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State Employment Relations Board
65 East State Street
12th Floor
Columbus, Ohio 43215-4213

ATTN: J. RUSSELL KEITH (1-614-466-3074 – FAX)
GENERAL COUNSEL & ASSISTANT EXECUTIVE DIRECTOR

**RE: STATE EMPLOYMENT RELATIONS BOARD
(FACT-FINDING)**

**CITY OF NEW PHILADELPHIA (Employer)
and**

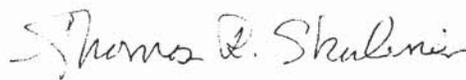
**FRATERNAL ORDER OF POLICE
(LODGE #4) OHIO LABOR COUNCIL, INC. (Union)
CASE NOS.: 10-MED-10-1044, 10-MED-10-1445 AND
10-MED-10-1446**

Dear Mr. Keith:

Enclosed herein, please find a Fact-Finding Report, in regard to the above-captioned matter.

Thank for your courtesy and cooperation herein.

Very truly yours,



Thomas R. Skulina

TRS/cad
Enclosure

cc: Michael L. Seyer w/copy Enclosure (1-330-785-4949 – FAX)
Wes Elson w/copy Enclosure (1-614-224-5775 – FAX)

STATE OF OHIO STATE EMPLOYMENT RELATIONS BOARD

**RE: CITY OF NEW PHILADELPHIA (Employer)
and
FRATERNAL ORDER OF POLICE
(LODGE #4) OHIO LABOR COUNCIL, INC. (Union)
CASE NOS.: 10-MED-10-1444, 10-MED-10-1445 AND
10-MED-10-1446**

FACT-FINDING REPORT OF THOMAS R. SKULINA, FACT-FINDER

APPEARANCES AND HEARING

The city was represented by Michael L. Seyer, Account Manager; Michael R. Taylor, Mayor and Beth Gundy, City Auditor, appeared and testified.

The union advocate was Wes Elson, Staff Representative.

The hearing was held in council chambers at the city building at 150 E. High Avenue, New Philadelphia, Ohio on February 17, 2011, beginning at 10:00 A.M. until 3:00 P.M.

Some effort was made to mediate the dispute, however, there were not clearly authorized agents who could bargain.

Hence, fact-finding was conducted and each party submitted documents and oral testimony from the City Mayor and City Auditor.

ISSUE – WAGES

The Collective Bargaining Agreement (“CBA”) provides:

Section 30.3 – The city and the union shall reopen the bargaining contract for wage negotiations ONLY for both years of 2011 and 2013. Reopening shall not occur before October 1, 2010.

Though the language does not address it, both parties proposed raises that were retroactive to January 1st of each year. The City is at one percent increase for each year, and the union is at four percent first year and three percent second year. Later this became three percent first year and three percent second year.

In their "Extension Agreement" the parties agreed that "wage increases. . .be retroactive to January 1, 2011".

SERB FACT-FINDING

Pursuant to Ohio law, the fact-finder shall make recommendations as to the language.

The following is criteria that should be considered:

(1) Past collectively bargained agreements, if any.

(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, and the ability of the public employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standards 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 service or private employment.

FACTUAL MATTERS CONSIDERED

Before getting into the issue of what, if any, is an appropriate increase, there is the basic issue whether the city can afford it.

The evidence is clear that even after the recession that plagued the city it still leaves the city with the ability if it chooses to increase the pay of its police officers.

An increase of one percent, according to the city's evidence, is approximately \$16,500.00.

At the close of 2010, the projected unexpended cash balance is \$997,178.00.

There is no issue that if a finding for a three percent increase were made, that it would exceed the city's ability to pay it.

At this time, it is appropriate to address the apprehension that any percentage increase to the police officers is a carte blanc to another non-safety and larger unit to get parity.

As a fact-finder, I definitely find that safety force employees that are exposed to serious physical danger are not the same as the things office clerks, secretaries and non-safety employees are exposed to.

Hence, I am not constrained by the argument that whatever I recommend for the police is necessarily a given increase also for the large other non-safety union's positions.

There are two statistical areas that are traditionally considered by SERB fact-finders. These are comparable comparisons and a review of the history of payments to the unit at fact-finding.

Before I get into those issues, I must address the fire-fighter issue. It is true that they received a higher increase than is sought by this unit. They received eight percent over three years.

Comparing the two units is not that helpful. These are different professions with different hours among a multitude of differences. When the police and fire begin their review of each other, the result is not contiguous or that helpful in seeking an appropriate fact-finding.

The reports of the city auditor sustain the fact that the city is financially sound and could afford some pay increase for its police units.

A one percent increase amount to approximately \$16,485.00.

The benefits for 2009 therefore consisted of one percent increase (\$16,485); uniform allowance increase (\$3,750) (25 x 50); longevity pay increase (\$3,000.00) (25 x 120). There was also a reduction to three steps, the fire-fighters have five steps.

The city may look forward to financial soundness in 2011 and 2012. With an up tick in the financial well being of its residents, it can look forward to increased revenue from its income tax.

In a comparison of five other communities in this county (Tuscarawas) and Stark and Guernsey, with population less than New Philadelphia, four of the five communities pay more to their police officers.

In a review of the wage history of the police department in eight years, four of those years were for three percent increases. Those were 2003, 2007, 2008 and 2009.

The mayor testified that there was no planning for new employees. He also indicated that the budget process for 2011 is not completed.

The city also stated that seventy percent of its revenue goes to wages.

In 2010 and 2011 the firefighters will receive a three percent increase. The mayor did point out that not every employee shall also get three percent.

Some could argue parity between police and fire, wages may be the fact. The truth is they are divergent entities and each stand on their own in so far as their work duties, time of duty, etc.

In this case, however, the argument can be made that a three percent increase for the police would be fair. Coincidentally, that is the same increase the fire department is getting. It does not mean that every other employee of the city should get three percent.

In this case, a comparison of cities supports the fact that this city's police department should get a wage boost.

The union originally sought an increase of four percent for 2010 and three percent for 2011. It later moved to a request for three percent each year.

They were offered one percent for each year.

In 2009 the raise was one percent, however, there were other benefits so that the members got an average of 3.14% increase.

These other benefits included the establishment of three sergeant positions, compression of the wage scale, establishment of stipends (9 of the 25 members of the bargaining unit received same), an increase of \$50.00 in the uniform allowance and a \$125.00 increase in longevity pay for service over twenty-five years.

The salary compression and hourly stipends was as equivalent increase of 3.14%. The uniform allowance increased 2.8% each year and there is an increase of \$120.00 a year in longevity pay.

Evidence sustained the conclusion of the fact-finder in his December, 2009 report that the city could afford to increase the wages of the firefighters two percent the first year and three percent in 2011 and 2012.

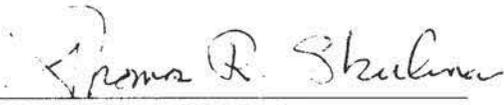
I selected a 2.75% increase the first year. That reflects the benefit achieved by achieving through bargaining, a raise beginning the first of the year. In view of the time that still may pass before the wage issue is resolved, this is certainly a benefit that is worth .25%. This matter could go to conciliation and conceivably no raise would begin until April of 2011 for the agreement to start from January 1 instead of the date the parties finally resolve the amount of the increase, the bargaining unit will not lose the early months benefit.

RECOMMENDATION

I recommend that the members of the bargaining units receive an increase of 2.75% in 2011 and 3% percent in 2012.

SERVICE

On March 8, 2011 service was made by FAX to the office of SERB, The Fraternal Order of Police, Wes Elson, Staff Representative, the City of New Philadelphia, Michael L. Seyer, Account Manager.



THOMAS R. SKULINA
FACT-FINDER

Dated: March 8, 2011