FACT-FINDING REPORT

STATE OF OHIO

STATE EMPLOYMENT RELATIONS BOARD

June 5, 2013

In the Matter of:

City of Brooklyn	)	
	)	Case Nos. 12-MED-10-1145 (Patrolmen)
and	)	12-MED-09-1046 (Sergeants)
	)	
Ohio Patrolmen's Benevolent Association	)	

APPEARANCES

For the City:

Pat Hoban, Labor Counsel
Scott Claussen, Law Director

For the Union:

Randy Weltman, OPBA Attorney
Brad Esper, Sergeant
Alex Zamblauskas, Patrolman
Joe Traska, Patrolman
Tony Psota, Patrolman
David J. Miller, Sergeant

Fact Finder:

Nels E. Nelson

BACKGROUND

The instant dispute involves the City of Brooklyn and the Ohio Patrolmen's Benevolent Association. The city is located between Cleveland and Parma. It has a population of 11,169 and has a median household income of $40,991. The union represents bargaining units consisting of 22 Patrol Officers and a unit of seven Sergeants. The parties are negotiating a collective bargaining agreement, covering both Patrol Officers and Sergeants, to replace the one that expired on December 31, 2012.

The parties met to negotiate on six occasions beginning on January 25, 2013. The city offered to increase proficiency pay by $850 on January 1, 2013, making it equal to the firefighters' paramedic pay, and to increase wages by 3.25% effective on January 1, 2013, and 1.5% effective on January 1, 2014, with a re-opener for wages to be effective on January 1, 2015. Its offer was contingent on the union accepting its proposal to increase employee health insurance premium contributions in 2014 and 2015, with the stipulation that "the City pay up to 3.5% of any premium increase for 2014 and 2015 and that any increase above 3.5% be paid by the employees (in addition to negotiated caps)." (City Pre-Hearing Statement, page 12)

When the union membership rejected the city's offer, the parties resumed negotiations. The union accepted the city's position on compensation and offered to pay 8.5% of health insurance premiums beginning in 2014. The city proposed health insurance premium contributions of 10% in 2014 and 13% in 2015. When the parties were unable to reach an agreement, they agreed to submit the dispute to fact-finding.

The Fact Finder was notified of his appointment on April 17, 2013. A fact-finding hearing was held on May 14, 2013. When efforts to reach a mediated settlement failed, this report was prepared.

The recommendations of the Fact Finder are based upon the criteria set forth in Section 4117-9-05(K) of the Ohio Administrative Code. They are:

(a) Past collectively bargained agreements, if any, between the parties;

(b) Comparison of the unresolved issues relative to the employees in the bargaining unit with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;

(c) The interest and welfare of the public, and 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 issues submitted to mutually agreed upon dispute procedures in the public service or in private employment.

ISSUES

The parties submitted four issues to the Fact Finder. For each issue, he will present the parties' positions and summarize the arguments and evidence they presented in support of their positions. The Fact Finder will then offer his analysis of the issue and his recommendation for resolving the issue.

ABILITY TO PAY

One of the criteria governing the fact-finding process is the ability to pay. In the instant case, the city argues that it cannot afford the union's proposed wage increases and its other economic demands and that employees must pay a greater share of health care costs. The union responds that the city has the ability to pay its demands.

City Position - The city argues that it faces “significant economic challenges.” It states that it survived the recession by cutting costs, reducing staff, increasing taxes, and asking employees to make sacrifices. The city indicates that “the combination of the State of Ohio’s massive reductions in the Local Government Fund, the elimination of the inheritance tax and commercial activities tax and reduced property tax revenues will strain City finances for the next three years and beyond.” (City Pre-Hearing Statement, page 2)

The city contends that while all municipal employers are affected, it faces “a unique and potentially devastating economic event.” It reports that the American Greetings Corporation, which employs more than 2,000 people in the city and contributes more than $3 million to its General Fund, announced in May of 2011 that it was moving to Westlake. The city observes that as a result, it must be prepared for a 15% to 20% reduction in General Fund revenues.

The city maintains that during 2008 and the years that followed, it took “unprecedented measures” to preserve its fiscal stability. It points out that it cut programs, increased fees, and delayed capital purchases. The city notes that it laid off eight employees and has recalled only three of them. It adds that it offered an early retirement incentive program to encourage higher paid employees to retire, which combined with layoffs, job abolishments, and unfilled vacancies, reduced its staff from 124 in 2009 to 104 at the end of 2012.

The city argues that it was forced to furlough employees and cut wages. It states that it implemented furloughs for 63 employees, including the Fire Chief, the Police Chief, the Service Director, and the Finance Director and for employees in the Service Department and the AFSCME bargaining units. The city reports that it reduced the wages of nonunion employees, including the Mayor, the Police Chief, and the Finance Director, by 10% to 50%. It emphasizes that no OPBA members were furloughed or laid off and none suffered wage cuts.

The city contends that the 2009 increase in the income tax from 2% to 2.5% had unforeseen consequences. It acknowledges that the passage of the tax increased income tax revenue by $3,500,000 in 2010. The city reports, however, that in 2011, American Greetings gave the tax increase as one of the reasons for its decision to move to Westlake. It claims that it "has been exploring all options to replace … American Greeting revenues [but] … must plan operations in 2014 and beyond with a 15% to 20% reduction in General Fund revenues." (City Pre-Hearing Statement, page 5)

The city maintains that its unions agreed to wage freezes and concessions during negotiations for their 2010-2012 contracts. It points out that the OPBA as well as its other unions agreed to no wage increases in 2010 and 2011 and to a 2.5% lump sum payment in a re-opener for wages for 2012. The city notes that employees also agreed to waive some or all of their uniform allowances and/or longevity payments.

The city argues that it was necessary to restructure its health insurance. It reports that because of its "extraordinary high premium costs," its unions accepted its proposal to create a Health Plan Review Committee to control and reduce premiums. The city observes that pursuant to its proposal, "if HPRC members do not arrive at a viable, majority-supported proposal, the City must pass any cost increases on to employees through premium payments." (City Pre-Hearing Statement, page 7)

The city contends that it faces ongoing fiscal challenges. It states that in 2013, it will face an estimated loss of approximately $700,000 in General Fund revenue compared to 2009. The city indicates that it will lose $125,000 in revenue due to reduced property values and a drop in the collection rate. The city adds that in 2013, it transferred $350,000 from the General Fund to the Capital Fund and borrowed $1,375,000 to address delayed capital expenditures.

The city maintains that it is "descending into a period of annual deficits." It states that its revenues, expenditures, and ending balances are as follows:

2009	End Balance [1]	$860,760	
	Revenues	$14,392,449	
	Expenditures	$15,020,202	
	Difference	$627,753	
2010	End Balance	$4,085,920	374.68%
	Revenues	$17,320,175	(2009 tax increase)
	Expenditures	$13,884,136	
	Difference	$3,436,039	
2011	End Balance	$6,725,528	64.59%
	Revenues	$16,962,900	(2.07%)
	Expenditures	$14,472,059	4.23%
	Difference	$2,490,372	
2012	End Balance	$6,022,706	(10.45%)
	Revenues	$16,962,090	(0.9%)
	Expenditures	$17,412 459	20.3%
	Difference	($598,498)	
2013	Est. End Balance	$5,549,752	(7.85%)
	Est. Revenue	$15,260,587	(9.24%)
	Est. Expenditures	$15,733,541	(9.66%)
	Difference	($472,954)	

(City Pre-Hearing Statement, page 9)

The city acknowledges that it had a "healthy" General Fund balance at the end of 2011. It points out, however, that the balance dropped by $600,000 in 2012 and is projected to drop by

[1] The end balances are the unencumbered balances.

about $500,000 in 2013, without accounting for any wage increase.[2] The city notes that if House Bill 5 is enacted, it will lose an additional $150,000, which would leave it with a General Fund deficit of $791,002 for 2013 and a 13% decrease in the General Fund balance over 2012. It claims that when American Greetings leaves in 2014, "unless [it] can replace that lost income and secure sustainable wage and benefit terms in the successor Contract, it will likely exhaust its General Fund balance in 2015 and be forced to turn to drastic measures once again." (City Pre-Hearing Statement, page 11)

Union Position - The union argues that the city's Statement of Assets offers the best picture of its financial status. It points out that page 5 of the city's Comprehensive Annual Financial Report for 2011 shows that total net assets rose from $28.4 million to $33.4 million from 2000 to 2011. The union notes that this $3.9 million increase is due to more cash on hand and reduced expenditures.

The union contends that the city's ability to direct income tax collections to a number of funds is important. It indicates that effective January 25, 2011, 86% of income tax proceeds were credited to the General Fund. The union reports that prior to that date, 88% went to the General Fund. It observes that page 7 of the city's CAFR indicates that it anticipates that it will gradually dedicate additional income tax proceeds to the General Fund.

The union maintains that page 10 of the CAFR reports that the city has not resorted to service cuts. It points out that the city indicates that it prides itself on the level of services it offers to its citizens. The union notes that the city's leisure time activities include a recreation center and a senior center. It adds that leisure expenditures increased from 2010 to 2011.

[2] Footnote 8 on page 10 of the City's Pre-Hearing Statement indicates that the city-wide cost of a 1% increase in wages, including pension contributions and employer taxes, is approximately $74,000. The city estimates that a 3.25% increase for all employees (excluding the firefighters) is $168,048.

The union argues that the city's bond rating reflects its sound financial situation. It observes that page 12 of the city's CAFR reports that on March 9, 2006, Moody's upgraded the city's bond rating from A1 to Aa2 based on its strong financial operations, healthy reserves, and favorable debt profile. The union reports that Moody's affirmed the city's Aa2 rating on September 27, 2011.

The union contends that page 15 of the CAFR indicates that a significant factor in the city's favorable bond rating is its healthy fund balance. It points out that the city has a benchmark for fund balances of 16% of annual expenditures. The union notes, however, that at the end of 2011, the city had a General Fund balance of $15.4 million or 104.02% of its annual expenditures.

The union maintains that the report of its financial expert, Mary Schultz, a Certified Public Account and forensic accounting expert, supports its position. She reported that income tax collections and the allocation of the income tax receipts to the General Fund from 2009 through 2011 were as follows:

Year	Percent	Dollars (Millions)
2009	92	10.1
2010	88	13.6
2011	86	12.8

Schultz indicated that City Council determines the percentage of the income tax going to the General Fund and that a decrease in the contribution means less for police officers' wages and benefits.

Schultz observed that the General Fund subsidizes other funds. She pointed out that in 2011 the city transferred $745,000 to the Budget Stabilization Fund. Schultz noted that in 2012, the city transferred $850,000 to Budget Stabilization Fund, $95,000 to the Economic

Development Fund, and $1.3 million to the Capital Improvement Fund. She added that this is in addition to the mandatory General Fund transfers such as to the Police and Fire Pension Funds.

Schultz argued that the General Fund has been healthy. She stated that from 2009 through 2011 receipts ranged from $14.4 million to $17.1 million and expenditures ranged from $14.6 million to $15.1 million and the ending balances grew from $1.1 million to $7.0 million. Schultz emphasized that the 2011 carryover balance was equal to 48% of General Fund expenditures, which is well above the 16% recommended by the Government Finance Officers Association.

Schultz reported on the city's estimates for 2012. She stated that estimated income tax revenue of $12,225,000 represents a decrease of $579,000 from 2011. Schultz observed, however, since tax collections as of October 31, 2012, were $12,419,000, collections should be $14,255,000, which would mean an increase in General Fund revenue to $17,454,000.

Schultz claimed that increasing income tax collections suggests that the General Fund balance could be significantly higher than projected. She pointed out that the city transferred $2.2 million to the Capital Improvement, Budget Stabilization, and Economic Development Funds and spent $1,676,000 for the early payoff of bond anticipation notes. Schultz stressed that despite these transactions, the General Fund balance was $6,340,000 as of October 31, 2012.

Schultz insisted that the balance of the Budget Stabilization Fund must be added to the General Fund balance to assess the true financial health of the city. She explained that the Budget Stabilization Fund was created as "a contingency plan for the loss of American Greetings revenue in the future." (Union Exhibit 4, page 2) Schultz reported that adding the $1,595,000 balance in the Budget Stabilization Fund to the General Fund balance results in a carryover balance of $5,588,000 or 36% of expenditures.

Schultz maintained that the city's 2013 revenue estimate is too conservative. She pointed out that projected General Fund revenue is $14,751,000, which is $950,000 less than the city received through October 31, 2012. Schultz noted that if the city accepts the Finance Director's recommendation to deposit all of income tax receipts in the General Fund, the General Fund will increase by $1,500,000, which will easily offset the $500,000 loss in Local Government Funds and in Estate Tax revenue.

Schultz also presented information regarding the Police Department's budget. She observed that the department's budget for Police Officers' wages is $220,000 less than in 2009 and the budget for total wages is $150,000 less than in 2009. Schultz indicated that the department's 2013 budget is $170,000 more than the 2012 budget and includes the cost of two Police Officers hired in 2012 and one to be hired in 2013.

Schultz concluded that the union's wage and benefit demands "are affordable from the current and projected carryover balances." (Union Exhibit, page 4)

<u>1) Article 19 - Holidays, Section 1- Paid Holidays</u> – The current contract lists 12 paid holidays. The city seeks to reduce the number of holidays to ten. The union opposes the city's demand.

<u>City Position</u> - The city argues that its proposal is justified. It states that the union has focused on parity with the firefighters and that its proposals reflect the union's desire for parity. The city indicates that in the 2011-2012 contract, the firefighters gave up two paid holidays so they now have 10 compared to the 12 received by the police officers. It claims that since parity is a "two-way street," the police officers should give up two holidays.

Union Position - The union argues that the city's demand should be rejected. It acknowledges that firefighters have two fewer paid holidays than the police officers but notes that each of the firefighters' holidays consist of 24 hours.

Analysis - The Fact Finder cannot recommend the changes sought by the city. The difference in the number of holidays received by the firefighters and police officers may reflect the difference in their work schedules or perhaps a trade-off in bargaining. Since it appears that other city employees who work 40-hour schedules get 12 paid holidays, there is no reason for the police officers to be granted only 10 paid holidays.

Recommendation - The Fact Finder recommends that the current contract language be retained.

2) Article 22 - Personal Leave, Section 1- Entitlement - The current contract grants employees two days of personal leave on January 1 of each year. The city demands that personal leave for new employees be prorated. The union proposes that employees who start their employment between January and June be granted two personal days and employees who start between July and December receive one day of personal leave.

City Position - The city argues that its position should be recommended. It states that the method it wishes to include in the contract has applied to the granting of personal leave in the past.

Union Position - The union argues that its proposal should be recommended. It claims that the current contract and past practice require that new hires receive two days of personal leave regardless of their date of hire. The union states that it has offered a compromise in an effort to resolve the issue.

Analysis - The Fact Finder recommends the city's position. The union's proposal would result in an employee who started on June 30 receiving two days of personal leave while an employee starting on July 1 would receive only one day. Since personal leave is intended to allow employees time off to take care of matters that must be attended to during work time, the number of hours available should reflect the time an employee will be working. An employee who is entitled to two days of personal leave for 52 weeks should not need two days for 26 weeks and one day of work.

Recommendation - The Fact Finder recommends the following contract language:

> All employees shall, in addition to all other leave benefits, be granted two (2) personal leave days awarded on January 1st of each year. New employees shall receive prorated personal leave based upon their date of employment.

3) Article 26 – Compensation, Section 1 - Wages - The current contract establishes a top rate of $62,886 for Patrolmen and $72,319 for Sergeants. The union seeks to increase each step of the wage schedule by 3.25 % effective January 1, 2013, and 1.5% effective January 1, 2014. It proposes a wage re-opener for wages to be effective January 1, 2015. The city offers the same wage increases for 2013 and 2014 but demands a wage freeze for 2015.

Union Position - The union argues that its wage demand is justified. It points out that the police bargaining units fell behind the firefighters when the firefighters received a 3.25% wage increase in 2009. The union notes that this is contrary to the usual practice.

The union contends that comparisons to other cities support its wage demand. It reports that the average wage for ten-year patrolmen in Cuyahoga County, excluding Cleveland and East Cleveland and all of the villages and townships, is $66,377 while the wage in the city is $62,886 or 94.74% of the average. (Union Exhibit 1) The union observes that the total compensation of patrolmen in the city is $65,958 or 93.32% of the average compensation of $70,683 in the county. It adds that the city ranks 32nd in salary and compensation out of 36 cities in the County. (Union Exhibit 2)

The union maintains that a comparison to 16 west-side cities produces similar results. It states that the pay for a ten-year patrol officer in the city is $62,886 compared to an average of $64,646 for the 16 cities.[3] The union indicates that total compensation in the city is $65,958 compared to $68,618 for the other cities. It observes that the city ranks 14th among the 16 cities in both pay and total compensation.

City Position - The city argues that its wage proposal should be adopted. It points out that its 3.25% offer for 2013 responds to the union's demand for immediate parity with the firefighters. The city notes that the 1.5% increase for 2014 allows the police officers to keep pace with police officers in other departments. It adds that "a wage freeze in 2015 [will] allow it to assess and respond to the loss of significant revenues as a result of American Greetings' 2014 departure." (City Pre-Hearing Statement, page 13)

The city contends that its offer will improve the ranking of the police officers in the county. It acknowledges that they are currently in the bottom quarter of county departments in terms of compensation. The city observes, however, that its proposed wage increases will bring them into the middle third of the county. It indicates that it will not grant similar wage increases to the firefighters so that parity will be maintained.

Analysis - The sole issue for the Fact Finder is wages for the third year of the collective bargaining agreement. The city's demand for a wage freeze is based on the likely loss of income

[3] The 16 cities are Bay Village, Berea, Broadview Heights, Brook Park, Fairview Park, Lakewood, Middleburg Heights, North Olmsted, North Royalton, Olmsted Falls, Parma, Parma Heights, Rocky River, Seven Hills, Strongsville, and Westlake.

tax revenue due to American Greetings moving to Westlake. The union recognizes the potential loss of income tax revenue but responds by proposing a wage re-opener for wages to be effective January 1, 2015.

The Fact Finder cannot recommend a wage freeze for 2015. First, while American Greetings will move from the city, it is not entirely clear when the move will take place.[4] If the move is delayed, the city will continue to collect the substantial income taxes from American Greetings employees, including its highly paid executives.

Second, if the economy continues to recover, income tax collections will continue to grow. Depending on the pace of the recovery and the growth of employment in the city, income tax receipts may grow enough to offset the loss due to the relocation of American Greetings.

Third, a wage freeze is a rather strong measure where employees have experienced three years of no wage increases followed by a year with a one-time bonus. A Fact Finder needs strong evidence to justify another wage freeze. At this point in time, the city was unable to establish with any certainty that another wage freeze will be necessary for 2015.

While the Fact Finder recognizes the city's concerns about the resources that might have to be devoted to a wage re-opener, there are too many uncertainties about the timing of American Greetings' move to Westlake and the pace of the economic recovery to grant the city's demand for a wage freeze or to recommend a specific wage increase for 2015. On that basis, the Fact Finder must recommend the union's demand for a wage re-opener for wages to be effective January 1, 2015.

Recommendation - The Fact Finder recommends the following contract language:

[4] The Cleveland Plain Dealer and Crain's Cleveland Business have published articles discussing the impact of Zev and Jeffrey Weiss's attempt to go private on the company's move to Westlake.

> Effective January 1, 2013, salaries shall be increased by 3.25% and effective January 1, 2014, salaries shall be increased by 1.5%. Salaries to be effective January 1, 2015, shall be determined by a wage re-opener conducted in accordance with Chapter 4117 of the Ohio Revised Code.

4) Article 26 - Compensation, Section 6 - Proficiency Pay - The current contract calls for proficiency pay of $1,750 for the performance of a long list of duties, which results in every member of the bargaining units qualifying for the pay. The union demands that proficiency pay be increased by $850 to $2600 effective January 1, 2013. The city proposes no increase in proficiency pay for the term of the agreement.

Union Position - The union argues that its demand is justified. It characterizes the difference between the firefighters' paramedic pay and the bargaining units' proficiency pay as a "remarkable disparity." (Union Pre-Hearing Statement, page 3) The union complains that the disparity began and grew to around $1700 under Mayor John Coyne and City Council, who "obviously paid favors to the Firefighters." (Ibid.)

The union reports that Ken Patton, who succeeded Coyne as Mayor, promised to close the gap. It observes that the difference in pay was reduced to $850 when Patton resigned from office in 2009. The union emphasizes that during the 2009 negotiations, it recognized the severity of the economic situation and agreed to leave the gap at $850 and to accept no wage increases in 2009, 2010, and 2011 and a 2.5% bonus in 2012.

City Position - The city argues that there should be no increase in proficiency pay for the term of the agreement. It points out that the list of duties for which union members receive the payment is so broad that all members of the bargaining unit get the money. The city notes that during the term of the 2006-2008 contract, proficiency pay was increased from $1050 to $1750.

The city acknowledges that during negotiations, it offered to increase proficiency pay by $850 in 2013, which would have brought proficiency pay up to the $2600 paramedic pay received by the firefighters. It indicates, however, that it made the offer "to obtain increased employee [health insurance] premium payments and avoid litigation." (City Pre-Hearing Statement, page 14). The city stresses that "having attempted to obtain necessary health insurance relief by meeting the OPBA's demand for increase proficiency pay without success, the City is unwilling to agree to any increase in this benefit." (Ibid.)

The city contends that county-wide comparable data supports its position. It points out that the union's data shows that only 17 of 34 Police Departments in Cuyahoga County offer payments similar to its proficiency pay. (Union Exhibit 1) The city notes that for those 17 departments, the average payment is less than $700 and only three of the departments pay more than $1750. It claims that the union's demand represents "an extraordinary increase to an already extravagant benefit." (Ibid.)

Analysis - The Fact Finder must recommend the union's demand. First, the usual situation in Cuyahoga County and beyond is that police officers and firefighters earn the same amount. However, in the instant case, the firefighters earn $850 more than police officers. The city was unable to offer an explanation or justification for the departure from the norm.

Second, the city apparently recognized that the disparity in earnings should be eliminated and the gap in earnings was being reduced until the economy and its financial situation made further changes impossible. Now that the city has the funds available to eliminate the remaining gap, there is no basis to reject the union's demand.

Third, while the city's claim that the majority of police departments in Cuyahoga County do not offer a benefit equal to its proficiency pay, the most immediate and relevant comparison is to its own firefighters. There is no dispute that police officers currently earn $850 less than firefighters. As noted above, the city offered no explanation or justification for the difference.

Finally, the Fact Finder does not believe that the city can force the union to accept an increase in health insurance premium contributions that may not be otherwise justified as the price for eliminating the disparity in compensation between police officers and firefighters.

Recommendation - The Fact Finder recommends the following contract language:

> Bargaining unit members, including detectives and motorcycle men, who are assigned to and/or perform any of the below listed capacities/duties, shall be entitled to proficiency pay. Such proficiency pay shall be in the amount of two thousand and six hundred dollars ($2,600) in 2013. Each bargaining unit member shall be entitled to only one (1) proficiency payment regardless of how many capacities/duties he performs. The applicable capacities/duties are: Bicycle/Community Policing Unit; Crime Scene/Evidence Technician/Forensics Unit; Southwest Enforcement Bureau/Tactical Team Member; Range Safety Officer/Firearms Instructor; DARE/School LEADS/Law, Resource Officer; BAC Datamaster Operator; and Enforcement Technology Coordinator.

5) Article 28 - Insurance, Section 2 - Premium Contributions – The city's current health insurance plan includes a 10% co-insurance requirement, an annual deductible of $250 for single coverage and $500 for family coverage, and an out-of pocket maximum of $1250 for single coverage and $2500 for family coverage. Employees are required to pay 6.91 % of the premium. The city seeks to increase the employee contribution to 12.5% effective December 1, 2013, and 15% effective December 1, 2014. The union offers to increase the employee contribution to 8.5% effective for 2014 and 2015.

City Position - The city argues that its proposal should be recommended. It points out that because of the small number of employees and recent high claims, its premiums are well above average for the area. The city notes that while the State Employment Relations Board's 20th Annual Report on the Cost of Health Insurance in Ohio's Public Sector indicates that the average cost for single and family health insurance in 2012 in the Cleveland area was $497 and $1311, its premiums were $533 and $1547, or 18% higher than for area employers.[5] It adds that effective December 1, 2012, its premiums increased to $570 and $1655.

The city contends that its costs have increased over time. It states that its premiums between 2009 and 2012 were as follows:

12/1/2009-11/30/2010	12.50% increase
12/1/2010-11/30/2011	2.30% increase
12/1/2011-11/30/2012	20.20% increase
12/1/2012-11/30/2013	6.91% increase

(City Pre-Hearing Statement, page 15)

The city indicates that from December 1, 2008, through December 1, 2012, premiums have risen by 40%.

The city maintains that it could have imposed all or some of the December 1, 2012, 20.2% premium increase on employees. It points out that under the Health Plan Review Committee process, which was implemented in 2011, it could have done so. The city claims, however, that it "chose not to do so in light of the concessions already in place and the wage freezes accepted by employees in 2010 and 2011 and absorbed 100% of the 20.2% premium increase for the December 2011 to November 2012 plan year." (City Pre-Hearing Statement, page 15)

The city argues that the employee representatives on the HPRC had the opportunity to reduce the premiums effective December 1, 2012. It states that by changing the provider, premiums would have risen only 1.88% rather than 6.91%. The city complains that because the HPRC members were unable to agree on a proposal, it required employees to pay the 6.91%

[5] The Cleveland area includes Ashtabula, Lake, Geauga, Cuyahoga, Lorain, Erie, and Huron Counties.

increase through bi-weekly deductions resulting in monthly payments of $39.54 for single coverage and $114.29 for family coverage.

The city contends that employees face the risk of paying 100% of any future premium increases. It points out that Article 28, Section 3, states that after meeting and discussing health insurance options, the HPRC can change the plan and reduce the level of benefits so costs do not increase, change the plan and reduce the level of benefits so as to minimize the cost increase to be passed on to employees, or maintain the existing plan and benefit levels and pass on any excess cost to employees. It stresses that "if the HPRC does not make a viable proposal, [it] must implement the 'permanent option' and pass any cost increase onto employees." (City Pre-Hearing Statement, page 16)

The city maintains that the current arrangement may result in "extraordinary employee costs in the future." It states that it is willing to revise the contract to more equally share increases in health care costs. The city insists, however, that "in exchange … future employee premium levels [must] better represent employee premium payment trends in the public and private sectors." (City Pre-Hearing Statement, page 17)

The city argues that SERB's health care report supports its demand. It observes that the report indicates that average employee contributions were 10.7% for single coverage and 11.6% for family coverage for all of Ohio and 8.8% and 8.3% in the Cleveland area. The city reports that when only employers who require employee contributions are considered, the statewide averages are 12.3% and 12.9% and 10.7% and 10.3% for the Cleveland area. It adds that page 11 of the report indicates that for plans covering 100-149 employees, the employee contributions are 10.1% and 11.0%.

The city contends that employee contributions will increase. It states that "it goes without saying that, especially in light of the recently and enacted federal health insurance law, 2012 and 2013 negotiations have seen increased employee premium contributions." (Ibid.) The city further asserts that this trend will continue in 2014 and 2015. It claims that the 2012 employee contribution rates in SERB's health care report are above its current employee contribution rate of 6.91% and the union's proposed rate of 8.5%.

The city maintains that any recommendation for employee premium contributions must recognize health care costs in the private sector. It points out that the 2012 Kaiser Family Foundation Employer Health Benefits Survey reveals that the average private sector employee pays 18% of the premium for single coverage and 29% of the premium for family coverage. The city notes that unionized private-sector employees contribute 22% of the premium costs.

The city concludes that its health insurance proposal is reasonable. It observes that its proposal calls for reasonable employee contributions and gives the HPRC the opportunity to make changes in the plan to control or even reduce premium payments in the future.

Union Position - The union argues that its proposal should be adopted. It states that all of the city's bargaining units were greatly disappointed with the health care committee process during the late-summer of 2012. The union indicates that the process resulted in employee premium contributions going from zero in 2012 to roughly 7% in 2013.

The union complains that the city's abnormally high health insurance premiums and a 7% contribution result in a large dollar amount. It points out that page 7 of SERB's health care report indicates that for Ohio cities of 25,000 or less, the average premium for medical and prescription drug plans is $514 for single coverage and $1364 for family coverage compared to $533 and

$1547 in Brooklyn.[6] The union notes that the result is that employees pay $39.54 per month for single coverage and $114.29 per month for family coverage.

The union contends that the premium contributions of other public employees support its position. It indicates that page 8 of SERB's report shows that in cities with populations less than 25,000, the average employee contribution is 8.3% for single coverage and 8.1% for family coverage. The union observes that page 10 reveals that in the Cleveland area, employees pay 8.8% and 8.3% of the premiums.

The union maintains that a comparison of employee contributions in Brooklyn to cities on the west side of Cuyahoga County supports its position. It states that among the 16 cities, only Berea, Olmsted Falls, and Rocky River, have employee contributions greater than 10%. The union reports that the three cities which require 10% contributions have caps on their contributions.

Analysis - The parties have significantly different proposals with respect to employee contributions to health insurance premiums. The city demands that employees contribute 12.5% of the premium cost in 2014 and 15% in 2015. The union offers to pay 8.5% of the premiums in both 2014 and 2015.

The Fact Finder recognizes that the city's health insurance premiums are higher than the premiums paid by many public employers in Ohio and in the Cleveland area. This is clearly shown by SERB's 20th Annual Report on the Cost of Health Insurance in Ohio's Public Sector, which reports that in 2012, the premiums for Ohio cities with populations less than 25,000 were $518 per month for single coverage and $1375 per month for family coverage. The report

[6] These are the total premiums for 2012. The corresponding rates for 2013 are $570 and $1655.

indicates that in the Cleveland area the premiums were $497 and $1311. These rates are significantly lower than the city's rates of $533 and $1547.

The city's higher premiums appear to reflect two facts. First, the city has a small number of insureds. Page 11 of SERB's report reveals that cities with smaller numbers of covered employees generally have higher premium costs. Second, the city's health insurance plan is better than many of the plans offered in Ohio and on the west side of Cuyahoga County. The city's plan has an annual deductible of $250 for single coverage and $500 for family coverage while page 17 of SERB's report indicates that 49.6% of Ohio cities have single coverage deductibles that are higher than $500 and 49.4% have family deductibles higher than $500. The city's plan has a 10% co-insurance requirement while page 18 of SERB's report reveals that 29.2% of Ohio cities have higher co-insurance requirements. The city's out-of-pocket maximum is $1250 for single coverage and $2500 for family coverage compared to median out-of-pocket maximums of $2000 and $4000. While the union data for the 16 cities on the west side of Cuyahoga County is incomplete, it also suggests that the city's employees have a better than average health insurance plan.

The Fact Finder believes that the fact that the city has higher premiums and a better than average plan suggests two things. First, the Health Plan Review Committee needs to consider ways to reduce the health insurance premium. It can explore the possibility of participating in a joint purchasing arrangement. Page 13 of SERB's report shows that 56.2% of all plans in Ohio involve joint purchasing arrangements and that where there are joint purchasing agreements, the single and family premiums were $499 and $1284 compared to $520 and $1370 where there was no joint purchasing arrangement.

The HPRC should also consider changes in plan design. There may be acceptable changes in co-pays, coinsurance, deductibles, out-of-pocket maximums, or other plan features that would produce lower costs for the city and smaller employee contributions. The HPRC could also consider wellness programs, which page 30 of SERB's report indicates had been adopted by 40.7% of Ohio cities and 55.7% of all Ohio public employers.

Second, to the extent that the city's higher premium costs reflect a better plan than the plans offered by other cities, the share of the premium cost paid by employees should be increased. SERB's report reveals that in cities with populations less than 25,000, employees pay 8.3% of the premium for single coverage and 8.1% for family coverage.[7] In the Cleveland area, the corresponding figures are 8.8% and 8.3%.

The Fact Finder, however, cannot recommend the city's demand to increase the employee premium contribution to 12.5% in 2014 and 15% in 2015. The city's position would mean that employee contributions would increase from zero in 2012 to 15% in only three years and would double between 2013 and 2015. It would also result in employees being required to pay more than employees in all but three of the 16 west side cities, one of which ranks first in total compensation while Brooklyn ranks 12th. (Union Exhibit 2)

The Fact Finder recognizes that the city's demand that employees pay 15% of the health insurance premium is not inconsistent with private sector practice. The city claimed that the 2012 Kaiser Family Foundation Employer Health Benefits Survey showed that the average employee premium contribution in the private sector was 18% for single coverage and 29% for family coverage. Fact Finders, however, have consistently relied on comparisons to other public employers rather than to private sector employers.

[7] In addition to these figures, the city cited figures from an Appendix that excluded employers where employees were not required to make any premium contribution. However, omitting those employers from the computations is illogical.

The Fact Finder believes that employees should pay 10% of the health and insurance premiums beginning December 1, 2013, through November 30, 2014. While this is somewhat higher than the share paid by employees in other cities, it reflects the fact that the city's health insurance plan is better than the plans offered by some other employers and the fact that its premiums are higher. In addition, increasing employees' share of the premium cost will motivate the HPRC to work with the city to control or reduce health insurance costs.

The Fact Finder recommends that the contract be reopened to negotiate employee premium contributions contract to be effective December 1, 2014. By that time, the HPRC will have had time to explore options for reducing health care costs and may have been able to identify options making any further increase in employee contributions unnecessary. In any event, the parties will have better information about premium costs for 2015 and beyond.

Recommendation - The Fact Finder recommends the following contract language:

> Effective December 1, 2013, the city shall pay 90% of the premium costs of hospitalization and medical service coverage and employees shall pay 10% of the premium costs. The contract shall be re-opened to negotiate the city and employee premium contributions to be effective December 1, 2014. The negotiations shall be conducted in accordance with Chapter 4117 of the Ohio Revised Code.

TENTATIVE AGREEMENTS

The Fact Finder recommends the adoption of the tentative agreements reached by the parties.

Nels E. Nelson

Nels E. Nelson
Fact Finder

June 5, 2013
Russell Township
Geauga County, Ohio