

**STATE OF OHIO
BEFORE THE STATE EMPLOYMENT RELATIONS BOARD**

FACT-FINDING PROCEEDING

03-MED-~~05~~-0348

03-

SERVICE EMPLOYEES :
INTERNATIONAL UNION, :
Employee Organization :
:
and :
:
THE DAYTON-METRO LIBRARY, :
Employer :

STATE EMPLOYMENT
RELATIONS BOARD
2003 SEP - 2 A 9: 58

**REPORT AND RECOMMENDATIONS OF THE FACT-FINDER
ISSUED: AUGUST 28, 2003**

Appearances

Lloyd Fickert, Administrative Organizer
SEIU/District 1199
1216 E. McMillan #300
Cincinnati, Ohio 45206

Julie Jones, Administrative Organizer
SEIU/1199
1216 E. McMillan #300
Cincinnati, Ohio 45206
(For the Union)

Robert W. Cross, President
Cross Management Consulting Services, Inc.
631 7th Street
Portsmouth, Ohio 45662

Timothy G. Kambitsch, Director
215 E. Third Street
Dayton, Ohio 45402
(For the Employer)

REPORT AND RECOMMENDATIONS

I. Background and Procedural History

The bargaining unit involved in this matter consists of approximately two hundred eighty full time and part time employees. The bargaining unit description, as set forth in Article 2 of the collective bargaining agreement is as follows:

“...[A]ll regular full-time employees and part-time employees of the Board excluding supervisory, managerial, and confidential employees, and excluding seasonal, temporary and casual employees.

1. Regular full-time employees are defined as those permanent employees who work forty (40) hours on a regularly scheduled basis during each week, and who receive sick leave and vacation.
2. Regular part-time employees are defined as those permanent employees who have regularly assigned hours during a regularly scheduled week, and who receive vacation and sick leave.
3. Casual employees, substitutes and Library Aides are excluded from the bargaining unit.”

In addition, the bargaining unit description specifically excludes: The Director, Coordinators, Division Heads, the Head of Catalog, Head of Main Children’s Room, Head of Adult Services, Assistant Head of Adult Services, Branch Heads, the Extension Librarian, the Systems Librarian, the Building Maintenance Supervisor, the Business Manager, the Public Information Officer, the Branch Supervisor of the New Lebanon Branch, the Head of Acquisition, the Book Processor II, the Administrative Secretary and the Personnel Assistant.

The issue before the Fact-Finder emanates from the parties agreement to reopen Article 27, G-3 (Rates of Compensation) of the current collective bargaining agreement for purposes of negotiating about wages and health care. The parties met to discuss the issues on June 3, 2003, but no agreement was reached. The parties then met in mediation with Mediator Deborah McCormick on June 19 and July 31, 2003. In the latter session an agreement was reached between the parties with respect to the health care issue, which was confirmed in the fact-finding hearing. That resolution is incorporated by reference into this report.

Criteria

In compliance with Ohio Revised Code Section 4117.14 (G)(7) and the Ohio Administrative Code 4117-9-05(J), the Fact-Finder considered the following criteria in making the recommendations contained in this Report.

1. Past collectively bargained agreements between the parties;
2. Comparison of unresolved issues relative to the employees in the bargaining units 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, the ability of the public employer to finance and administer the issues proposed, and the affect of the adjustments on normal standard of public service.
4. The lawful authority of the public employer;
5. Stipulations of the parties; and

6. Such factors not confined to those listed above, which are normally or traditionally taken into consideration.

II. Findings and Recommendations

Article 27—Rates of Compensation

Employer's Position

The Employer's position in this case is straightforward. The Dayton Metro Library cannot afford to offer any wage increase. The Library receives approximately 87% of its funding from State income taxes through the Library and Local Government Support Fund. In 2003 it is estimated that 7% of the DML revenues will come from property taxes, 3% of the revenues will come through fines and fees, and 2% of the revenues are generated from investments and miscellaneous sources.

In 2000 the DML had revenues of \$23,679,478.00. The next year the revenues were \$23,596,731.00, followed in 2002 by revenues of \$22,649,151.00. The corresponding contribution to revenues from the Library and Local Government Fund for those years was \$20,451,926.00, \$22,615,755.00, and \$19,002,116.00.

It is projected that the revenues from the LLGSF (State income taxes) will be \$18,788,001.00 and in 2004 the revenues from the LLGSF will be \$18,917,290.00. The reduced funding is a result of the economic downturn and budget legislation. The Library has taken steps to curtail expenditures. For instance, DML reduced expenditures for library materials in 2003, implementing a voluntary program that permits the employees to reduce scheduled hours from 40 to 32 for a twelve-week period, and reducing branch hours. Despite these efforts, the DML is unable to fund any wage

increases. In fact it will be necessary for the DML to tap into the cash reserves to satisfy the expenses projected to be incurred in 2003 and 2004.

Union's Position

The Union's position is equally straightforward. The Library's projected "fund cash balance" for 2003 is \$5,117,172.00. Reserves for 2003 are projected to be \$1,443,657.00, leaving a \$3,673,515.00 cash balance.

The Union's proposal for a \$500.00 across the board wages increase for each bargaining unit employee would cost the Library \$135,500.00 and the proposed 2% increase in PERS contributions would cost the DML \$160,400.00. Given the the amount of the unencumbered "fund cash balance" the Library can afford to fund the SEIU's proposal. There is an ability to pay.

Drawing a comparison to other similarly situated libraries throughout the State demonstrates that the average "fund cash balance" is approximately 14.9% of total revenues. The DML reserves far exceed the average "fund cash balances" maintained by comparable libraries.

Furthermore, a review of the guidelines established by Standard & Poor's for assessing the financial condition of governmental entities based on fund balances indicates that a fund balance (including both encumbered and unencumbered funds) of 15% constitutes a "strong" rating. A cash fund balance (including encumbered and unencumbered funds) between 5% to 15% constitutes an "adequate" rating. The DML's cash reserves far exceed the guidelines for a "strong" rating. The reserves can be reduced and used to fund the Union's proposals without compromising the DML's financial condition.

With respect to unencumbered fund balances, the S & P guidelines recognize a cash fund balance of 8% of total revenues as constituting a “strong” position. A cash fund balance of 2% to 8% registers as an “adequate” position.

All of the data gathered coupled with the S & P guidelines suggest that the DML is able to fund the increases requested by the Union.

Recommendation

The Fact-Finder’s role is an extension of the negotiation process. The Fact-Finder is obligated to scrutinize the positions taken by the parties in collective bargaining and offer the parties suggested solutions to the issues involved. In crafting the recommendations a Fact-Finder is ever mindful of the acceptability of the suggestions being made. It is vitally important that the Fact-Finder’s recommendations have rational bases upon which both parties may take the opportunity to ratify the Fact-Finder’s report.

It is the recommendation in this case that the employees in the bargaining unit receive a \$500.00 lump sum payment in 2003. Further, it is recommended that the current PERS contribution not be increased. The DML can afford the \$135,500.00 it will cost to fund the lump sum payments without jeopardizing its financial condition.

In the DML’s initial projections the unencumbered cash fund balance for 2003 was projected to be \$3,673,515.00 or 17% of the projected revenues to be received from the LLGSF and all other sources. The cost of the lump sum payments will be \$135,500.00. Deducting the cost of the lump sum payment from the cash fund balance leaves a cash fund balance of \$3,538,015 or 16% of the projected revenues to be received from the LLGSF and all other sources. This cash balance exceeds the Standard & Poor’s guidelines.

According to the most recent calculations provided at the fact-finding hearing by the Employer, the projected cash fund balance was revised downward to \$3,009,027.00 or 13.9% of the total revenues received by the DML. Factoring in the cost of the \$500.00 lump sum payments the unencumbered cash fund balance would be reduced to \$2,873,527.00 or 13.3% of all revenues received by the DML. Once again the unencumbered cash fund balance exceeds the S & P guidelines. The conclusion to be drawn is that the DML can absorb the cost of the lump sum payments without jeopardizing its financial condition.¹

The cost of the lump sum payments will be realized in 2003. The lump sum will not be rolled into the base rate of bargaining unit employees. Moreover, the parties will have the opportunity to deal with the compensation issue in the course of the give and take of full-blown collective bargaining in 2004 when the current agreement expires.

Despite the seemingly small price tag associated with the requested 2% PERS increase, the undersigned cannot recommend such an increase in the current economic environment. This proposal may be given considerable play in the upcoming round of collective bargaining.

Respectfully submitted,



Daniel N. Kosanovich
Fact-Finder
August 29, 2003

¹ A newspaper article appeared in the Dayton Daily News on August 21, 2003 indicating that 22 DML employees were being furloughed. While it would be appropriate in this Fact-Finder's view to take proper notice of the reported event, the article lacked sufficient detail to sway the recommendation in this case.

DANIEL N. KOSANOVICH
ATTORNEY AT LAW STATE EMPLOYMENT
MEDIATOR - ARBITRATOR RELATIONS BOARD

28 East Rahn Road
Suite 100
Dayton, Ohio 45429

(937) 291-9339
(937) 291-9463 (fax)

2003 SEP -2 A 9 58

August 29, 2003

Julie Jones, Administrative Organizer
Lloyd Fickert, Administrative Organizer
SEIU/District 1199
1216 E. McMillan #300
Cincinnati, OH 45206

Robert W. Cross, President
Cross Management Consulting Services, Inc.
631 7th Street
Portsmouth, OH 45662

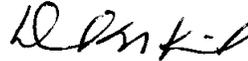
Re: SEIU and The Dayton-Metro Library
03-MED-~~05~~-0348
03

Dear Ms. Jones, Mr. Fickert and Mr. Cross:

Please find enclosed my Report and Recommendations issued on this date. In addition, I have included my invoice for services rendered. My appointment to serve as the Fact-Finder in this case came before June 26, 2003. Therefore, SERB is still obligated to share in the fee.

Thank you for your professional presentations and I look forward to working with you in the future.

Very truly yours,



Daniel N. Kosanovich
Fact-Finder

Cc: Dale Zimmer, Bureau of Mediation

Michael N. Kusanovich, Esq.
East Hann Road
Columbus, Ohio 43229



2003

AUG 29

DACE A. ZIMMER
ADMINISTRATOR, BUREAU OF MEDIATION
STATE EMPLOYMENT RELATIONS BOARD
65 EAST STATE STREET, 12TH FLOOR
COLUMBUS, OH 43215-4213