor agreement
No Idle Policy and reducing vehicle use will save fuel (5,000 gallons of fuel reduced in 2012 compared to 2011 use, reducing fuel costs)	1st Quarter 2012	Ongoing
General Expenditures		
Health Care funding to rate new provider. \$464,970 savings	1st Quarter 2012	Ongoing
Health Care Insurance adjustments reducing 2011 anticipated costs; <i>pending in AFSCME.</i>	1 st Quarter 2012	X Ongoing with AFSCME Labor Unit
MAYOR'S STAFF AND PERSONNEL		
Cancel use of city vehicles for Mayor and SSD for an annual savings total of \$14,000	1 st Quarter 2012	Ongoing
Cancel purchased letterhead for a total annual savings of \$6000.00	1 st Quarter 2012	Ongoing
Cancel use of cell phones for Mayor and SSD for an annual total savings of \$1400.00	1 st Quarter 2012	Ongoing
No annual personnel raises for 2012, unless corresponding reduction in expenditures (Finance)	1 st Quarter 2012	Ongoing
<i>Voluntary Furlough Days saving approximately \$200,000 annually re-evaluated quarterly based on operational impact and available revenue.</i>	1 st Quarter 2011 (Dave will get actual number of 941's used to date)	X Ongoing
Care Works	Dave	

DEPARTMENT OF INFORMATION TECHNOLOGY		
New World allowed for reduction in 3 installers (Mike Marquis, Mike Geib, Scott Dawson) in Utilities and 1 Meter Foreman, (Fred Blackwell) as a result of IT implementation.	1 st Quarter 2012	Ongoing

**City of Mansfield
Financial Plan**

Please find significant assumptions in the following plan which is based on the actions that are to be taken by the City, legal authority and the *approximate* dates of the commencement and completion as indicated:

Action:	Begin	Completion
Expenditure Reduction Actions:		
DEPARTMENT OF BUILDING MAINTENANCE		
Building Maintenance to implement cost avoidance initiative reducing costs by an average of \$34,000.00 annually (\$26,000 in '10 and \$39,000 in '11)	1 st Quarter 2011	Ongoing
Building Maintenance Paper towel reduction initiative saving \$12,000 annually	3 rd Quarter 2010	X COMPLETED
Building Maintenance lay-off of 1 saving \$43,513.00	1 st Quarter 2011	X COMPLETED Pending ongoing evaluation of funds and need in 2012
UTILITIES-WATER-SEWER		
ENGINEERING-CODES & PERMITS		
MAYOR'S STAFF AND PERSONNEL		
SSD Salary from \$86,258 to \$77,501 for a savings of \$8757.00/annually.	1 st Quarter 2012	X Ongoing
SSD Longevity pay from \$3600 to \$100 for a savings of \$3500.00/annually.	1 st Quarter 2012	X Ongoing
Mayor's health care plan from \$32,784 to \$23,712 for a savings of \$9072.00/annually	1 st Quarter 2012	X Ongoing
Parks Dept re-org: budgeted for 5 employees, returned 1 employee for a savings of \$87,282.00	2 nd Quarter 2012	X Ongoing

(\$151,897 inc benefits minus Park officer at \$30,729 and 1 park employee for pools, at \$33,886)

**City of Mansfield
Financial Plan**

Please find significant assumptions in the following plan which is based on the actions that are to be taken by the City, legal authority and the *approximate* dates of the commencement and completion as indicated:

Revenue Action:	Begin	Completion
LED traffic signal project grant; saved \$33,000 in 2012 and projected to save \$66,000 in 2013 and forward.	1 st Quarter 2012	X Ongoing
Implement Street Light Furlough for savings of \$93,000 in 2012 and \$93,000 in 2013.	4 th Quarter 2011	X Ends at end of 2013
Increase employee contribution to Health Care costs generating approximately \$250,000 annually	2 nd Quarter 2011	Ongoing- Approved by FOP & IAFF, pending agreement AFSCME
Anthem – new vendor rates; \$464,970 savings/annually	1st Quarter 2012	Ongoing
Increase Safety Income Tax by one quarter of one percent to generate new funding annually <u>stabilizing safety force personnel</u> . \$3,000,000 potential – for Nov. ballot (Requires Council Action)	4 th Quarter 2012	Pending
Sell unused structures including Newman Fire Station generating approximately \$15,000 and annual savings of maintenance/utilities of \$5,000.00	2 nd Quarter 2012	Pending
Sell unused structure vacated by re-structuring utilities departments for approximately \$40,000 and annual savings of maintenance/utility costs of \$22,000.00	2 nd Quarter 2012	Pending
License plate fee increase of \$5 to offset street department costs generating approximately \$260,000 annually. (Requires Council Action) \$125,000 as of May '12	January 2012	X COMPLETED
Storm water runoff fee similar to Newark Ohio's format generating approximately \$2.5 million annually (Requires Council Action)	3rd Quarter 2011	X NO ACTION

Please find significant assumptions in the following plan which is based on the actions that are to be taken by the City, legal authority and the *approximate* dates of the commencement and completion as indicated:

Revenue Action:	Begin	Completion
Implementation of Speed Camera Vehicle to generate approx. \$170,000 (Requires Council Action)	4th Quarter 2012	Pending
Add Utility collection mailing inserts for a revenue of \$12,000.00 annually at a cost of \$1007 to the city.	3rd Quarter 2012	Ongoing
Compost Sale generating \$10,000 annually	2 nd Quarter 2012	Ongoing
Harvest timber from city owned property generating approximately \$20,000 annually	2 nd Quarter 2011	X Annual review and evaluation
Establish Fire Department Capital Equipment Fund for EMS Vehicles supplemented with a % annual transfer from Transport Revenue.	2 nd Quarter 2011	X Pending Not set up until approved from State
Purchase 3 EMS/Rescue vehicles paid for through a Lease / Purchase Agreement over 5 years as passed by City Council Ordinance # 11-167	4 th Quarter 2011	X Complete
Establish Police Department Capital Equipment Fund for marked vehicles supplemented with a % annual transfer from self-supporting STEP Revenue	2 nd Quarter 2011 \$15,000/annually	X Ongoing
Establish Fund for retirement separation costs with annual transfers as a percentage of annual wage/salary expenditures	3 rd Quarter 2011 Not current but in the works for '13	X Pending
Establish Contingency Account to be funded by a % of General Fund Balance annually		Pending (Awaiting state approval)
Tax Amnesty Program, Finance to determine revenue	2 nd Quarter 2012	Pending
CCR (customer confidence report) Printing/mailing savings of \$2500	2 nd Quarter 2012	Ongoing
Delinquent Tax payment plan fee, Finance to determine revenue	2 nd Quarter 2012	Pending
False Alarm Response Fee to reduce false fire/police alarms and generate \$5,000 annually	1 st Quarter 2011	X Ongoing
Increase Utility on/off fees generating \$46,000 in additional 2011 revenue	143 rd Quarter 2010	X COMPLETED

Unanticipated Water/Sewer funds from Richland County in the amount of \$76,578.56 due to meter error. RC agreed to pay in 1 st Quarter	1 st Quarter	X COMPLETED
Reducing the resident tax credit from 1.% to .50% for an annual revenue yet to be determined by Finance. (Requires council action.)	3 rd Quarter 2012	Pending
CURRENT COMPLETED ITEMS that continue for the Financial Plan		
911/ Communications Center furlough of 1 supervisor in 2011 saving \$60,000.00 in 2011 and \$70,933.00 annually in 2012. (3 supervisors and 4 dispatchers vacant pending further evaluation)	1st Quarter 2011	X COMPLETED Pending ongoing evaluation of available funds
Consolidation of vehicle maintenance for police vehicles within the Fire Department Repair Section reducing the safety transfer to the Garage by \$40,000 over 2010. Savings recognized to transfer all safety vehicles, other than Fire, back to the Repair Garage as of 1st Quarter 2012	1st Quarter 2012	COMPLETED Reversed as of 1st quarter 2012
FOP MOU to allow open command/supervisory positions to remain vacant saving in excess of \$300,000 annually.	1 st Quarter 2012	COMPLETED
IAFF Contract concessions through April 1, 2013 reducing minimum manning from 21 to 18 and other contract mandates reducing personnel and overtime costs. (Minimum Manning costs for 2012 have been reduced to approximately \$600,000). Labor agreement allows open supervisory positions to remain vacant saving in excess of \$300,000 annually.	2nd Quarter 2011 <i>Reversed</i>	X COMPLETED Pending ongoing evaluation of funds and need in 2012
Police lay-off of 4 police officers saving approximately \$250,000.00 (24 police officer positions have been vacated at this point)	1st Quarter 2011 <i>Reversed</i>	X COMPLETED and Recalled as a result of retirements and available funding
Lay-off Safety Director's Administrative Assistant saving \$48,000 in 2011, HR Benefits Coordinator saving \$40,000 in 2011. Public Works Director position vacated in 2010 saving \$97,841 annually	1st Quarter 2011	X COMPLETED Pending ongoing evaluation of funds and need in 2012
No Idle Policy and reducing vehicle use will save fuel (20,000 gallons of fuel reduced in 2010 compared to 2008 use reducing fuel costs)	1 st Quarter 2011	X Completed
Restructure waste collection process at city facilities reducing costs by \$40,000.00 annually	1 st Quarter 2011	X Completed
Restructure combining Parks and Receptions Departments. Lay-off 6 Parks employees for 6 months saving \$185,000.00	1 st Quarter 2011	X Completed

IT coordination of new software installation and initiation (OSSI and New World). Increasing efficiency and potentially reducing required personnel in impacted departments. (OSSI: reduction in 5 records clerks, 1 records supervisor. 1 AS400 Programmer) (New World allowed for reduction in 3 installers in Utilities and 1 Meter Foreman)	2 nd Quarter 2011	X Completed
IT to complete Multi-Function Document Device evaluation and plan to reduce devices saving \$22,607.00 in device lease/paper/click costs and \$2,400.00 in utility costs annually	4 th Quarter 2010 Actual savings of \$26,000	X Completed
Building Maintenance to implement new Energy Reduction Plan saving \$20,000.00 annually	1 st Quarter 2011	Completed
Building Maintenance Paper towel reduction initiative saving \$12,000 annually	3 rd Quarter 2010	Completed
Restructure water and sewer repair eliminating 2 operations supervisors (1 in Streets) saving \$174,000.00 annually	4 th quarter 2010	Completed
Lay-off 3 Meter Readers for saving \$195,000.00	1 st Quarter 2011	Completed
Engineering personnel reduction of 2 project planners and reduced administrative support staff saving \$64,466.00 in 10 and \$179,345.00 annually	3 rd Quarter 2011	Completed
Restructure Codes and Permits Department eliminating one Inspector saving approximately \$62,245.00. Collaborate with Richland Cty for some inspections to reduce costs	1 st Quarter 2011	Completed
Increase EMS Transport Fees consistent with what is Reasonable and Customary generating additional \$200,000 annually. (41.6% by end of May '12.)	4 th Quarter 2010-1 st Quarter 2011	Completed
Implementation of utility late fee and bad check fee generating \$170,000 from June-Dec 2010 and approximately \$225,000 \$300,000 annually	2 nd Quarter 2010	Completed

City of Mansfield
Financial Plan

Assurances of the Financial Plan

1. The City will conform to statutes with respect to tax budgets and appropriation measures.
2. The City will establish monthly levels of expenditures and encumbrances pursuant to division (B)(2) of Section 118-07 of the Ohio Revised Code.
3. The amount and purpose of any issue of debt obligations will not exceed debt limits supported by appropriate certification by the City Finance Director and County Auditor.
4. The City will prepare a financial forecast for a five-year period in accordance with the standards issued by the Auditor of State (See Appendix A).
5. The City will address and implement Auditor of State comments from the Report of Accounting Methods.

Based on the implementation of the items in this plan, the City could request termination in 2013.



Action: Begin Completion Expenditure Reduction Actions:

objectives of the Financial Plan

In accordance with Section 118.06, Ohio Revised Code, the Mayor must submit to the Financial Planning and Supervision Commission ("Commission") a Financial Plan ("the Plan") as approved by ordinance or resolution of the Mansfield City Council ("City Council") within 120 days after the first meeting of the Commission. The main objective of the Financial Plan is to eliminate all fiscal emergency conditions which were determined by the Auditor of State pursuant to Sections 118.04. Ohio Revised Code. The Plan identifies the actions to be taken by the City to

restore the fiscal integrity of the City. It also serves as a master plan by which all future appropriation measures must comply and directs the correction of issues essential to financial recovery. The Financial Plan may be amended in the same manner as its initial passage.

The matters that need to be addressed by the City of Mansfield's ("the City") Financial Plan in order to eliminate its fiscal emergency conditions are set forth below:

The Budget Process- Appropriations:

By virtue of Ohio law, the City of Mansfield is required to balance its annual operating budget.

Accordingly, the City's administration is committed to address each of the projected deficits through a series of demanding actions designed to increase operating revenues and/or decrease operating expenditures/expenses. The annual appropriations process shall be accomplished for the general fund and any deficit funds through the City's rolling five-year forecast attached hereto and incorporated herein as "Appendix A" and will match the City's Budget.

On or before *December 31st* of each year the City Council shall adopt budget appropriations for the upcoming year that begins January 1st. Failure to do so is in violation of the financial plan and the City shall be subject to remedies and penalties as prescribed in Chapter 118 of the Ohio Revised Code.

In order to accomplish this, the following procedures shall be followed while the City remains in fiscal emergency:

Format for Appropriations. All fund appropriations will be at a minimum passed at the personal service and other object level. The City shall follow the budget process set forth in Resolution 88-212, and additional requirements as follows:

- a. On or before September of each year all department heads and all other branches of government shall submit their departmental budgets to the Mayor. Elected officials not under the Mayor may submit their budgets to Council and copy to the Mayor. The departmental budgets shall provide a detailed narrative explaining the need for the monies requested. If any department budget includes appropriations from grant dollars specific to their department, the grant requirements, dollar amount, and grant period shall be included with the documentation.

b. On or before the third Monday in November, City Council shall complete its budget hearings on the Mayor's Budget. Within 7 days from passage, the Clerk of City Council shall forward to each member of the Commission the proposed appropriations ordinance resulting from City Council's budget hearings on the City's Budget.

c. The Chairman of the Commission and/or the Financial Supervisor shall meet with the Mayor and City Council prior to final budget approval.

d. After the Commission's review of the proposed appropriations ordinance and no later than December 31st, City Council shall adopt an appropriations ordinance for the upcoming fiscal year that is consistent with all modifications set forth by the Commission. Failure to do so is in violation of the Financial Plan and the City shall be subject to remedies and penalties as prescribed in Chapter 118 of the Ohio Revised Code.

Financial Reports:

The City of Mansfield Finance Department shall close the preceding month's book and reconcile to the banks by the 10th day of the following month. A copy of the financial information for the preceding month shall be sent to the Mayor and Financial Supervisor. The Financial Supervisor will summarize the information and present the summary to each member of the Commission at the Commission meeting.

Not all that appears under the above-quoted plan⁴ has been implemented/approved to date. And, it also appears some of the savings predictions may have been understated in some instances. The reality, however, is the City has a recovery plan in place having an objective termination date of 2013 for its present "fiscal emergency" status. This objective is clearly doable, but it will require continuing hard work from all those employed by the City as well as support from those who reside in Mansfield.

FOP POSITION

The FOP acknowledges that the City of Mansfield has been (is) faced with difficult

⁴ It was under Ordinance No.: 12-104 that further revision/update the City's Financial Recovery Plan was approved by council.

financial times causing, amount other things, the erosion of police staffing and available officer assistance. It emphasizes Mansfield officers have made significant concessions in wages, benefits and other working conditions so as to assist in this effort. It emphasizes Mansfield officers have not received any wage increases since 2008, while at the same time, the cost-of-living has increased significantly and they are contributing more in the way of health insurance premiums. It thus proposes that the current wage scale be increased by three percent (3%) effective 1 June 2012. It notes, in contrast, that the City has proposed no increase in wages or other form of compensation.

Likewise, the FOP emphasizes that the wages for these officers are less than they were in 2009. It claims during this same time period every relevant comparable police bargaining unit has received wage increases. It contends this fact, along with significant benefit concessions, supports its position for a wage increase for bargaining unit members in 2012. It contends, moreover, proffered comparables cogently show that local officers are not only paid less than other officers, but their relative standing with these other units has continued to decline. It argues this change has been occasioned by a number of factors, including, but not limited to, the elimination of the pension pick-up previously paid by the City.

The FOP claims in analyzing these comparative data, one must note that of the twelve (12) referenced cities, Mansfield has the most square miles for its officers to cover. It likewise notes Mansfield officers must respond to more than the average number of calls/incidents responded to by other departments. It contends, moreover, the cost per officer for Mansfield is approximately \$14,300 less than the average of the twelve (12) comparable departments. In any event, it iterates the salary for a top patrol officer in Mansfield has gone from \$53,701 in 2008 to \$53,132 in 2011, a 1.06% decrease. It emphasizes again that Mansfield officers also have lost the 8.5% pension pick-up previously paid by the City.

Finally, the FOP argues that several departments/individuals in the City have received wage adjustments even during this claimed period of financial emergency, including those within the Clerk of Courts office, Municipal Court and Law Director's office. Such inconsistency, according to the FOP, cannot be simply dismissed/ignored. To the contrary, it contends such represents sound basis for recommending that being sought here for Blue Unit officers. It requests that its members be accorded similar treatment.

CITY POSITION

The City proposes that I adopt its request of no increase in wages during the term of the current CBA. It contends its position is based upon the City's inability to finance and/or pay for any employment cost increase under its financial situation. It emphasizes the City of Mansfield is currently functioning under a fiscal emergency and simply cannot be expected to increase employment costs. In any event, it notes in 2009, at the request of then Mayor Don Culliver, the State Auditor, pursuant to Chapter 118 of the Ohio Revised Code, an audit was conducted of the City's financial condition. It notes as a result of that initial audit, the Auditor certified a deficit in the City's general fund of \$2,915,000 for the year 2009 and, therefore, on 15 December 2009 declared that a fiscal watch existed for the City. It claims this deficit was primarily due to expenditures within the City safety forces that exceeded revenues by more than \$3 million. It notes in January 2009, the City had a total of 546 employees.

Now, the City claims that in anticipation of the State Auditor's findings, its Administrators began to take measures to reduce expenditures in an attempt to bring them in line with revenues. It claims the City laid-off numerous employees, both bargaining and non-bargaining, within its various departments. Capital improvements were severely curtailed. It additionally claims that attempts, although ultimately unsuccessful, to lay off firefighters were made. It contends reductions in civilian personnel within the police department were made and initially 17 police officers were laid-off. As for the latter, it notes the City was able to bring back laid-off officers due to the availability of federal grant money. In any event, it emphasizes as a result of negotiations with AFSCME, FOP/OLC and IAFF, wage freezes and other monetary concessions were achieved. Non-bargaining personnel were subjected to wage freezes, cuts and/or furlough days. It emphasizes that by August 2010, the City work force, through layoffs and attrition, was reduced to 475 (currently it is 416).

The City claims despite the good faith attempts of its Administrators and remaining work force, it was placed in a fiscal emergency on 19 August 2010 by the State Auditor. It claims this action was taken by the Auditor because of an aggregate deficit in its funds balance of \$3,841,050 as of April 30th of that year. It claims, however, that by the end of 2010, the City had in place a cash balance in its general fund of \$425,550, yet it still maintained a deficit

balance in the Safety Fund of \$1,994,176. It notes by the end of 2011, the Safety Service Fund deficit was reduced to \$1,114,986. It claims the latter fund deficit at the end of the current year is anticipated to be the same as at the end of 2011.

The City contends bigger problems for Administrators are continuing reduction in revenues and impending cost increases for contractual services and health insurance. It notes the City levies a total tax rate of 1.75% on income. It notes one percent (1%) is a general income tax; one-half percent (.5%) is a safety levy tax dedicated entirely to the safety forces and one-quarter percent (.25%) is dedicated exclusively to street resurfacing. It notes in 2007 the City collected a total of \$25,761,075 in income taxes. In 2009, that figure dropped to \$22,743,938. In 2010 and 2011, the figure was respectively \$22,888,943 and \$23,599,076. While these numbers, according to the City, have remained relatively steady of late, the State's Local Government Funds [LGF] have drastically dwindled. It notes in 2008, the City received \$3,053,293 from the State, while this year it will be only \$1,929,791 and in 2013 it is forecast to be \$1,178,004. It emphasizes from 2008 through 2011, the City received an average of \$966,041.50 annually in state inheritance tax. That figure is projected to be only \$589,492 this year and it will no longer be assessed on estates where a citizen decedent dies after 31 December 2012. In addition, it claims the City has seen a precipitous loss in real estate, personal property and commercial activity tax revenues from 2008 to the present.

Turning to the contractual services side, the City notes it is in the fifth year of a twenty (20) year contract with the Richland County Commissioners for the housing of prisoners, a contract initially entered into in 2006. It notes the contract includes a per diem rate for the housing of prisoners cited under city ordinances plus an annual debt service payment. It notes this contract calls for the employment of a consultant to re-evaluate the per diem fee every fifth year. It contends the initial re-evaluation of the prisoner housing contract has been recently completed with significant increase cost potential for the City of Mansfield. It contends while negotiations are ongoing with county commissioners as to the increase in the per diem fee, the bottom line is that a literal acceptance of the consultant's numbers would mean the City's cost to house prisoners will increase by nearly \$1,000,000. Likewise, it notes the City is self-insured for employee health insurance benefits. It notes in January 2012, the City switched to Anthem as its third-party administrator for core medical insurance and prescription drug coverage for its employees. It notes it also added fully insured dental and optical coverage. The result of this

change, according to the City, was a net savings in insurance cost of just over \$460,000. In any event, it notes the City currently budgets \$6.3 million for health insurance costs, costs its consultant projects will increase by \$500,000 next year.

In sum, the City argues because of its continuing loss of revenues, known increases in contractual services and insurance costs and a continuingly significant deficit balance in the City's Safety Fund, it is unable to finance any type of wage increase(s) for the patrol officers. It notes, moreover, Mansfield, with a population of 47,821, is the county seat of Richland County whose population is 124,475 and the population hub of North Central Ohio. The median income for the county is \$41,572. In contrast, it notes the current base salary of a Mansfield patrol officer is \$53,132. It contends in those cities throughout the state that are demographically similar to Mansfield, the most current available information shows that patrol officers' annual base wages average of \$53,658. It argues patrol officers on the Mansfield Police Department are clearly within that range.

The City asks the Fact Finder adopt its position that no increases in wages be granted to Blue Unit personnel for the balance of the term of the current collective bargaining agreement which is due to expire 31 July 2013.

DISCUSSION/ANALYSIS

At hearing, representatives from the State's Auditor's office discussed in some detail applicable statutory provisions governing the Auditor's review of the financial records of governmental subdivisions within Ohio and the three (3) step levels⁵ of concern from a fiscal perspective that a political subdivision might be classified if its revenues/expenditures/deficits are out of balance. The record clearly shows that the City of Mansfield went from the second worst level to the worst, i.e., "fiscal emergency" in 2010. Clearly, a serious situation for Mansfield Administrators, employees and citizens that could not be addressed by business as usual practices. The fact is City Administrators have attempted to address this situation in a responsive, substantive manner since it was placed in a FW status nearly three (3) years ago. In any event, there is of record Financial Recovery Plan data, a Plan monitored by a Planning and

⁵ The three (3) levels used by the Auditor in policing subdivision financial balance sheets/records are "fiscal caution," "fiscal watch" and "fiscal emergency."

Supervision Commission, which outlines, in great detail, the various areas the City has explored for cost savings, operating efficiencies, etc. Among other things, the Plan reflects significant reduction in staffing levels, change of third party administrator for health care, deferral of various capital expenditures, negotiated wage freezes with the representatives of its various bargaining units, etc. The Plan also deals with various sources of City revenue, including the impact of several sources that are being reduced or eliminated. It also reflects the City's intent to pursue an additional .25% safety force levy with City voters this November, which if passed, would increase the applicable income tax rate from 1.75% to 2.0%

As previously noted, most local bargaining units, including the Blue Unit, have contributed significantly in the recovery effort. Specifically, the Blue Unit agreed to freeze wage rates in 2009, 2010 and 2011. It has agreed-to the elimination of the 8.5% pension pick-up previously paid by the City for its patrol officers. Additionally, it has agreed-to health benefit changes which, among other things, have increased each officer's personal cost for health insurance premiums and co-pays. These officers have worked hard to utilize old equipment in the consummation of their assigned duties. In any event, what is clear here is that both parties have approached the City's financial situation seriously.

Oh, for the wisdom of King Soloman, for the equities here are quite substantial from both sides presently before me. Equity, however, cannot be rightly used to resolve this wage/compensation issue, there being in place applicable O.R.C and Administrative Code provisions governing this matter. Specifically, it is provided that a Fact-Finder is to consider the following criteria:

- (a) Past collectively bargained agreements, if any, between the parties:
- (b) Comparison of the issues submitted to final offer settlement relative to the employees in the bargaining unit involved with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved.
- (c) The interests 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;

- (d) The lawful authority of the public employer;
- (e) The stipulations of the parties;
- (f) Such other factors, not confined to those listed in this section, which are normally or traditionally taken into consideration in the determination of the issues submitted in final offer settlement through voluntary collective bargaining, mediation, fact-finding, or other impasse resolution procedures in the public service or in private employment.

That which must first be considered here, as noted above under quoted subsection (c), is the ability of the political subdivision to pay for the requested increase in employee wages. The three criteria outlined there concern the potential impact of such on the general public welfare and interest for the community, the ability of the City to pay for the requested increase and how the requested adjustment may reduce the standards of service in the community of Mansfield.

Typically, there is considerable dispute over Employer claims of an inability to pay for Union wage demands, what applicable financial records may show and/or their completeness/accuracy or if monies can be moved from one budget line account to another to make additional monies available to satisfy wage (or other cost) demands. For the most part, these disputes are not of record here, the FOP simply arguing that its members have done more than their fair share and are clearly deserving of a minimal wage increase at this point. The reality, however, unlike the typical “ability to pay” argument where the burden rests with the Employer, the Auditor’s FE designation for Mansfield must be viewed as a *prima facie* proffer of proof in support of this claim. As such, the burden, at least of persuasion, shifts to the FOP to offer cogent rebuttal to the import of the Auditor’s designation/findings.

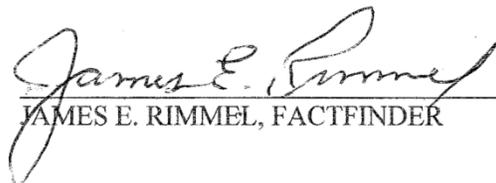
The FOP could have challenged (offered proof) that the Auditor’s determination was in error, premised on inaccurate/incomplete data or a cost neutral transfer of funds to support that the requested wage adjustment was available to City Administrators. Of course, in any discussion of the later argument, some discussion of the potential adverse impact on other City services or further reduction in Blue Unit compliment would be expected/required. The fact is the FOP has not attempted to attack the Auditor’s determination/oversight, opting instead to make several strong arguments based upon claimed comparables between the wages, etc., of other police departments and Mansfield’s Blue Unit. They have also strongly noted recent wage

adjustments in the offices of the Clerk of Courts, Municipal Court and Law Director.⁶ One cannot, however, rightly consider these internal and external claimed comparables if the record, as here, shows the City of Mansfield lacks the ability to pay for the requested increase in wages. It must be remembered that any increase in wages for the Blue Unit has a ripple effect in the Gold and AFSCME units. In other words, the estimated cost data proffered by the parties do not accurately reflect the overall employment cost increase that would result if that requested by the FOP were adopted. The fact is it would be substantially more.

Likewise, this record is devoid of any cogent discussion as to the clear potential of the effect any increase in wages at this time would have on existing City services, including the police department. And, while Mansfield Police Chief Sgamebellone made clear his belief that Mansfield officers are doing very professional work under trying circumstances, he cannot support a wage adjustment at this time. In any event, further layoffs in safety force or non-safety force units appear to be the only way to offset the employment cost impact of the requested wage adjustment. This simply cannot be recommended given the distinct possibility that such would reduce the standards of service in the City of Mansfield. An increase at this time might also undermine the efforts of City Administrators in securing from City residents approval of a new/added .25% income tax levy. In any event, given these conclusions, there is nothing of record warranting any further discussion of the other Code criteria quoted above.

RECOMMENDATION

It is recommended that the present wage schedule set forth at Article 17 (Appendix A) of the parties' 2011/2013 collective bargaining agreement for the Blue Unit remain unchanged for the duration of the Agreement.


JAMES E. RIMMEL, FACTFINDER

Date: 9 October 2012

⁶ Here, the City claims most of the referenced adjustments involved revenue sources outside the jurisdiction of Council. And, of course, the City has offered a somewhat different list of wage comparables.