

STATE EMPLOYMENT RELATIONS BOARD

FACT- FINDING

SERB Case # 2015 MED-12-1265

Hearing Date: June 30, 2016

Issue: Contract Provisions, Language

In the matter of

CITY OF CLEVELAND HEIGHTS

-and-

FRATERNAL ORDER OF POLICE-POLC

Fact-Finder: Donald R. Burkholder, Ph.D.

Employee Organization

Employer

Chuck Aliff, FOP Representative

Annette Mecklenburg, Police Chief

Marilyn McLaughlin, Dispatcher

Melissa Fisco, Sr. Consultant,
Clemans Nelson

Tom Raquz, Finance Director

Sandy Conley, Employer Advocate

The parties met and bargained on February 17, March 11, and April 19, 2016, reaching and signing Tentative Agreements on the following: Article II, Dues Deduction (2/17); Article III, Agency Shop (2/7); New Article, Work Rules (4/1); New Article, Accumulated Sick Leave Bonus (4/1); New Article, Discipline, (6/30), the date of the hearing.

A Hearing was conducted on June 30th at the Cleveland Heights Police Department. The parties requested that the Fact Finding report and recommendations be forwarded to the parties on September 15th.

The fundamental factor in assessing the merits of any change or adjustment in governmental spending is the unreserved fund balance at the end of the year. This measure is also helpful when previous fund balances are viewed as a pattern. A common standard for assessing the health of a corporation's finances is its readiness or capability to deal with unanticipated events, e.g., unbudgeted emergency responses. Research published by the Government Finance Officers Association (GFOA) notes that an unreserved fund balance of 5 percent of annual operating expenses is sufficient to guard against most types of uncertainty. However, an unreserved fund balance in excess of 10 percent of annual operating expenses is a signal of danger. These are broad examples of the types of concerns which must be considered in evaluating the financial health of a governmental entity.

An analysis of Cleveland Heights General Fund Balance for fiscal years 2007-2014 Fund Balance at the end of the year indicates considerable fluctuation, with an average of 5.3 percent. At first glance this 5.3 percent figure appears to approximate the 5 percent measure. Nevertheless, it does not account for the sharp fluctuations, or pattern, in end of year fund balance in 2012 and 2013 of 5 percent, and one-half of one percent, respectively, with growth to

7.3 percent in 2014, and a simultaneous decrease in spending for 2014. Neither as discrete factors nor considered together are these statistics fruitful in beginning to comprehend their circumstances and the environment in which they took place. For purposes of this fact-finding, these fluctuations must be considered as they relate to the FOP-OLC Dispatchers unit, and to the City of Cleveland Heights.

At a time frame when consolidations, amalgamations, mergers, buyouts, bankruptcies and other forms of reorganization are proliferating in the private sector, differing forms of these phenomena have become more commonplace in the public sector. The primary objective in such undertakings, public or private, is to reduce spending and maximize savings, perhaps with a nod to improved efficiency or, perhaps especially in the governmental arena, effectiveness. Nevertheless, efficiency and effectiveness are highly subjective characteristics especially in the public/political arena. One of the best, or worst, examples is Hitler, who valued efficiency and effectiveness as similar if not the same. Regardless of improvement or reduction in service to the Cleveland Heights citizen-taxpayer, a major turnover or elimination of employee positions usually results in the degradation of service. Reduction of personnel costs is a broadly used tool in cutting budgets costs because it generally brings significant and quick spending reductions. This is especially relevant in democratic government, where it is more challenging to evaluate whose ox is being gored, and/or why, and who is yelling the loudest to influence the formulation and application of public policy, or the receipt and application of goods, values, and services (wages, benefits, working load, etc.)

These perspectives are rooted in the fact-finder's experience teaching governmental budgeting and personnel administration, in service as a police and fire (Michigan Public Act

312) interest arbitrator, arbitrating a dispute in a water and sewer district about to be reorganized, serving on a curriculum committee during merger of two private institutions of higher education, and the organizing of an outer rim suburban Detroit neighborhood association in 1984 which remains active in 2016.

There is some credence to the Employer's assertion of the value of pattern bargaining as a significant factor in evaluating proposed language, especially as it relates to accrual of sick leave (Article VIII). Nevertheless, the bargaining units compared, i.e., the Joint Fire Dispatchers, represented by NWU Local 707 Dispatchers unit, and the Cleveland Heights Police Dispatchers, represented by the FOP Labor Council, are 'apples and oranges' when duties, pay and benefits and other factors are compared. The employer's Law Enforcement Automated Data System (LEADS) initiated a total of 84,094 inputs for 2015 through March 2016, by far the greatest number when Cleveland Heights inputs are rated with the other suggested comparables, i.e., Beechwood, Richmond Heights, Shaker Heights, South Euclid, Lyndhurst, University Heights, and Mayfield Heights. This context is prerequisite to establishing the 'facts' and evaluating their significance. The average input for these units is approximately 33,000, compared with 84,094 Cleveland Heights entries, noting that Cleveland Heights has the largest population of the comparables. It is in this light that the Cleveland Heights police dispatchers must deal with the looming prospect of job abolishment as the extreme penalty, and/or a loss or reduction in benefits at the same time, as the accompanying challenge.

The Cleveland Heights Police Department, Police Personal Services, General Fund Budget generally does not indicate significant changes in the pattern of original budgeted expenditures and actual expenditures between 2007 and 2016. Very little can be meaningfully

deduced from a review of budgeted and actual expenditures from this endeavor, although a significant reduction in 2014 seems to be in line with the general pattern. Cause-and-effect rationalizations are frequently untrustworthy. Yet in view of the obvious movement toward reduction in personnel costs, with personnel the major expense in any organization, especially a public entity, it is not surprising that employees seek other positions.

Cleveland Heights as with numerous other local governments has been and is in difficult straits financially, has difficulty maintaining financial viability, and cannot be faulted for moving toward regionalization of public services, in this case of its police dispatcher unit. Nevertheless the budget is a major, perhaps the most significant, factor in establishing priorities in public spending, and the past practices and patterns of a community once influenced by great wealth, i.e. the Rockefeller family, need not limit the room for creative, positive change. Hopefully these recommendations and analyses provide a useful basis for, or constructive points of departure, for bargaining the next collective bargaining agreement.

EMPLOYER LANGUAGE, IDENTIFIED BY ARTICLE

Article VIII, Accumulation of Sick Leave

Article XII, Tenure and Economic Layoff

Article XVII, Civil Service Laws, Ordinances, and Resolutions

Article XXII, Conformity to Law

New Article (TA'd) 6/30/16), Discipline

New Article, Probationary Period

New Article, Wages, Appendix A

New Article, Prevailing Rights

New Article, LEADS Certification

New Article. Clothing Allowance

New Article, Training Officer

UNION LANGUAGE, IDENTIFIED BY ARTICLE

Article XIII, Reasons for Use Of Sick Leave

Article XIII, Payment of Unused Sick Leave

Article IX, Health Insurance

Concluding Comments

The fact-finder appreciates the professionalism, courtesy, and general helpfulness of those present at the Hearing, and wishes the parties the best in reaching a new agreement. The quality of representation for both union and employer was excellent.

Donald R. Burkholder, Ph.D. Fact – Finder 9/15/16

This certifies that this Fact-Finding and Recommendations was forwarded at approximately 4 p.m. Thursday, September 15, 2016 to the parties and to SERB, as follows:

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