

~~2010 JAN 26 A 10:20~~

25 KR

IN THE MATTER OF IMPASSE	X	
	X	
BETWEEN	X	
	X	<u>REPORT OF</u>
WEST CHESTER TOWNSHIP	X	<u>THE FACT FINDER</u>
BUTLER COUNTY, OHIO	X	
	X	
AND	X	
	X	
AMERICAN FEDERATION OF	X	
STATE, COUNTY, AND MUNICIPAL EMPLOYEES	X	
(AFSCME)	X	
OHIO COUNCIL 8	X	
LOCAL 3975	X	

SERB FILE NO.: 2008-MED-10-1279

HEARING: December 18, 2009; West Chester Township, Ohio

FACT FINDER: William C. Heekin

APPEARANCES

For the Employer

Donald L. Crain, Attorney

For the Union

Walter J. Edwards, AFSCME
Staff Representative

ADMINISTRATION

By way of a joint phone call from Donald L. Crain and Walter J. Edwards on October 27, 2009, the undersigned was informed of his designation to serve as fact finder regarding an initial labor contract, negotiations impasse. On December 18, 2009, and following receipt of pre-hearing submissions, a fact finding hearing went forward. There, testimony as well as document evidence was presented. The record was closed at the conclusion of the hearing and the matter is now ready for the issuance of a fact finding report.

FINDINGS AND RECOMMENDATIONS

This impasse involves a bargaining unit made up of approximately 22 employees of the West Chester Township, Ohio, Maintenance Department (“the Employer” or “the Township”) who are represented by AFSCME Ohio Council 8, Local 3975 (“the Union” or “Local 3975”). The Township is a prosperous community located in Butler County, Ohio where the Cincinnati and Dayton metro areas converge along the I-75 corridor. Both the size of its population and its economic development have dramatically increased in recent years. Indeed between 1990 and 2000, its population doubled in size from 23, 553 to 54,895. Among Ohio townships, it is the third largest. The Township’s primary revenue source is a property tax. Accordingly, it has no earnings tax unlike a number of nearby cities of comparable size.

Prior to the fact finding hearing, the Employer and the Union (“the Parties”) met quite a number of times in an effort to finalize their first collective bargaining agreement (“the Agreement” or “The Labor Contract”). With the assistance of SERB mediator, John Gray, this effort eventually resulted in a “Tentative Agreement” dated July 27, 2009, (Employer Exhibit-E). Here, the Tentative Agreement was approved by the Township’s Board of Trustees, but was

rejected by the Local 3975 membership. Accordingly, the remaining unresolved issues are the subject of this fact finding report, where the recommendations contained herein are made in light of the following ORC 4117.14 criteria:

* * *

- Past collectively bargained agreements 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, 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,
- The lawful authority of the public employer.
- Any stipulations of the parties.
- 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.

* * *

Against this backdrop and upon fully reviewing this first time, contract negotiations impasse matter, including the relevant evidence as to each item now at issue following the July 27, 2009, Tentative Agreement (Employer Exhibit-E) which was subsequently rejected by the membership as was their prerogative; it is the recommendation of the undersigned that its terms be fully adopted.

In other words, regarding the issues which were submitted to the fact finder at the urging of the Union (The Employer arguing that all of the terms of the Tentative Agreement be recommended) – Article 17, Sick Leave; Article 18, Health and Welfare; Article 19, Wages and

Compensation; Article 20, Hours of Work and Overtime; and Article 23, Uniforms and Equipment – the undersigned recommends that what was arrived at in this connection as to the July 27, 2009, Tentative Agreement be adopted. Accordingly, concerning the issues submitted for factfinding at the urging of the Employer arguing in the alternative, where it takes a position at variance with what is set out in the July 27, 2009, Tentative Agreement – Retroactivity; Article 6, Seniority, Section 5, Layoff; Article 8, Dues Deduction; Article 18, Health and Welfare; and Article 20, Hours Of Work and Overtime –again, the undersigned concludes that the Parties should fully accept the terms of the Tentative Agreement.

Finally, this recommendation is based not only upon the merits of the issues involved, but also on the elementary principle that the oftentimes painstaking process of collective bargaining which brought about the July 27, 2009, Tentative Agreement is to be supported in factfinding. In short, for a number of reasons it is the determination of the undersigned that the Parties would be best served by reconsidering the Tentative Agreement in its entirety. Simply put, it is strongly felt that this is the best option in moving forward as to the Parties finalizing their first collective bargaining agreement.



William C. Heekin
January 22, 2010
Cincinnati, Ohio

William C. Heekin

120 E. 4th St., Suite 425
Cincinnati, OH 45202
Ph: 513-241-7644
Fax: 513-761-3238
wcheekin@fuse.net

STATE EMPLOYMENT
RELATIONS BOARD

2010 JAN 26 AM 10:20

January 22, 2010

Walter J. Edwards
AFSCME Ohio Council 8
1213 Tennessee Avenue
Cincinnati, OH 45229

Donald L. Crain
Frost Brown Todd LLC
9277 Centre Pointe Drive, Suite 300
West Chester, OH 45069

RE: SERB Case No.: 08-MED-10-1279: West Chester Township – AFSCME Ohio
Council 8, Local 3975: impasse/factfinding

Gentlemen:

Enclosed, please find two (2) copies of the **REPORT OF THE FACT FINDER**. Also,
enclosed is a copy of the INVOICE.

It has been a privilege to have served as fact finder.

Cordially yours,



William C. Heekin

WCH:bwh

cc: Mary Laurent (w/enclosure) ✓