

FACT FINDING REPORT
STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD
April 7, 2017

In the Matter of:)	
)	
The Fraternal Order of Police)	
Ohio Labor Council)	
)	SERB Case Nos.
)	16-MED-09-0857
vs.)	16-MED-09-0856
)	16-MED-09-0855
)	
The City of Cambridge)	
)	
)	

APPEARANCES

For the FOP/OLC:

Tracy Rader, FOP Staff Representative
Roy Angler, Cambridge Police department – Patrol Representative
Chris Gebhart, Cambridge Police Department – Supervisors Representative
Douglas Stroud, Cambridge Police Department – Dispatch Representative

For the City of Cambridge:

Edward Kim, Attorney for the City of Cambridge
Robert Hill, City of Cambridge Director of Public Safety

Fact Finder: Dennis M. Byrne

Background

The fact-finding involves the City of Cambridge (Employer/City) and the full-time Police Supervisors, Patrolmen and Dispatchers (Police Personnel) in the Cambridge Police Department represented by the Fraternal Order of Police/Ohio Labor Council (FOP/Union). The parties held two negotiating sessions in an attempt to find mutually agreeable language for a Wage Reopener clause that was negotiated into their contract that was signed on December 1, 2015. The reopener language became effective on December 1, 2016. In spite of their efforts, the parties were unable to reach an agreement on a wage increase for the 2017 and 2018 contract years.

Since the parties were unable to reach an agreement on this issue, they scheduled a Fact-Finding Hearing. The Hearing commenced at 10:00 A.M. on Friday April 24, 2017, at the Cambridge City building. The hearing ended at approximately 1:30 P. M. Prior to the hearing, the Fact Finder attempted to mediate a settlement, and that effort was unsuccessful.

The Ohio Public Employee Bargaining Statute sets forth the criteria the Fact Finder is to consider in making recommendations in Rule 4117-9-05. The criteria are:

- (1) Past collectively bargained agreements, if any.
- (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, and the ability of the public employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standards 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 the determination of issues submitted to mutually agreed-upon dispute settlement procedures in the public service or private employment.

Introduction:

The major disagreement between the parties is over the City's financial condition. The Union believes that the City has the ability to fund its demands because the City did not claim that it had an "Inability to Pay" for wage and benefit increases. On the other hand, the City presented testimony by the City Finance Director, Suellen Johnson, who stated that the City's financial picture was grim and that the City could not afford to pay for wage increases in excess of the \$.50/hour that it had offered. The City presented a synopsis of its financial condition in its submission for the hearing and provided a flash drive that contained the data that was the basis for its presentation. The Fact Finder has studied all of that information.

The City stated that the revenue generated by the income tax, property tax, and other revenue streams is projected to show a precipitous decline in 2017. From 2014 through 2017 the City estimates that its General Fund Carryover Balance will go from a balance of \$1,646,751.00 to a balance of \$1,458.50! That is, the City forecasts that its General Fund Balance will essentially be zero (Employer exhibits 11 and 12). This is a massive shift over three years. Actually, most of the decrease is forecasted to take place over a one year period from 2016 through 2017. In one year, the City projection is that the Carryover Balance will drop from \$1,330,223.00 to \$1,458.50 (Employer exhibit 12).

The question is why? The City's Finance Director testified that the 2015 balance appeared greater than it actually was because the City changed the way that it credited its tax receipts from quarterly to monthly. That is, the balance was artificially inflated compared to earlier years because of this accounting change. There was no reason given for the change.

The City testified that its revenues were falling for a number of reasons. First, the shale oil boom that affected much of Ohio has ended and that caused revenues to fall unexpectedly during the 2014 to 2016 period. The City testified that there is no reason to believe that the shale oil industry will rebound in the foreseeable future. In addition, the change in State law ending the inheritance tax and the decline in revenue from the State and Local Government Fund have all had a deleterious effect on Cambridge's (as well as other jurisdictions throughout Ohio) finances. Moreover, income taxes have not fully recovered from the Great Recession, and tax revenues have stagnated. According to the City, this combination of factors has led to a situation where the City is facing financial problems.

The other side of the issue is expenditures. The City has forecast that its expenditures will rise from \$7,171,800.00 to \$7,780,465.00 from 2016 through 2017, which is an increase of approximately 8.5% (City Exhibits 10 and 11). The Finance Director testified that the City needed to make some capital improvements and hire some new personnel, including a new patrolman and dispatcher for the Police Department. However, there were few details offered for the overall increase in expenditures.

Based on its estimates of revenues and expenditures, the City argued that its offer of \$.50/hour offer was all that it could afford. The City believes that the offer is fair and reasonable when all of its financial data is analyzed.

The Union disagrees. The Union did not present an analysis of the City's finances, but argued that the City's projections had to be very conservative. The Union does not understand how the City estimated that its General Fund Balance will be depleted at the end of the year before any raises for its labor force were factored into the equation. That

is, the Union asked the City's Finance Director at least three times if her projections included raises for city workers. Each time she said no. The Union argues that the City's finances must be better than the projections because the City is negotiating raises for its employees at the same time that it is forecasting that its General Fund Carryover balance will be \$1,500.00.

Consequently, the Union believes that the City's financial picture will be brighter than it forecasts. The Union questioned whether a General Fund Balance of \$1,500.00 can be a true estimate of the City's end of the year financial position. A General Fund Balance of essentially \$0.00 is an indication of a severe financial problems within any jurisdiction. A Carryover Balance of \$0.00 means that the jurisdiction is facing the possibility that it cannot pay its obligations without an infusion of new funds, and this would lead to unpleasant consequences.

The Fact Finder's examination of the financial information presented by the City does not lead to the conclusion that the City is on the brink of financial disaster. However that being said, the data do show that the City must control its expenditures because its revenues are stagnant. Therefore, the Fact Finder believes that the City can afford a pay increase for its police personnel within reason. However, to repeat, the City must be careful to control its expenditures given that its revenues streams are stagnant.

Issue: Article 26 – Wages

City Position: The City is offering \$.50/hr. to all members of the Department including patrolmen, supervisors, and communications personnel.

Union Position: The Union is demanding \$1.00/hr. for all members of the Department.

Discussion: The difference in the parties' positions is based on their different views of the City's financial outlook. The City argues that it has offered all that it can prudently afford. The Union argues that the City's financial picture is not as bleak as it appears. The Fact Finder has examined all of the financial data presented at the hearing and believes that the City's finances are questionable. It is clear that Cambridge must take care and match its revenues and expenditures. Like many (most) jurisdictions in Ohio, Cambridge's financial outlook is poor, and there is little reason to believe that the City's financial picture will dramatically improve in the coming years. However, the Fact Finder also believes that the City's financial condition is not as bleak as the City's presentation at the Fact-Finding Hearing contends.

There is another question that must be addressed. The City agrees that it can afford to fund a wage increase for its employees, i.e., it did not claim an inability to pay. However, the question then becomes should the Neutral recommend the Union's position on this issue? One way that Neutrals go about trying to answer that question is by 1) looking at the raises negotiated by other Unions in the same jurisdiction, i.e., internal comparability, and 2) by examining the raises negotiated by police officers in other comparable jurisdictions, i.e., external comparability.

The City argues that all of its other unionized employees negotiated \$.50/hr. raises and that internal comparability should be maintained. The Union argues that it is not bound by the raises negotiated by other Unions. The Union argues that ORC 4117 does not mandate that all the unionized employees of an employer receive the same increase in wages. This is true; however, one of the factors that Neutrals always examine is internal comparability. This is reasonable because every employer has a wage scale and there

must be some comparability between the wages of all of the employees within a jurisdiction. This implies that to break a pattern, a union must prove that there are unique circumstances that invalidate the pattern for its membership.

In this case, all other unionized employees of Cambridge have agreed on a \$.50/hr. wage increase. The Employer contends that this is a pattern and that the police personnel should accept the pattern settlement. The Union membership argues that it should have the ability to negotiate a fair settlement for the Police Department, and that the pattern settlement should not be binding. However in this instance, based on the information presented at the hearing, the City's position on internal comparability is reasonable.

The second consideration is external comparability. The Union presented evidence from Dover, Galion, Heath, Marietta and Mount Vernon. According to the Union, this evidence proves that the Cambridge police personnel are paid significantly less than police personnel in comparable jurisdictions. An examination of the Union's data shows that the Cambridge police personnel are paid less than the police personnel in other jurisdictions (Union Fact Finding Submission). However, Dover is included in the Union's comparables data and, in many ways, Dover is not strictly comparable to Cambridge. But, the Union's data do show that Cambridge pays its police personnel less than other jurisdictions even if Dover is omitted from the Union's comparables list. The most salient differences are found in the Sergeant and Dispatcher job categories.

The City did not present data on external comparable jurisdictions. The City argued that there were no jurisdictions comparable to Cambridge. The City's position is based on the fact that Cambridge is located in Appalachian Ohio and that there are no

comparable cities within that geographic region. Moreover, the City contends that Guernsey County is in transition and that there are already pockets of distressed areas in the County.

The City also presented data that showed that the police personnel were well paid in comparison to the residents of Guernsey County and the citizens of Cambridge. According to the City's logic, the police personnel in the City are being paid a reasonable wage based on where they live and cost of living for Appalachian Ohio. The City contends that the unique circumstances in the County must be considered when examining wage data for employees living in Guernsey County.

The Fact Finder has never heard a case where no comparables data has been presented by one of the parties. Often, each side presents data from jurisdictions that prove its position on the issues. Then the Neutral is forced to sift through the parties' presentations and attempt to determine what actually constitutes a comparable jurisdiction. In this situation, the City has not tried to prove that selected jurisdictions are comparable. Its argument is that no City is comparable due to the location and conditions found in Guernsey County. The Fact Finder is not convinced that there are no jurisdictions that are comparable to Cambridge throughout Ohio. That being said, there are very few comparable jurisdictions in Southeast Ohio, and the City's contention that the police officers in Cambridge are relatively well paid compared to the average citizen and tax payer in Cambridge is a cogent argument.

The other issue that was briefly discussed at the hearing was the economic outlook for the area. Cambridge benefitted from the shale oil boom that swept the eastern part of Ohio. However, the collapse of oil prices and the attendant decline in shale oil

production had a negative effect on Cambridge. There seems little reason to believe that the shale oil industry will rebound in the near future. Therefore, there is no reason to believe that the overall economic climate in Cambridge will dramatically improve in the near to intermediate term. This implies that the revenue streams in the City will continue to stagnate.

The result of the Fact Finder's analysis of all of the data presented by the parties is: 1) that a \$.50/hr. pay increase is standard throughout the City; 2) external comparability consideration show that Cambridge police personnel are paid less than police personnel in other jurisdictions. However, there are questions about the number of jurisdictions that are comparable to Cambridge. 3) There is no reason to expect a sudden economic growth spurt in Cambridge. 4) The data prove that the City's revenues are stagnant and that the City must be careful with regard to its expenditures. The Fact Finder does not believe that the City's General Fund Carryover Balance will fall to \$1,500.00. However, there is reason to believe that the Carryover Balance will continue to decline.

The result of all of the forgoing is that the Fact Finder believes that the evidence proves that the City position on a \$.50/hr. wage increase is reasonable. But, the data also show that the sergeants and dispatchers appear to be underpaid regardless of whatever jurisdictions are used as comparables. This is especially true at the top end of the wage scale. This fact may need to be addressed during future negotiations. However, given the City's current financial situation, the Fact Finder is not recommending an equity adjustment at this time.

Finding of Fact: A \$.50/hr. wage increase is reasonable given Cambridge's financial situation.

Suggested Language: The wage scale in Article 26 be amended to show the \$.50/hr. increase.

Signed this 12th day of April 2017, at Munroe Falls, Ohio.

Dennis M. Byrne, Fact Finder