

STATE OF OHIO

STATE EMPLOYMENT RELATIONS BOARD

In the Matter of Fact-Finding Between:)	
)	
Fraternal Order of Police/Ohio Labor Council)	14-MED-01-0013 & 0014
)	
And)	
)	Fact Finder:
The City of Painesville, Ohio)	John T. Meredith

**FINDINGS, OPINION AND RECOMMENDATIONS
ISSUED AUGUST 12, 2014**

INTRODUCTION

The parties to this Fact-Finding proceeding are the Fraternal Order of Police/Ohio Labor Council, Inc. (“FOP” or “Union”) and the City of Painesville (the “City” or “Employer”). Two bargaining units are involved in this proceeding: A unit consisting of all full-time non-probationary police officers below the rank of sergeant, and a unit covering sergeants and lieutenants. Currently there are 27 officers in the patrol unit and eight officers in the sergeants-lieutenants unit. The parties' current Agreements run from April 1, 2012 to March 31, 2015. They include a re-opener for wages in the third year, April 1, 2014 – March 31, 2015.

The parties conducted negotiations pursuant to the re-opener but were unable to reach agreement. They initiated fact finding, and SERB appointed the undersigned to serve as Fact Finder. By mutual agreement, a fact-finding hearing was scheduled for July 29, 2014.

At the hearing, witnesses testified and the parties and their advocates presented arguments and numerous documentary exhibits directed to these issues. Appearing on behalf of the Union were: Otto Holm, Jr., FOP/OLC Staff Representative; Gerald Lynch and Larry Armstrong, sergeants-lieutenants unit representatives; and Jeff Balrey and William Smith, patrol unit representatives. Appearing for the Employer were: Attorney Jeremy Iosue, Finance Director Andy Unetic, and City Manager Anthony Carson.

The Fact Finder has evaluated the proposals and evidence submitted by the parties. His recommendation for resolving the issue is fully explained in the Recommendations Section of this Report, infra. In making his recommendation, the Fact Finder has given consideration to the following criteria prescribed by the Ohio Collective Bargaining Law and listed in SERB Rule 4117-09-05:

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

“Other factors” referenced in criterion no. 6 may include the desirability of consistent and equitable treatment for all of the public employer's employees.

FINDINGS OF FACT

A. City Profile and Finances

Painesville is the county seat of Lake County. Its population is 19,634. Estimated median household income is \$34,211, the lowest in Lake County and well below Ohio's average median household income of \$46,829.

Painesville's General Fund revenues have declined substantially in recent years. From 2007 to 2013, revenues dropped 28% from \$15.5 million to \$11.2 million. Causes of this decline include the national recession in 2008-2009; loss of income tax revenue when a hospital moved out of the community in 2009-2010; additional decline in income tax revenue from loss of retail and industry, most recently the closing of Core Manufacturing; elimination of estate tax revenues in 2013, an average annual loss of \$274,000; decline in Local Government Fund payments from the State of Ohio, and the dramatic reduction on interest income due to low interest rates for most of the last decade.

Nevertheless, the City has been able to keep its head above water. Painesville operates its own municipal utilities, and General Fund expenses have been transferred to utility accounts to the extent that they are fairly attributable to utility operations, as permitted by law. Painesville also has cut expenses by moderately reducing employment throughout the City and making more significant job cuts in its electric utility and the Parks and Recreation Department. As a result, the City's General Fund cash balance was \$2,853,066 at the end of 2013. This is consistent with City Council's stated objective of maintaining a 20%-25% General Fund cash balance, and exceeds the minimum two-month carryover recommended by the Government Finance Officers Association.

B. Local Wage History, Internal Comparability Data

In 2009 the City and the FOP signed three-year agreements with the two police bargaining units. These provided for annual 2% wage increases in 2009, 2010, and 2011. The Agreements were extended for an additional three years in 2012, with a two-year wage freeze effective April 2012 – March 31, 2014. and a re-opener for wages to be effective April 1, 2014.

The City also negotiates with four other unions: IAFF (firefighters), AFSCME (service workers), IBEW (electric utility), and Operating Engineers. In past years, these unions agreed to a wage package comparable to the FOP Agreements, except that the IBEW has had a wage freeze in effect since 2011. The IBEW, AFSCME and the Operating Engineers have accepted another wage freeze for 2014, subject to a “me too” guarantee if the City negotiates an increase for firefighters or police. The IAFF and the City are still in negotiations.

C. External Comparability Data

The FOP submitted SERB benchmark salary data for Lake County communities and emphasized that Painesville officers of all ranks are paid well below the County average. A summary, showing top salary for each classification, is as follows:

	<u>Patrol</u>	<u>Sergeant</u>	<u>Lieutenant</u>
Eastlake	\$63,277	\$76,550	\$76,550
Kirtland	\$57,130	\$64,556	
Mentor	\$72,381	\$80,866	\$90,392
Mentor-on-the-Lake	\$57,345	\$64,833	
Painesville	\$60,708	\$66,930	\$73,790
Wickliffe	\$74,048	\$81,452	\$89,668
Willoughby	\$79,227	\$86,236	\$95,763
Willoughby Hills	\$66,372	\$73,673	
Willowick	\$72,696	\$79,976	\$87,984
AVERAGE	\$67,021	\$75,010	\$85,691

The City countered with an expanded list of comparable police employers, which added several communities from neighboring Ashtabula and Cuyahoga counties as well as the Lake County Sheriff's Department. The City list includes population and median household income data for each community, and the City emphasizes that the higher paying western Lake County communities are more affluent than Painesville. The City exhibit, showing top salary and longevity for patrol officers, follows:

	<u>Salary</u>	<u>Longevity</u>	<u>Total</u>	<u>Median Household Income</u>	<u>Population</u>
Willoughby	\$79,227	N/A	\$79,227	\$51,522	22,353
Wickliffe	\$74,048	\$2,500	\$76,548	\$45,359	12,663
Willowick	\$72,696	\$1,997	\$74,693	\$46,289	14,082
Mentor	\$72,381	\$1,850	\$74,231	\$63,982	47,023
Richmond Hts.	\$68,039	\$3,401	\$71,440	\$45,906	10,488
Willoughby Hills	\$66,372	\$2,550	\$68,922	\$56,926	9,457
Eastlake	\$63,276	\$2,500	\$65,776	\$51,798	18,419
Painesville	\$60,708	\$2,700	\$63,408	\$34,211	19,634
Chardon	\$60,486	\$2,500	\$62,986	\$52,583	5,166
Euclid	\$58,373	\$4,086	\$62,459	\$35,465	48,281
Madison	\$60,424	\$2,000	\$62,424	\$50,412	18,029
Lake Cty. Sheriff	\$61,006	\$1,350	\$62,356	N/A	N/A
Kirtland	\$57,130	\$2,100	\$59,230	\$84,015	6,955
Mentor on the Lake	\$57,345	N/A	\$57,345	\$46,985	7,346
Ashtabula	\$53,644	\$2,000	\$55,644	\$25,000	18,811
Conneaut	\$47,652	\$1,500	\$49,152	\$30,701	12,879
Geneva	\$47,424	\$1,250	\$48,674	\$34,281	6,147

Wage increase statistics for 2014 are not available. However, SERB's 2013 Wage Settlement Report shows percentage increases negotiated for various groups of Ohio public employees during the last decade. An excerpt from that Report, showing 2009-2013 data for all Ohio public employees, Cleveland Region employees, city employees, and police employees, reveals the following percentage wage increase patterns:

Average Percentage Increases

	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>
State	2.15	1.26	0.73	1.00	1.47
Cleveland	2.18	1.34	0.68	1.00	1.49
City	2.46	1.39	0.93	1.18	1.66
Police	2.43	1.39	0.96	1.20	1.66

In 2010, 2011 and 2012, the averages were brought down by wage freeze settlements. Painesville's wage settlements (2%, 2%, 2%, 0%, 0%) exceeded the averages in 2010 and 2011, but trailed the averages in 2009, 2012 and 2013.

POSITIONS OF THE PARTIES

Positions of the Parties: The City proposes to continue the wage freeze through the third year of the Agreement. It argues that it should not increase its financial obligations to employees in view of its declining revenue pattern. The Union demands a 3.0% general wage increase effective April 1, 2014. It emphasizes that Painesville's wages trail wages paid by most other Lake County communities. It asserts that 3.0% is needed to begin to close this gap and to make up for ground lost since the wage freeze was imposed in 2012. Regarding ability to pay, it claims that the City's financial projections are too conservative, and, in any case, the City has more than enough money on hand to finance a 3% increase even without significant revenue growth.

ANALYSIS AND RECOMMENDATION

Recommendation: The Fact Finder recommends a 1.50% wage increase, which should be implemented with a Memorandum of Understanding stating: "Pursuant to the wage re-opener in Section 1.02(b) of their 2012 -2015 Agreements, the parties conducted negotiations and participated in fact finding. As recommended by the Fact Finder, current wage rate scales in effect since April 2011 will be increased by 1.50% effective retroactive to April 1, 2014."

Rationale: Typically, wage increase recommendations are based primarily on the employer's "ability ... to finance ... and the effect of the adjustments on the normal standard of public service," OAC 4117.09-05(3); comparison to wages paid and increases awarded to comparable Ohio public employee groups, OAC 4117.09-05(2); and equitable treatment among the employer's various employee groups, OAC 4117.09-05(6). The third factor – internal equity – is not really an issue in this case, as the City's settlements with three other unions contain "me too" clauses which assure that those employees will benefit from any increase granted as a result of this fact-finding proceeding.

Regarding comparability, the Fact Finder has reviewed the data submitted by both parties and summarized at pages 4-6 of this Report. Unfortunately, it is not reasonable to expect Painesville to match the salaries paid by its more affluent neighbors in western Lake County. Economically, some of the cities listed on the City's expanded wage comparison chart appear to have more in common with Painesville. (These include Eastlake, Chardon, Euclid and Madison.) The city's compensation is in line with what these communities pay their police. Moreover, it does not appear that the City has lost ground as a result of the two-year wage freeze. With the cumulative impact of the 2008-2009 recession, elimination of the estate tax, and cuts in state funding, many other Ohio cities had to impose wage freezes during one or two of the past five years. Painesville is not unique in this regard. However, a three-year wage freeze would be much less common. The recommended 1.50% increase is consistent with 2013 average increases for public employees in Ohio and SERB's Cleveland Region, and generally is in line with the cost of living increase April 2013-April 2014. The "comparability" factor, therefore, supports a 1.50% wage increase, effective April 1, 2013, for Painesville police officers. OAC 4117.09-05(3)

The remaining issue is whether the City has the ability to finance a wage increase and the impact of an increase on the level of services. OAC 4117.09-05(2). The financial information summarized at pp. 3-4 of this Report indicates that the City can afford to pay a 1.50% increase during the term of the Agreement and immediately thereafter. The City conservatively projects a close-to-break-even year for 2014, assuming no wage increases or cuts in services. The City stated that the 2014 cost of a 1% increase in bargaining unit wages, including roll-up, would be almost \$120,000 if the increase were passed on to other City employees. The cost of 1.50% would be approximately \$175,000, some of which for police, and most of which for utility employees, would be paid from sources other than the General Fund. The portion of the cost payable from the General Fund should not have a material adverse impact on a budget based on projected revenues in excess of \$11 million and with a beginning balance of \$2,853,066. In fact, the City should still finish 2014 with a balance exceeding the 17% cushion mandated by the Municipal Finance Officers Best Practices guidelines.

This 1.50% recommendation unfortunately does not raise wages enough to narrow the wage gap between Painesville and western Lake County communities. However, the resulting wage rates are commensurate with the status of Painesville's local economy relative to the economy of its more affluent neighbors. Moreover, notwithstanding its current balance, the City has experienced significant revenue declines and some loss of local businesses. This cannot be ignored. Until it begins experiencing revenue growth, the City must continue to manage its funds conservatively, and it is not in a position to offer more than a modest increase.

These Findings and Recommendations are issued this 12th day of August, 2014.

Shaker Heights, Ohio

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

CERTIFICATE OF SERVICE

This is to certify that the foregoing Report was electronically filed with the State Employment Relations Board and electronically served upon the parties by e-mailing same to their representatives, listed below, this 12th day of August, 2014.

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