

**CONCILIATION REPORT
STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD
September 21, 2011**

**CITY OF LOGAN
AND
OHIO PATROLMEN'S BENEVOLENT ASSOCIATION**

**SERB CASE NO(s): 2011-MED-03-0380 (Patrol/Detectives)
2011-MED-03-0381 (Sergeants & above) (Lieutenants)
2011-MED-03-0382 (Dispatchers/Clerks)**

CONCILIATOR: Howard Tolley

APPEARANCES

OHIO PATROLMEN'S BENEVOLENT ASSOCIATION

Mark J. Volcheck, Esq. OPBA Attorney
Scott Mingus, Lieutenant & OPBA Representative

CITY OF LOGAN

Kenneth Edsall, Account Manager Clemans, Nelson & Associates, Inc.
Michael J. Walsh, Mayor
Kim M. Miller, Auditor

Introduction

The OPBA represents 5 Dispatchers/Clerks, 10 full-time Police Officers, and 3 full-time Lieutenants. The City of Logan, with about 7,152 residents, employs about twenty full time unrepresented individuals as well as represented members of public service (OPSE, 27 employees) and firefighters (9 officers) unions.

The parties could not agree on wage increases for 2011 and 2012 in Article 15 Compensation wage reopener negotiations for the final two years of their 2010 – 2013 contract that provided a 1% increase in 2010 plus a \$600 signing bonus. The contract expressly waives the provisions of 4117.14(G)(11) so that subsequently determined rates of compensation will be retroactive to June 1, 2011. SERB fact finder Louis V. Imundo, Jr. conducted a hearing on July, 7, 2011. The OPBA proposed 3% increases in 2011 and 2012. The City proposed 1% increases in each year. The fact finder recommended a 1% increase in 2011, and a 4% increase in 2012 if the city had more than 15% of annual expenditures in cash reserves or a 1% increase if cash reserves were less than 15%. Both parties rejected the recommendation.

On August 2, the parties mutually selected this Conciliator to conduct a hearing and issue a final award. The parties exchanged and submitted pre-hearing position statements including final offers five days prior to the hearing. The OPBA proposed increases of 1% in 2011 and 3% for 2012. The City proposed 1% annual increases.

Conciliation Hearing: September 13, 2011, Logan City Building

The conciliation hearing was conducted from 10 a.m. until 1:30 p.m. with presentation of evidence and argument on Article 15, Compensation.

City Position:

In support of its argument that Logan had limited ability to pay, the employer's representative presented data showing that county residents had a low median income, \$40,000, and a high unemployment rate that since March had increased to 10.4%. An estimated 76% of employed city residents worked and paid income tax to other jurisdictions that received a 100% credit, severely limiting Logan's revenue.

Auditor Kim Miller also explained that as a result of state cutbacks in the July 1, 2011 – June 30 2013 state budget anticipated revenues from the Ohio Local Government Fund would be reduced by 12.5% in 2011. For 2012 the legislated reductions will be more than doubled. By 2013 the Estate tax that had generated revenues of \$50,000 to \$100,000 per year will be eliminated. Costs of prisoner support have exceeded budget expense projections for 2011 and Council is being asked to provide an additional \$60,000 for the current year.

In response to the fact finder's conclusion that low, noncompetitive wages had resulted in excessive turnover, the city identified other unrelated factors that had led eight employees to leave and provided data showing that Logan's superior health care benefits and low premiums helped to attract qualified new applicants. In response to the fact finder's recommendation that a 15% cash reserve was adequate, in the union's exhibit document supporting that level, the city highlighted passages that endorsed higher levels in uncertain times.

For 2011 the city projected a 28.2% decline in its ending cash balance -- a \$303,334 deficit -- and for 2012 a further deficit of \$350,000, a 45.3% decrease, that would leave a cash reserve of \$421,867 (11% of expenditures). Council has approved 1% annual pay increases for all unrepresented employees for the next three years, and the Firefighters have accepted 1% for 2011 with a wage reopener for 2012. In difficult budget times after recent belt tightening and with a highly uncertain future, the city argued that its final offer of 1% in each year costing about \$22,000 was more reasonable than the union's proposed 3% increase for 2012 that would cost over \$44,000 in additional compensation and benefits in the final contract year.

OPBA Position:

The union argued that recently increased ending balances conclusively establish the city's ability to pay. A 1990 Research Bulletin of the Government Finance Officers Association indicates that a 5% cash reserve is sufficient. The official audit for FY 2010 based on the accrual method indicates cash reserves at over 35% of annual expenditures, and the city's cash balance statements indicates unencumbered reserves of 29.6%

The union offered data from SERB on current salaries and recent wage increases for comparable employees in other Ohio cities in support of its argument that the Logan OPBA members were underpaid and entitled to a 3% increase that might close the gap. The union also provided data showing a recent 3.6% increase in the consumer price index as a basis for its appeal for a comparable increase.

In closing the OPBA attorney noted that the union had fashioned a final offer less costly to the city than the two years of 3% increases proposed at fact finding, while seeking less than the increases of 1% and 4% recommended by the fact finder.

Discussion

The Conciliator found the following three criteria established by the Ohio Public Employees Bargaining Statute in Rule 4117-9-05 most relevant:

- Comparison of 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, and 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;
- 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 in private employment.”

Comparables

The Conciliator selected from the May 23, 2011 SERB Clearinghouse Benchmark report for cities in the Southeastern Ohio Region submitted by the union the eleven jurisdictions with populations between 5,000 to 15,000, excluding the larger cities of Athens and Zanesville with populations over 20,000 that pay higher salaries. For each of the three employee classifications – Lieutenant (3 cities), Police Officer (10 cities) and Safety Dispatcher (7 cities) – the Conciliator identified the median top level compensation. The median is a more reliable basis for comparison, as averages can be distorted by either high or low extremes in a single city. The top level compensation for Logan Lieutenants is \$2,000 below the median of \$41,828, for Police officers \$5,500 below the median of \$37,700, and for Dispatchers \$500 below the median of \$29,536. The Conciliator had insufficient data to compare annual wage increases for 2011 and 2012 for comparable employees in similar cities.

The Conciliator was able to consider annual wage increases for other Logan employees. The internal comparables reveal that after years of annual 3% increase for unrepresented employees and elected officials the city council has planned 1% increases starting in 2011 and 2012 through 2013 and 2015. In negotiations with its three unions the employer has consistently offered the same 1% annual increase to all its workers.

Ability to Pay

In response to the Conciliator’s request, the city provided for analysis two August 2011 financial reports to Council as well as the 2011 General Fund Expense Worksheet for 2011 and the 2011 Estimated Revenue Worksheet prepared in Fall 2010 that included data on actual ending balances/unencumbered carry over since 2005.

The August 2011 auditor’s reports to Council show that cash reserves had increased by from \$1,075,201 in December 2010 to \$1,153,997 by August 31, 2011. Those documents also reveal that except for 2009, cash reserves increased as a result of a budget surplus in the other five years between 2005 and 2010. During that period General Fund expenditures have also increased. As a result, since 2007 the cash reserves as a per cent of annual expenditures have declined from 36% to 29.6%.

Although outdated, the 1990 document provided by the union offers advice consistent with more recent guidance from Moody's Investors Service which recommends a 5% to 15% cash reserve. The city clearly qualifies for the highest bond rating and has no bonded indebtedness.

For 2011 the Conciliator estimates the loss in local government funds from the state at \$28,125 and for 2012 at 37.5% or \$84,375. In 2013 the city could lose an estimated \$112,500 in local government funds unless the Ohio General Assembly restores cuts in that fund with the state fiscal year beginning July 1. In 2013 the city will also lose between \$50,000 to \$100,000 of revenues previously received from the estate tax currently scheduled to end in 2012.

Despite those anticipated losses, based on the city’s history of conservative budgeting the Conciliator projects that the city’s cash reserves at the end of 2011 may not decrease at all and that reserves will decline but still be over 20% of annual expenditures at the end of 2012 – about \$850,000.

Other Factors

Since 2010 the city has achieved cost savings on medical insurance by increasing the employee's share of health care premiums from 10% to 12%. The \$600 paid to OPBA members in 2010 as a signing bonus offset that increase, but once exhausted leaves the employees in future with reduced take home pay as a result of their ongoing increased share of health care premiums. The Conciliator calculated that employees on the family plan paid \$365 in additional premiums in 2010, \$385 more in 2011 and will pay \$396 more in additional premiums in 2012. For those on a single plan the increases are \$136, \$148, and \$156. By August 2011 the annual consumer price index had increased by 3.6%.

Conclusion

The Logan union members are paid significantly less than the median for public safety employees in comparable cities in Southeastern Ohio, have lost take home pay as a result of increased health care premiums, and face over a 3% increase in the cost of living. After proposing a total of 6% in wage increases at fact finding, the union compromised in making its final offer and proposed a two year total of 4% in wage increases, 1% less than the fact finder's recommended total of 5% over two years. The increases proposed by the union would still leave wages for lieutenants and police officers at about 96% of the median wages paid in comparable jurisdictions.

The Conciliator agrees with the fact finder that, as specified in the statute, the city has the ability to pay. The employer calculated that the OPBA proposal would cost \$22,266 more than its final offer. The city's cash reserves are more than sufficient to cover that cost through 2012. The employer made a final offer of 1% annual increases identical to its submission at fact finding without satisfactorily responding to the rationale for the fact finder's recommendation of 1% and 4%. Although the city cannot repeatedly reduce cash reserves, at this point projections for 2013 and beyond remain quite speculative. The Conciliator notes that when cutting the local government fund the state legislature also adopted SB5 that if implemented after the November referendum will enable the city to impose wage limits on represented employees in upcoming negotiations. On the other hand, a repeal of SB5 in November might persuade some in the state legislature to consider restoring cuts made to the local government fund in the next budget.

SUMMARY OF AWARD

On the issue of wages the Proposal of the OPBA is awarded – a 1% increase effective June 1, 2011 and a 3% wage increase effective June 1, 2012 as provided in the following contract language.

I. ARTICLE 15, COMPENSATION

Section 15.1. Wages. Base wage rates shall be as follows:

A. Effective June 1, 2010 ~~2011~~, the wages below reflect a 1% increase:

| POSITION | START | 1 YEAR | 2 YEARS | 3 YEARS |
|------------|------------------------|------------------------|------------------------|------------------------|
| Disp/Clerk | \$13.29 \$13.42 | \$13.67 \$13.81 | \$14.04 \$14.15 | \$15.72 \$15.88 |
| Patrolman | \$14.54 \$14.69 | \$15.25 \$15.40 | \$15.98 \$16.14 | \$17.26 \$17.43 |
| | | | | |
| POSITION | START | 6 MONTH | | |
| Lieutenant | \$18.64 \$18.80 | \$20.11 \$20.31 | | |

Effective June 1, 2012, the wages below reflect a 3.0% increase.

| POSITION | START | 1 YEAR | 2 YEARS | 3 YEARS |
|------------|----------------|----------------|----------------|----------------|
| Disp/Clerk | \$13.82 | \$14.22 | \$14.57 | \$16.36 |
| Patrolman | \$15.14 | \$15.86 | \$16.62 | \$17.95 |
| | | | | |
| POSITION | START | 6 MONTH | | |
| Lieutenant | \$19.36 | \$20.92 | | |

The City shall advance the employee to the next highest pay step on the first pay period following the required years (or months) of service in each step.

Should the City hire a newly appointed patrol officer (Unit B) with at least 5 years of full-time current Ohio law enforcement experience, the City may start the employee up to the "3 Year" step level. The determination of the step level shall be made by the City. The provision does not grant any other rights or benefits to said hire.

~~In addition to the 1% pay increase for 2010, each employee will receive a \$600 signing bonus.~~

~~On or after March 1, 2011, either party may reopen the Agreement to negotiate wage rates for the period between June 1, 2011 and May 31, 2013. The reopener may be commenced by filing a Notice to Negotiate with the State Employment Relations Board and shall be conducted in accordance with Chapter 4117 of the Ohio Revised Code, provided that R.C. 4117.14 (G) (11) does not apply.~~

- (C) Retain existing language
- (D) Retain existing language
- (E) Retain existing language

Section 15.2. Retain existing language

Section 15.3 Retain existing language

Signed and dated this 21st day of September 2011 at Cincinnati, Ohio.

Howard J Tolley

Howard Tolley, SERB Conciliator

CERTIFICATE OF SERVICE

The undersigned hereby certifies that true copies of this conciliation award were submitted on September 22, 2011, as follows: one copy via electronic mail to How Kenneth L. Edsall Account Manager Clemans, Nelson & Associates, Inc. kedsall@clemansnelson.com; one copy via electronic mail to Mark Volcheck, Esq., OPBA, markvolcheck@sbcglobal.net; one copy via electronic mail to the State Employment Relations Board, MED@serb.state.oh.us; and one electronic mail copy to Kim Miller, Logan City Auditor, lauditor@loganohio.net.

Howard J Tolley

Howard Tolley, SERB Conciliator