

STATE OF OHIO

STATE EMPLOYMENT RELATIONS BOARD

Report and Recommendation of the Fact-Finder

In the Matter of:

City of Delphos, Ohio

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and

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Cases No. 14-MED-10-1561

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14-MED-10-1562

Ohio Patrolmen's Benevolent

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Association

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APPEARANCES

For the Employer:

For the OPBA:

Stacy V. Pollock, Esq.
Mazanec, Raskin & Ryder, Co. LPA
175 S. Third St., Suite 1000
Columbus, OH 43215

Jonothan J. Winters, Esq.
Allotta, Farley Co., LPA
2222 Centennial Road
Toledo, OH 43617

Factfinder:

Richard P. Gortz

Date of hearing: January 28, 2015

Date of Recommendation: February 10, 2015

INTRODUCTION

The City of Delphos, Ohio is located in northwest Ohio in both Allen and Van Wert Counties. The City has 34 full-time employees serving approximately 7,000 citizens. The Delphos Police Department has 10 full-time sworn officers, including a chief, assistant chief who is also the detective, three sergeants and five patrol officers. The department also employs 7 auxiliary officers who are paid part-time officers. The bargaining unit is a combined unit of the three sergeants and five full-time patrol officers. The Collective Bargaining Agreement (“CBA”) includes dispatchers in the bargaining unit; however no dispatchers are currently employed by the City. Neither the chief, assistant chief or auxiliary officers are in a bargaining unit. The city has no other labor agreements, however all other non-supervisory full-time employees of the City have recently received recognition by the State Employment Relations Board (“SERB”) as a bargaining unit, but no agreement has yet been negotiated. The City runs its own water treatment and waste water treatment facilities.

Police officers are represented by the Ohio Patrolmen’s Benevolent Association (“OPBA”). The current CBA is dated January 1, 2014 and expires December 31, 2016. The agreement provides for a wage reopener as of January 1, 2015 for the second and third years of the agreement. The parties met once on November 14, 2014 and quickly reached impasse. The undersigned was assigned as Fact Finder by SERB on November 25, 2014. The parties requested an extension until the end of January, 2015 for the hearing, and February 28, 2015 for the fact finding report, which extension was granted by SERB. The parties submitted pre-hearing statements within the statutory time limits.

A Fact Finding hearing was held in the Delphos City Hall on Wednesday, January 28, 2015. The parties were ably represented; the City of Delphos by Stacy V. Pollock, Esq. of the firm Mazanec, Raskin & Ryder, and the OPBA by Jonathan J. Winters, Esq. of the firm Allotta, Farley.

Appearing at the hearing were the following:

For the City of Delphos:

Michael Gallmeier, Mayor

Shane Coleman, Safety Service Director

Kyle Fittro, Chief of Police

Tom Jeffinghoff, Auditor

For the OPBA:

Ryan M. Kimmet, Sergeant

The only issue before the Fact Finder is that of wages for calendar years 2015 and 2016. The City offered a wage freeze for each of the two years, while the OPBA proposed two percent (2.0%) in each year. Upon opening of the hearing, this Fact Finder offered to mediate the dispute, but both parties declined. The position of the City is that of an inability to pay. Accordingly, the City led with its presentation.

The recommendation of the Fact-Finder is based upon the criteria set forth in Section 4117-9-05(k) of the Ohio Administrative Rules. 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 effects 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 to mutually agreed upon dispute procedures in the public service or in private employment.

POSITION OF THE PARTIES

Position of the Employer

The Police Department is funded nearly entirely by the City's general fund. In the past few years, the City has lost considerable funding in state aid, loss of the estate tax and loss of property tax. Local government funds contribution to the general

fund have decreased by \$113,242.38 in the period 2011-2014, or nearly 50% reduction in that source.

In 2012, the City lost a major business, which resulted in the loss of \$800,000 in annual income to the city, including income to the general fund, and fees to the enterprise funds for capital debt repayment, operation and maintenance of the water and waste water plants. One major company filed for bankruptcy, leaving the City with \$800,000 in unpaid utility bills. Another business with 100 jobs closed.

The City put a quarter percent income tax on the ballot in 2013, which was defeated. Last year (2014) the citizens passed a quarter percent income tax increase for parks and recreation, which will free up some additional general fund money for other expenses, however it does not come close to making up for the lost industrial income. The tax brings in \$400,000/year, but is a three year tax, requiring renewal in 2017.

In 2006, the City built a \$33 million waste water treatment plant, much larger than needed for the residents of this small city, but the extra capacity was for the food processing plants now gone. Accordingly, the current users must pay for operation and maintenance on a plant which has much more capacity than needed. A membrane system which should have lasted 10-12 years must be replaced in only 8 years at a cost of \$1.8 million. The water treatment facility needs its charcoal beds replaced earlier than forecasted at a cost of nearly a million dollars. Rates are now in the 75th percentile of Ohio utility rates, with rates increasing each year. 2015 rates will increase by 5% in water and 10% in waste water. To raise sewer rates enough to pay for these expenses would make the City's rates uncompetitive for

attracting and maintaining industry and saddle the residents with extremely high monthly bills. Accordingly, the City Council subsidizes the sewer and water plants out of the general fund, rather than the plants being self-funded through extremely high user fees.

As a result of these cuts in income and unanticipated increases in expenses, the City took several steps to control its finances. It reduced expenses by disbanding the police dispatch unit of 4 employees and contracting with the Allen County Sheriff's Department for dispatch services. City employees other than police and fire had their hours reduced by 7.5%. All newly elected and reelected officials had their pay reduced by 25%. Three firefighters, two maintenance employees and a cleaning person were placed on lay-off. Nine other positions were unfilled through attrition. Department heads had a cut of 7.5% in pay, but still work full-time. They now clean their own department buildings. The Mayor cleans City Hall, including the rest rooms.

While the income tax increase and increased economic activity in the City in the past year has buoyed the general fund revenues somewhat, that money has to be used for debt retirement on the utility plants. The unencumbered balance, or carry-over, from 2014 to 2015 is 1.92% of the budget – much lower than in prior years, and considerably lower than recommended by the Auditor of State. The carry-over of the general fund only is about 3%. That money is used to pay bills in January, before income tax receipts come in. The City is unrealistically budgeting nothing for maintenance and capital improvements for 2015.

Lakeview Farms, a local food processor, is closing a plant in Bristol, Wisconsin and moving 200 jobs to Delphos. This is a positive sign, but City officials worry

that many of the new hires may live outside the Delphos city limits, so little income tax benefit can be counted on. As a statutory city, Delphos may tax only residents, and not those who work here and live elsewhere.

In the City's experience, other businesses in Delphos are cutting work hours of employees below 30 hours to avoid having to comply with the provisions of the Affordable Care Act. This also cuts income tax.

With a slight increase in general fund income, the City's priority is to restore hours of non-bargaining employees and supervisors to 40 hours. While the city sees a "light at the end of the tunnel", the money is not here yet, and it can't act to spend what it doesn't have.

The Police are asking for an increase in pay when other employees are hoping to maintain their current pay and restore hours to full-time. AFSCME is opening negotiations this year for all other non-supervisory employees, and any increase to Police would be a floor for those negotiations. With the EPA mandated maintenance to the water and sewer plants, there will be no money for any increases this year or next. Should the Police receive a 2% increase, employees would have to be placed on lay-off. The police department is at bare bones now with some shifts having only one officer on patrol for a city of 7000 residents. Back-up may be 20 to 30 minutes away.

Although the City is not now in fiscal watch or emergency, the City managers and council are working hard to keep it that way. It is difficult to attract new business if the City's finances are so poor that the State makes the decisions. The City

needs to attract more manufacturing to absorb excess capacity of the utility plants, which is draining the City's finances.

The Police are not underpaid. They are paid at average or above average when compared to other similar communities in the area.

The City estimates that a 2% increase in pay for the Police bargaining unit would be \$9,300 per year, including estimated overtime and roll-up. Although the City would like to grant an increase to all employees, it is not able to do so at this time.

Position of the OPBA

In the past six years, the City police received a five cent per hour raise in 2011. This amounts to a quarter of one percent increase.

Sergeant Ryan Kimmet testified that while the City has had serious financial problems, and the Police have cooperated in helping the City through those problems, the finances of the City are improving. The City's general fund has been subsidizing sewer and water enterprise funds, siphoning off money which should be used for operation of the City including the Police Department.

While bargaining unit starting pay is in the middle of the pack for similar cities, pay for officers on the job for more than five years slips considerably in the comparison. Each year the comparison with other departments slips a bit more due to frozen wages. Delphos has lost experienced patrolmen to other nearby communities due to pay.

While earning nearly the same for six years, the job of the Police Officer has become more difficult. Police have to do more, as well as work in a less safe environment. The cost of health insurance and the increase in deductibles has decreased net income.

In refusing an increase for 2015 and 2016, the City is not taking into account additional funds which will accrue from increased employment at Lakeview Farms and other increased employment planned for the City. The Police deserve some modest increase in pay.

DISCUSSION

There is no doubt that the City of Delphos has been battered by what officials call the “perfect financial storm”. It has lost much state and federal funding, as have all Ohio communities, but also suffered the loss of local industry while being saddled with over-capacity waste water treatment and water treatment facilities built to serve industry now gone. Maintenance and capital debt of these facilities is a heavy anchor on the city’s financial health. Near future maintenance mandated by the EPA will cost millions more.

The city has cut expenses dramatically, including abolishing several departments, not filling vacancies, having elected officials and managers take deep cuts in pay, cutting hours for non-bargaining employees and all but freezing wages for six years for non-management employees. The city now faces negotiation with a newly formed bargaining unit of all non-safety non-supervisory employees. Some experienced employees, including highly trained police, a paramedic and licensed

treatment plant operators have left for other nearby employment where pay and the future are brighter.

The OPBA does not claim that current funds exist for a modest increase in pay, but that the economic future Delphos is brighter with the announced expansion of Lakeview Farms.

Income tax receipts have increased from a low in 2012 of \$1,602,000 to an estimated \$1,779,000 in 2014, or approximately 9% in two years. 2015 appears brighter than either of the previous two years with the announcement of the Lakeview Farms expansion.

The City has its priorities right in using the projected additional income for 2015 to increase the hours of non-supervisory employees back to 40 per week, and restoring pay for supervisory employees. It is unlikely that sufficient funds will be available in 2015 for an increase in pay for the OPBA bargaining unit.

On the other hand, the police personnel cannot keep their current pay indefinitely. It is fact that cost of living of the average family is considerably above the COLA numbers reported by the federal government. CPI figures exclude the cost of food and energy. While energy costs have lately decreased, food costs increased approximately 4% in 2014, according to the USDA index. The police also claim that the increasing cost of health insurance premiums, deductibles and co-pays have cut into their expendable income.

With frozen wages for years, Delphos police officer wages have necessarily decreased in comparison to their counterparts in surrounding political subdivisions.

Miscellaneous income such as shift differential, uniform allowance and longevity pay have been frozen as well.

If the City is unsuccessful in attracting more industry or expanding its utility lines into outlying regions, the drain on the general fund to subsidize utilities will continue. The announced expansion of Lakeview Farms is a positive step which will undoubtedly utilize more capacity and help stem the drain on other finances.

Although the City will continue to have a difficult time balancing demands upon the general fund, the future outlook is undoubtedly better than the past. With rising income tax receipts, more utility plant capacity on-line and potential taxes from additional employees at Lakeview Farms, the City can afford to budget less than ten thousand dollars for a modest 2.0% increase in pay in calendar year 2016. At some time the City must start to make some headway in wages to keep additional police turnover from occurring and to keep morale from plummeting.

RECOMMENDATION OF THE FACT FINDER

The Fact Finder recommends a wage freeze for the contract year beginning January 1, 2015, and an increase of 2.0% for the contract year beginning January 1, 2016. It is recommended that Article 33, Wages, be modified as follows:

Article 33
WAGES

Section 33.1

1st and 2nd YEARS
(2014 & 2015)

(0-6 YEARS)

(After 6 YEARS)

Dispatcher:	16.67	16.81
Patrolman:	18.78	18.98
Sergeants:	20.40	20.60
Detective:	20.15	20.35

~~On or around November 1, 2014, the parties agree to re-open Article 33 to negotiate wages for the years 2015 and 2016. The reopener is subject to the provisions of O.R.C. Chapter 4117. The Union agrees to execute an extension agreement pursuant to R.C. 4117.14(G)(11) for the 2015 and 2016 wage reopener negotiations, should the Employer request such extension.~~

Section 33.2

3rd YEAR (2016)**(0-6 YEARS)****(After 6 YEARS)**

Dispatcher:	17.00	17.15
Patrolman:	19.16	19.36
Sergeants:	20.81	21.01
Detective:	20.55	20.76

Entered in Pepper Pike, Ohio this 10th day of February, 2015:

A handwritten signature in blue ink, appearing to read "Richard P. Gortz". The signature is fluid and cursive, with a large initial 'R' and 'G'.

Richard P. Gortz

Fact Finder

Certificate of Service

I hereby certify that an exact copy of this Fact-Finder's Report was transmitted this day by electronic email to Jonathon W. Winters, Esq., representative the OPBA, a Stacy V. Pollock, Esq., representative of the City of Delphos, Ohio and to the Ohio State Employment Relations Board this 10th day of February, 2015.

A handwritten signature in blue ink, appearing to read "Richard P. Gortz". The signature is fluid and cursive, with a large initial 'R' and 'G'.

Richard P. Gortz, Fact-Finder