

*State of Ohio
State Employment Relations Board
Fact Finding Report*

March 20, 2017

Case #: 2014-MED-02-0162 Case No. 2016-MED-10-1268

In the Matter of:

City of Garfield Heights

And

A.F.S.C.M.E. Local 2729, Ohio Council 8

*Report and Recommendation of Fact-Finder
John F. (Jack) Buettner*

APPEARANCES

For the Employer:

Vic Collova--Mayor

Jeffery Jerome--Staff Attorney

Barbara Bui--Finance Director

Timothy Riley--Law Director Representative

For the Union:

William Butterfield--President

William Nowel-- Staff Representative

Scott Stohlman—Representative

Jeffery Swallow--Union Steward

INTRODUCTION

The undersigned was duly appointed by S.E.R.B. by letter dated February 10, 2017 to serve as Fact-Finder in the matter of A.F.S.C.M.E., Ohio Council 8, Local 2729 (hereinafter referred to as "Union") and the City of Garfield Heights (hereinafter referred to as "Employer") pursuant to OAC 4117-9-05(D). As a result of phone conversations and email exchanges, the parties agreed to a fact-finder hearing set for March 13, 2017.

The fact-finding proceeding was conducted pursuant to the Ohio Collective Bargaining Law as well as the rules and regulations of S.E.R.B. The hearing began promptly at 10:00 am and was held in Garfield Heights, Ohio, on March 13, 2017. Prior to the opening of the fact-finding hearing, this Fact-Finder attempted mediation of the issues at impasse. After several hours of both joint and separate meetings with the parties, it was agreed that a mediated settlement for the outstanding issue could not be reached. The parties agreed to submit the outstanding issue to the Fact-Finder based upon the

documentary evidence submitted by the parties in their pre-hearing position statements and discussions that were had during the course of the day.

The bargaining unit consists of all full-time and permanent part-time employees of the City of Garfield Heights Service Department. There are approximately 32 employees in the bargaining unit. The City also has two other bargaining units of unionized employees, police and fire. The parties are bargaining under the terms of the current Collective Bargaining Agreement effective January 1, 2016 through December 31, 2018. The parties have a historical bargaining relationship that dates back many years. Prior to meeting with the Fact-Finder, the parties had a number of bargaining sessions.

The parties agreed to waive service of the Fact-Finder's report via overnight delivery and agreed upon service via email. The parties also mutually agreed to extend the fact-finding period and the issuance of report [O.A.C. Rule 4117-9-05(L)] until the end of March.

FACTUAL BACKGROUND

Garfield Heights

According to the United States Census Bureau, the city has a total area of 7.29 square miles (18.88 km²), of which 7.23 square miles (18.73 km²) is land and 0.06 square miles (0.16 km²) is water. The elevation of Garfield Heights is 831 feet (253 m) above sea level where it borders Cleveland, and its highest elevation is 972 feet (296 m) above sea level at the Garfield Heights Justice Center.

As of the census of 2010, the population was 28,849 people. The median age in the city was 38.5 years. 25% of residents were under the age of 18; 8.4% were between the ages of 18 and 24; 25.1% were from 25 to 44; 26% were from 45 to 64; and 15.4% were 65 years of age or older. The gender makeup of the city was 46.0% male and 54.0% female.

Economy

The Garfield Heights Chamber of Commerce was established in the 1960s and includes over 250 business members from the area. Marymount Hospital, which is a part of the Cleveland Clinic, is the city's largest employer with 1,200 employees. The Ohio Department of Transportation has its District 12 headquarters in the city and has 500 employees. The city of Garfield Hts. employs 370 workers and the city school district employs 350.

Chart Industries, a gas tank manufacturer, has its world headquarters in Garfield Heights. Chart Industries is one of the fastest growing companies in the world. The

headquarters is in the Infinity Corporate Center. Chart is a \$1 billion company and has been featured on CNBC, Fox Business Network, and Bloomberg.

The Ohio Catholic Federal Credit Union, one of the largest credit unions in Ohio, is based in Garfield Hts.

In 2007, Garfield Heights and its neighbor Maple Heights were mentioned by CNN/Money as two of America's most affordable communities.

CRITERIA

Ohio Revised Code

The Ohio Revised Code, Section 4117.14 (C)(4)(e), establishes the criteria that is to be used by the Fact-Finder. The criteria are listed below and were given weight by the Fact-Finder in making his recommendation in this matter. The criteria are:

- Past collectively bargained agreements, if any, between the parties;
- 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;
- The interest and welfare of the public, the ability of the public employer to finance and administer the issue proposed, and the effect of the adjustments on the normal standard of public service;
- The lawful authority of the public employer;
- Any stipulations of the parties;
- Such other factors not confined to those above, which are normally or traditionally taken into consideration in the determination of the public service or in private employment.

UNRESOLVED ISSUE AT IMPASSE

Collective Bargaining Agreement: Article 33 – Wages

There will be no wage increase for the year beginning January 1, 2016.

Between October 1, 2016 and November 1, 2016, the Union may service written notice upon the City to reopen this agreement for the sole purpose of negotiating wage rates for the period between January 1, 2017 and December 31, 2017.

EXHIBITS

Both sides presented information in support of their positions.

Union presented:

- 2013 Mayor's Estimate/ 2013 – 2018 Financial Forecast Estimate
- 2015 Mayor's Estimate/ 2015 – 2020 Financial Forecast Estimate
- 2016 Mayor's Estimate/ 2016 – 2021 Financial Forecast Estimate
- Government Finance Officers Association
- Article: "Appropriate Level of Unrestricted Fund Balance in the General Fund", www.gfoa.org
- Income Tax Revenues 2008 to present
- Ordinance # 10-2017 and # 11-2017
Emergency Ordinance authorizing a lump sum payment of 1% of the base salary for all sworn police officers and firefighters
- Historical and Current Parity Breakdown
- Agreement between the F.O.P. / O.L.C. & the City of Garfield Hts.
- List of Cities used for Equal Pay Calculations
- Several Labor Agreements to support wage request

Management presented:

- 2016 Mayor's Estimate / 2016 – 2021 Financial Forecast Estimate
- Memorandum of Understanding #6: Extension of Contract to December 31, 2014
- Financial Health Indicators, Preliminary 2015 Report-- Dave Yost, Ohio Auditor

- FHI 2015, City Summary: GAAP
- Article: "Ohio highest local property tax rates; some homeowners pay four times the rate of others ", January 26, 2017, www.cleveland.com/datacentral

PARTIES'S POSITIONS

Union Position: The Union is proposing that effective January 1, 2017 all bargaining unit classifications shall be increased by three percent (3%).

The Union cites the historical and current wage parity between AFSCME, Fire and Police. From 2011 until 2016 Fire received increases totaling 14.10% and Police received increases totaling 15.60%. During that same period of time, AFSCME received increases totaling only 8.90%. While a 3% increase does not put the Union at a level equal to Fire and Police, they felt 3% was a reasonable figure based on what the city could afford.

The Union calculated the cost of a 3% increase at \$42,003. With an unencumbered carry over balance of approximately \$4 million dollars, the Union felt justified in requesting the 3% increase.

Employer Position: Based on the City of Garfield Heights's current financial condition, the City is offering no wage increase for the period of January 1, 2017 through December 31, 2017.

The Employer recognized that there were funds available but also acknowledged the need to maintain a healthy general fund balance in case of unforeseen expenses such as sewer collapse, major road repairs, etc. The City is in a position where they are limited in how much they can borrow money because of a note of 2.5 mills plus interest that is outstanding.

The Employer also cited information from the 2015 Financial Health Indicators at a Glance report from the Ohio Auditor. In the report, the City of Garfield Heights received a "Critical Outlook" in the areas of Unrestricted Net Assets/ Position of Governmental Type Activities, Change in Unrestricted Net Assets, Unrestricted Net Assets/Position of GTA/Average Daily Expenses of GTA, and Total Liabilities-to-Net Assets.

The city stated that they still have a debt of \$22 million, the majority of their road equipment is aging, all of their general equipment is aging, and there are numerous complaints from the community about roads needing pavement. They need to have a general reserve to try to address these and other upcoming issues.

DISCUSSION

As has been the case with most public employers in Ohio, the City of Garfield Hts. has been dealing with financial difficulties. As with most municipalities, it is heavily dependent on its income tax to provide revenue for the general fund. The loss of the personal property tax and estate tax revenues, coupled with reduction in the local government funds received from the State of Ohio, has increased the reliance on the local income tax.

Over the last six years the City has been able to improve the financial health of Garfield Hts. The 2016 Financial Health Indicators at a Glance, a report from the Ohio Auditor, was cited by the Employer as a cause for alarm in that the City received a "Critical" rating in four areas. Conversely, the City received a "Positive" rating in eight of the sixteen categories showing a better financial picture that was espoused.

The City has made efforts to treat all of its bargaining units equitably. Ordinances 10-2017 and 11-12017 state:

Whereas, The Mayor would like to implement a 1% increase in wages for all employees of the City,

Whereas, with this Ordinance, in lieu a 1% rate increase, the Mayor would like to provide a one-time lump sum payment of 1% of the base salary for all and provided a lump sum payment of 1% of the base salary for all police officers and firefighters.

Additionally, under Section 41, Department of Safety, police officers receive compensation to bring them in parity with surrounding departments. This amount is determined by taking an average of compensation rates for cities with a population of fifteen thousand (15,000) or more whose boundary lines are contiguous with the City of Cleveland. Police officers are provided a rate of compensation not less than the average compensation paid in the aforementioned cities.

The City recently negotiated a wage re-opener agreement between the FOP/OLC and the City of Garfield Hts. for the jailers/records clerks on December 14, 2016 which states:

Article XVII, Salary:

Section 1. Effective January 1, 2017, the hourly rates of pay shall increase by one percent (1%) however, there shall be a wage re-opener for the purpose of negotiating the rates of pay for year 2018.

Section 2. Each anniversary date of this contract, the City will provide a \$600.00 yearly bonus to all full-time members covered by this agreement if they maintain their "LEADS" certification.

Also, as stated in the Garfield Heights Firefighters, Local 340 agreement with the City:

Section 1. All employees shall be compensated in accordance with Section 41 of the Garfield Heights, City Charter. The annual adjustment to salary will take effect on January 1 of each year preceding the April survey. Payment of the annual adjustment will be implemented no later than June 1 after the April survey, and a check for the retroactive differences will be delivered to each employee no later than June 1 after the April survey of each year.

Through ordinance, the Mayor implemented a 1% increase in wages for all employees of the city. Also by ordinance, in lieu of a 1% rate increase for police and fire, the Mayor would provide a one-time lump sum payment of 1% of the base salary. In June of 2017, in accordance with ordinance, the police and fire will receive an increase as a result of the April survey of Compensated Pay of ten (10) contiguous cities of a population of fifteen thousand (15,000) or more. As of February of 2017, this increase is calculated to be 1.45%. This Fact Finder is aware that this June increase, by ordinance, is funded by an increase in limitation on the rate of taxation by such millage as is needed to realize the required funds.

The jailers/records clerks agreement, effective January 1, 2017, provided a 1% increase on all hourly rates. Also effective January 1, 2017, the City reinstated a recurring \$600 yearly bonus, increased from \$300, to all full time members for maintaining their LEADS certification. These increases are funded through the general fund of the City.

The City showed that all of its employees have been treated equitably over the years in regards to pay increases with the three bargaining units. However, in their position statement for fact finding, based on the City's financial conditions, the city stated it was unable to offer a wage increase to AFSME for the period of January 1, 2017 to December 31, 2017.

Given the overall financial outlook and based on agreements reached with the other three bargaining units, these internal comparables offer a compelling argument for the Union's proposal. The internal comparables have a far greater weight in this instant proceeding than the results of collective bargaining in other public jurisdictions in Ohio. Hence, movement needs to be made to bring parity to the salaries of AFSME members. In summation, the Union made a compelling argument that its proposal for an increase is reasonable.

Based upon a complete review of the documentation and exhibits presented by both parties including comparables and the discussion which occurred during the fact-finding hearing, I have made my recommendations below.

RECOMMENDATIONS

This fact Finder recommends a 1% wage increase retroactive to January 1, 2017.

Article 33: Wages.

There will be no wage increase for the year beginning January 1, 2016.

Between October 1, 2016 and November 1, 2016, the Union may serve written notice upon the City to reopen this agreement for the sole purpose of negotiating wage rates for the period between January 1, 2017 and December 31, 2017.

Effective January 1, 2017, the hourly rates of pay, as set forth in Exhibits A and B, shall increase by 1%.

Between October 1, 2017 and November 1, 2017, the Union may serve written notice upon the City to reopen this agreement for the sole purpose of negotiating wage rates for the period between January 1, 2018 and December 31, 2018.

The remainder of Article 33: Wages remains current contract language.

This Fact Finder further recommends, effective the second day of June 2017, that the City will provide a one-time lump sum payment of \$300.00 to all full-time members covered by this agreement. Said amount will not be a reoccurring payment.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that one (1) copy each of the Fact-Finders report was delivered via email on the 20th day of March, 2017, to Mr. Tim Riley, Law Director and William Nowel, Staff Representative.

Jack Buettner

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