

State Employment Relations Board

In the Matter of Fact-Finding

2010 MAR 25 A 8:34

Between:

Wayne County Childrens Services Board (CSB)

-And-

International Brotherhood of Teamsters, Local 436

SERB Case No.: 2009-MED-12-1502

Fact-Finder's Report and Recommendation  
Fact-Finder: David M. Pincus  
Date: March 23, 2010

STATE EMPLOYMENT  
RELATIONS BOARD  
2010 MAR 25 A 8:34

Appearances

For the Union

Dawn M. Durkee  
Chrystal L. Way  
Tiffany Green  
Lori Groff  
Dee Williams  
Christopher Pavone

Caseworker  
Records Technician  
Union Steward  
Caseworker  
Union Steward  
Advocate

For the Employer

Tim McClintock  
Randy Muth  
Lisa Conner  
Lisa Cygan  
Barbara Smetzer  
Howard D. Heffelfinger

Commissioner's Representative  
Executive Director  
Assistant Business Manager  
Executive Secretary  
Human Resources Administrator  
Advocate

## **PROCEDURAL CASE HISTORY**

The disputed matter was formally argued on March 11, 2010, before David M. Pincus, Fact-Finder, pursuant to Ohio Revised Code Section 4117.14 and Ohio Administrative Code Section 4117-9-05. The fact-finding hearing involved Wayne County Children Services Board (hereinafter referred to as the Employer) and the International Brotherhood of Teamsters, Local #436 (hereinafter referred to as the Union). The fact-finding hearing was held at the Employer's workplace.

The dispute involves one (1) bargaining unit. It consists of approximately forty-eight (48) employees in various classifications. This issue was a wage reopener stemming from a contract that is in effect from March 1, 2009, to February 29, 2012.

One issue is at impasse: Wages

This remaining issue shall be dealt with in a subsequent portion of this report.

## **FACT-FINDING GUIDELINES**

The following portion of this Report and Recommendation shall identify the issue in this dispute, review the parties' articulate arguments, and conclude with the Fact-Finder's recommendations. The recommendations which follow, moreover, are based on evidence and testimony presented at the hearing, and the parties' respective position statements and submissions. The recommendations contained herein were also derived by relying on applicable criteria required by Ohio Revised Code Section 4117.14(C)(4)(e), as listed in 4117.14(G)(7)(a-f), and Ohio Administrative Code Section 4117-9-05(K)(1)-(6).

These Fact-Finding criteria are enumerated in the Ohio Administrative Code Section 4117-9-05(K) as follows:

- (1) Past collectively bargained agreements, if any, between the parties;
- (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, 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;
- (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.

### **The Employer's Position**

The Employer seeks to freeze the wages at their current levels for both years remaining in the agreement. Wayne County is similar to other government agencies throughout Ohio in that it is experiencing financial difficulties. Although the Employer is a separate agency, the agreement must be approved by the

legislative body, which happens to be the Board of County Commissioners that at this point in time is not in a position to be granting pay increases because of the overall economic conditions of the County.

The Board of Commissioners' general fund employees have had their wages frozen for the past two (2) years. The Board of Commissioners approved budgets for all its general fund agencies and departments included a ten percent (10%) decrease either through employee attrition or direct layoffs. The layoffs in the County are not because of a lack of work, but rather a lack of funds to pay the employees. As an example, the Sheriff's Office has sixteen (16) employees laid off along with six (6) Sergeants reduced in rank and an eliminated detective bureau. The Building Department has two (2) employees of its seven (7) laid off. The number of general fund employees has dropped by twenty-nine (29) over the last several years.

The County's citizens are experiencing financial distress as well. Unemployment is at ten percent (10%) in the County. This is not the time to be granting pay raises. Both private sector and public sector employees around the state are not receiving increases.

None of the above reasons mean that these employees do not deserve a pay raise. Director Randy Muth stated that his amazing, committed staff took a zero percent (0%) pay raise last year to ensure that the children they service continue to receive a high level care. The staff is doing a great job and the Employer wishes they received greater recognition from the public for their performance. However, the Employer's stance is based on long-term viability for the Agency. The Employer, a levy-funded agency, must prepare itself to pass a levy in a time where levies are failing across the state. It is important for the Employer to have a carryover to ensure its long-term success.

### **The Union's Position**

The Union seeks a three and one-half percent (3.5%) increase in the second year of the contract and a three and one-half percent (3.5%) increase in the third year of the contract. The argument should not center upon the current economy, but rather just this Employer's finances. The Teamsters Union is not negotiating for other County agencies. The other County agencies are laying employees off due to a lack of work.

The Employer has the money to grant wages. The Union argued that the Employer had an excessive carryover in 2009. The Employer also voluntarily gave money back to the Board of County Commissioners to offset the indirect operational costs in 2009. There was a reduction in spending by \$290,000 from 2008 to 2009. If money was such an issue, the Employer should have accepted the Union's offer last negotiation session of a two (2) year wage freeze in return for fair share being included in the agreement. This roughly \$100,000 of savings was rejected by the Employer. The employees helped reduce placement costs by \$300,000 last year. The different employee units are working together to save more money by placing children into their relative's homes. The employees are meeting their ever-increasing mandates from the state. This is a strong, well-run Employer whose employees deserve to be compensated for their service.

An article in the Daily Record shows that Wayne County's economic activity placed it on a national list. According to the article, Wayne County is a profitable and desirable place to invest. Wayne County will be at the head of the class when the recession lifts.<sup>1</sup> Other employers in Medina and Portage Counties who are separately funded such as this Employer are still receiving pay raises.

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<sup>1</sup> The Employer asked to have it noted as part of the record that the Daily Record article presented by the Union was simply an interview with the Chamber of Commerce and not a discussion involving the economic conditions of the County.

### **The Fact-Finder's Finding and Recommendation**

From the evidence and testimony adduced at the hearing and a complete and impartial review of the record, the Fact-Finder recommends a compromise to the disputed issue. The Fact-Finder recommends that the wages be frozen during the second year of the agreement, and a two percent (2%) pay increase be granted during the third year of the agreement.

Under normal circumstances, I would only consider this Employer's budget. The Union brought forth a great deal of persuasive testimony that in normal financial times would surely have carried more weight. However, in these widespread, dire financial conditions, I must look at the entire picture and the impact as a whole. As I have seen across the state, the taxpaying public is not supporting public employee pay raises. Unemployment in this County is currently at a double-digit level. Pay raises may have the long term affect of jeopardizing the Employer's reputation with its citizens who are experiencing hard times. Public sector employers must send a message to the citizens that they are being as fiscally responsible as possible.

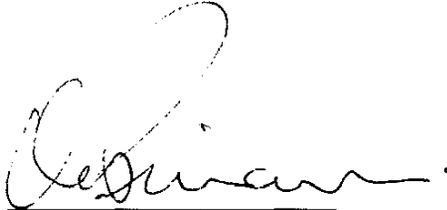
Based upon the comparable jurisdiction pay rates presented by the Employer, these bargaining unit employees are not underpaid. However, to go into the third year of a contract without a pay raise could put these employees behind their peers. As mentioned above, the Union put on a well-presented case and brought forth many relevant points. I must also note that these employees are highly regarded by both the Employer and the Union. These dedicated employees must be commended for their work, especially for their acceptance of no increase last year in the name of serving the children of the County.

There are times when an Employer has money but it should still not give pay raises. Those same employers, however, cannot continue to ask their employees to continue with no pay increases. Therefore, because of the overall

financial condition in the County, I award no increase for the second year of the contract and a two percent (2%) increase for the third year of the contract.

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March 23, 2010  
Chagrin Falls, OH



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Dr. David M. Pincus  
Fact-finder

Certificate of Service

This is to certify that a true copy of the Fact-Finder's Report and Recommendation for the Wayne County CSB and International Brotherhood of Teamsters, Local 436 was sent to the parties by overnight mail and the State Employment Relations Board by regular U.S. mail on March, 23 2010. The Fact-Finder's Report and Recommendation was served upon:

Howard D. Heffelfinger

Clemans, Nelson and Associates, Inc.

2351 South Arlington Road, Suite A

Akron, OH 44319

Christopher J. Pavone, Vice President

Teamsters Local 436

6051 Carey Drive

Valley View, Ohio 44125

J. Russell Keith

General Council and Assistant

Executive Director

State Employment Relations Board

65 East State Street, 12th

David M. Pincus  
Fact-Finder  
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Chagrin Falls, Ohio 44022

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Christopher J. Pavone, Vice President  
Teamsters Local 436  
6051 Carey Drive  
Valley View, OH 44125

-And-

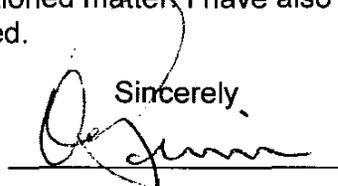
Howard D. Heffelfinger  
Clemans, Nelson and Associates, Inc.  
2351 South Arlington Road, Suite A  
Akron, OH 44319

Re: Wayne County CSB and Teamsters Local 436 Fact-Finder's Report and  
Recommendation

Dear Chris and Howard:

Enclosed please find the Fact-Finder's Report and Recommendation  
dealing with the above-captioned matter. I have also enclosed a Fact-Finder's  
Invoice for services rendered.

Sincerely,



Dr. David M. Pincus

Fact-Finder

CC: J. Russell Keith